

Presented to the governor April 22, 1994

Signed by the governor April 25, 1994, 11:58 a.m.

CHAPTER 510—H.F.No. 2275

An act relating to taxes; making tax policy, collections, and administrative changes; amending Minnesota Statutes 1992, sections 168.011, subdivision 8; 168.012, subdivision 9; 239.05, subdivision 10a; 239.761, subdivision 3; 270.052; 270.0605; 270.10, by adding a subdivision; 270.60, subdivisions 1 and 2; 270.69, subdivision 4, and by adding a subdivision; 270.70, subdivision 2; 270.72, subdivision 1; 270B.02, subdivisions 3 and 5; 270B.03, subdivision 1; 270B.12, subdivision 3, and by adding a subdivision; 270B.14, by adding a subdivision; 273.12; 289A.37, subdivision 1; 289A.60, by adding subdivisions; 290.01, subdivision 3a; 290A.08; 290A.18, subdivision 2; 296.01, subdivisions 14, 18, 19, 20, 32, 34, and by adding subdivisions; 296.02, subdivision 1; 296.025, subdivision 1, and by adding a subdivision; 296.06, subdivision 2; 296.12, subdivisions 1, 2, 3, 4, 5, 8, 10, and 11; 296.15, subdivisions 2, 4, 5, and 6; 296.16, subdivision 2; 296.165, subdivision 1; 296.25, subdivision 1, and by adding a subdivision; 297.03, subdivision 7; 297A.25, subdivision 9; and 297C.13, subdivision 1; Minnesota Statutes 1993 Supplement, sections 116.07, subdivision 10; 270.06; 270.41, subdivision 5; 270B.01, subdivision 8; 272.115, subdivision 1; 273.124, subdivision 13; 275.065, subdivision 6; 289A.18, subdivision 4; 289A.20, subdivision 4; 290.01, subdivision 19; 297A.01, subdivision 15; 297A.07, subdivision 1; and 297A.25, subdivision 11; proposing coding for new law in Minnesota Statutes, chapters 270; 296; 297; 384; and 385; repealing Minnesota Statutes 1992, sections 270.0604, subdivision 6; 272.09; 272.46, subdivision 1; 272.47; 296.03; 296.14; 296.15, subdivision 3; and 297A.07, subdivision 2.

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

ARTICLE 1

PROPERTY TAXES; PROPERTY TAX REFUNDS

Section 1. Minnesota Statutes 1992, section 168.011, subdivision 8, is amended to read:

Subd. 8. **MANUFACTURED HOME; PARK TRAILER; TRAVEL TRAILER.** (a) "Manufactured home" has the meaning given it in section 327.31, subdivision 6.

(b) "Park trailer" means a trailer that:

(1) exceeds eight and one-half feet in width in travel mode but is no larger than 400 square feet when the collapsible components are fully extended or at maximum horizontal width; and

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(2) is used as temporary living quarters.

“Park trailer” does not include a manufactured home.

(c) “Travel trailer” means a trailer, mounted on wheels, that:

(1) is designed to provide temporary living quarters during recreation, camping, or travel;

(2) does not require a special highway movement permit based on its size or weight when towed by a motor vehicle; and

(3) complies with sections 169.80, subdivision 2, and 169.81, subdivision 2.

Sec. 2. Minnesota Statutes 1992, section 168.012, subdivision 9, is amended to read:

Subd. 9. Manufactured homes shall not be taxed as motor vehicles using the public streets and highways and shall be exempt from the motor vehicle tax provisions of this chapter. Except as provided in section 274.19, manufactured homes shall be taxed as personal property. The provisions of Minnesota Statutes 1957, section 272.02 or any other act providing for tax exemption shall be inapplicable to manufactured homes, except such manufactured homes as are held by a licensed dealer and exempted as inventory. Travel trailers not conspicuously displaying current registration plates during any calendar year on the property tax assessment date shall be taxed as manufactured homes if occupied as human dwelling places. Park trailers not used on the highway during any calendar year must be taxed as manufactured homes if occupied as human dwelling places. Park trailers used on the highway during any calendar year must be taxed under section 168.013, subdivision 1j.

Sec. 3. Minnesota Statutes 1992, section 270.0605, is amended to read:

270.0605 TAX INFORMATION BULLETINS.

The commissioner of revenue may issue tax information bulletins. “Tax information bulletins” are informational guides to enable taxpayers and affected local governmental officials to become more familiar with Minnesota tax laws and their rights and responsibilities under the tax laws. Nothing contained in the tax information bulletins supersedes, alters, or otherwise changes any provisions of the Minnesota tax law, administrative rules, court decisions, or revenue notices.

Sec. 4. Minnesota Statutes 1993 Supplement, section 270.41, subdivision 5, is amended to read:

Subd. 5. **PROHIBITED ACTIVITY.** An assessor, deputy assessor, assistant assessor, appraiser, or other person employed by an assessment jurisdiction or contracting with an assessment jurisdiction for the purpose of valuing or classifying property for property tax purposes is prohibited from making appraisals

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or analyses, accepting an appraisal assignment, or preparing an appraisal report as defined in section 82B.02, subdivisions 2 to 5, on any property within the assessment jurisdiction where the individual is employed or performing the duties of the assessor under contract. Violation of this prohibition shall result in immediate revocation of the individual's license to assess property for property tax purposes. This prohibition must not be construed to prohibit an individual from carrying out any duties required for the proper assessment of property for property tax purposes. If a formal resolution has been adopted by the governing body of a governmental unit, which specifies the purposes for which such work will be done, this prohibition does not apply to appraisal activities undertaken on behalf of and at the request of the governmental unit that has employed or contracted with the individual. The resolution may only allow appraisal activities which are related to condemnations, right-of-way acquisitions, or special assessments.

Sec. 5. Minnesota Statutes 1993 Supplement, section 272.115, subdivision 1, is amended to read:

Subdivision 1. Whenever any real estate is sold for a consideration in excess of \$1,000, whether by warranty deed, quitclaim deed, contract for deed or any other method of sale, the grantor, grantee or the legal agent of either shall file a certificate of value with the county auditor in the county in which the property is located when the deed or other document is presented for recording. Contract for deeds are subject to recording under section 507.235, subdivision 1. Value shall, in the case of any deed not a gift, be the amount of the full actual consideration thereof, paid or to be paid, including the amount of any lien or liens assumed. The certificate of value shall include the classification to which the property belongs for the purpose of determining the fair market value of the property. The certificate shall include financing terms and conditions of the sale which are necessary to determine the actual, present value of the sale price for purposes of the sales ratio study. The commissioner of revenue shall promulgate administrative rules specifying the financing terms and conditions which must be included on the certificate. Pursuant to the authority of the commissioner of revenue in section 270.066, the certificate of value must include the social security number or the federal employer identification number of the grantors and grantees. The identification numbers of the grantors and grantees are private data on individuals or nonpublic data as defined in section 13.02, subdivisions 9 and 12, but, notwithstanding that section, the private or nonpublic data may be disclosed to the commissioner of revenue for purposes of tax administration.

Sec. 6. Minnesota Statutes 1992, 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

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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. 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. When mineral, clay, or gravel deposits exist on a property, and their extent, quality, and costs of extraction are sufficiently well known so as to influence market value, such deposits shall be recognized in valuing the property.~~

Sec. 7. Minnesota Statutes 1993 Supplement, section 273.124, subdivision 13, is amended to read:

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

(b) On or before January 2, 1993, each county assessor shall mail a homestead application to the owner of each parcel of property within the county which was classified as homestead for the 1992 assessment year. The format and contents of a uniform homestead application shall be prescribed by the commissioner of revenue. The commissioner shall consult with the chairs of the house and senate tax committees on the contents of the homestead application form. The application must clearly inform the taxpayer that this application must be signed by all owners who occupy the property or by the qualifying relative and returned to the county assessor in order for the property to continue receiving homestead treatment. The envelope containing the homestead application shall clearly identify its contents and alert the taxpayer of its necessary immediate response.

(c) Every property owner applying for homestead classification must furnish to the county assessor the social security number of each occupant who is listed as an owner of the property on the homestead application, and the name and address of each owner who does not occupy the property. If the social security number is not provided, the county assessor shall classify the property as non-homestead. 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, or, for purposes of proceeding under the revenue recapture act to recover personal property taxes owing, to the county treasurer.

(d) If residential real estate is occupied and used for purposes of a home-

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stead by a relative of the owner and qualifies for a homestead under subdivision 1, paragraph (c), in order for the property to receive homestead status, a homestead application must be filed with the assessor. The social security number of each relative occupying the property and the social security number of each owner who is related to an occupant of the property shall be required on the homestead application filed under this subdivision. If a different relative of the owner subsequently occupies the property, the owner of the property must notify the assessor within 30 days of the change in occupancy. The social security number of a relative occupying the property is private data on individuals as defined by section 13.02, subdivision 12, but may be disclosed to the commissioner of revenue.

(e) The homestead application shall also notify the property owners that the application filed under this section will not be mailed annually and that if the property is granted homestead status for the 1993 assessment, or any assessment year thereafter, that same property shall remain classified as homestead until the property is sold or transferred to another person, or the owners or the relatives no longer use the property as their homestead. Upon the sale or transfer of the homestead property, a certificate of value must be timely filed with the county auditor as provided under section 272.115. Failure to notify the assessor within 30 days that the property has been sold, transferred, or that the owner or the relative is no longer occupying the property as a homestead, shall result in the penalty provided under this subdivision and the property will lose its current homestead status.

(f) If the homestead application is not returned within 30 days, the county will send a second application to the present owners of record. The notice of proposed property taxes prepared under section 275.065, subdivision 3, shall reflect the property's classification. Beginning with assessment year 1993 for all properties, if a homestead application has not been filed with the county by December 15, the assessor shall classify the property as nonhomestead for the current assessment year for taxes payable in the following year, provided that the owner may be entitled to receive the homestead classification by proper application under section 375.192.

(g) At the request of the commissioner, each county must give the commissioner a list that includes the name and social security number of each property owner, or relative of a property owner, applying for homestead classification under this subdivision. The commissioner shall use the information provided on the lists as appropriate under the law, including for the detection of improper claims by owners, or relatives of owners, under chapter 290A.

(h) If, in comparing the lists supplied by the counties, the commissioner finds that a property owner is claiming more than one homestead, the commissioner 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

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benefits that had been improperly allowed. For the purpose of this section, "homestead benefits" means the tax reduction resulting from the classification as a homestead under section 273.13, the taconite homestead credit under section 273.135, and the supplemental homestead credit under section 273.1391.

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 100 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 of taxes and penalty to the succeeding year's tax list to be collected as part of the property taxes.

(i) Any amount of homestead benefits recovered by the county from the property owner shall be distributed to the county, city or town, and school district where the property is located in the same proportion that each taxing district's levy was to the total of the three taxing districts' levy for the current year. 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 total amount of penalty collected must be deposited in the county general fund.

(j) 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.

(k) In addition to lists of homestead properties, the commissioner may ask the counties to furnish lists of all properties and the record owners.

Sec. 8. Minnesota Statutes 1993 Supplement, section 275.065, subdivision 6, is amended to read:

Subd. 6. PUBLIC HEARING; ADOPTION OF BUDGET AND LEVY. Between November 29 and December 20, the governing bodies of the city, county, metropolitan special taxing districts as defined in subdivision 3, paragraph (i), and regional library districts shall each hold a public hearing to discuss and seek public comment on its final budget and property tax levy for taxes payable in the following year, and the governing body of the school district shall hold a public hearing to review its current budget and proposed property tax levy for taxes payable in the following year. The metropolitan special taxing districts shall be required to hold only a single joint public hearing, the location of which will be determined by the affected metropolitan agencies.

At a subsequent hearing, ~~the taxing authority, other than a school district, may amend the proposed budget and property tax levy and must adopt a final budget and property tax levy; and the school district may amend the proposed~~

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property tax levy and must adopt a final property tax levy. Each county, school district, city, and metropolitan special taxing district may amend its proposed property tax levy and must adopt a final property tax levy. Each county, city, and metropolitan special taxing district may also amend its proposed budget and must adopt a final budget at the subsequent hearing. A school district is not required to adopt its final budget at the subsequent hearing. The subsequent hearing of a taxing authority must be held on a date subsequent to the date of the taxing authority's initial public hearing, or subsequent to the date of its continuation hearing if a continuation hearing is held. The subsequent hearing may be held at a regularly scheduled board or council meeting or at a special meeting scheduled for the purposes of the subsequent hearing. The subsequent hearing of a taxing authority does not have to be coordinated by the county auditor to prevent a conflict with an initial hearing, a continuation hearing, or a subsequent hearing of any other taxing authority. All subsequent hearings must be held prior to five working days after December 20 of the levy year.

The time and place of the subsequent hearing must be announced at the initial public hearing or at the continuation hearing.

The property tax levy certified under section 275.07 by a city, county, metropolitan special taxing district, regional library district, or school district must not exceed the proposed levy determined under subdivision 1, except by an amount up to the sum of the following amounts:

(1) the amount of a school district levy whose voters approved a referendum to increase taxes under section 124.82, subdivision 3, 124A.03, subdivision 2, 124B.03, subdivision 2, or 136C.411, after the proposed levy was certified;

(2) the amount of a city or county levy approved by the voters after the proposed levy was certified;

(3) the amount of a levy to pay principal and interest on bonds issued or approved by the voters under section 475.58 after the proposed levy was certified;

(4) the amount of a levy to pay costs due to a natural disaster occurring after the proposed levy was certified, if that amount is approved by the commissioner of revenue under subdivision 6a;

(5) the amount of a levy to pay tort judgments against a taxing authority that become final after the proposed levy was certified, if the amount is approved by the commissioner of revenue under subdivision 6a;

(6) the amount of an increase in levy limits certified to the taxing authority by the commissioner of education after the proposed levy was certified; and

(7) the amount required under section 124.755.

At the hearing under this subdivision, the percentage increase in property taxes proposed by the taxing authority, if any, and the specific purposes for

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which property tax revenues are being increased must be discussed. At the hearing held in 1993 only, specific information for previous year, current year, and proposed budget year must be presented on:

- (i) percent of total proposed budget representing total compensation cost;
- (ii) numbers of employees by general classification, and whether full or part time;
- (iii) number and budgeted expenditures for independent contractors; and
- (iv) the effect of budget increases or decreases on the proposed property tax levy.

During the discussion, the governing body shall hear comments regarding a proposed increase and explain the reasons for the proposed increase. The public shall be allowed to speak and to ask questions. At ~~a~~ the subsequent hearing held as provided in this subdivision, the governing body, other than the governing body of a school district, shall adopt its final property tax levy prior to adopting its final budget.

If the hearing is not completed on its scheduled date, the taxing authority must announce, prior to adjournment of the hearing, the date, time, and place for the continuation of the hearing. The continued hearing must be held at least five business days but no more than 14 business days after the original hearing.

The hearing must be held after 5:00 p.m. if scheduled on a day other than Saturday. No hearing may be held on a Sunday. The governing body of a county shall hold a hearing on the second Tuesday in December each year, and may hold additional hearings on other dates before December 20 if necessary for the convenience of county residents. The county auditor shall provide for the coordination of hearing dates for all cities and school districts within the county.

By August 10, each school board and the board of the regional library district shall certify to the county auditors of the counties in which the school district or regional library district is located the dates on which it elects to hold its hearings and any continuations. If a school board or regional library district does not certify the dates by August 10, the auditor will assign the hearing date. The dates elected or assigned must not conflict with the county hearing dates. The county auditor shall coordinate with the metropolitan special taxing districts as defined in subdivision 3, paragraph (i), a date on which the metropolitan special taxing districts will hold their joint public hearing and any continuation. By August 20, the county auditor shall notify the clerks of the cities within the county of the dates on which school districts, metropolitan special taxing districts, and regional library districts have elected to hold their hearings. At the time a city certifies its proposed levy under subdivision 1 it shall certify the dates on which it elects to hold its hearings and any continuations. The city must not select dates that conflict with the county hearing dates, metropolitan special taxing district dates, or with those elected by or assigned to the school districts or regional library district in which the city is located.

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The county hearing dates and the city, metropolitan special taxing district, regional library district, and school district hearing dates must be designated on the notices required under subdivision 3. The continuation dates need not be stated on the notices.

This subdivision does not apply to towns and special taxing districts other than regional library districts and metropolitan special taxing districts.

Notwithstanding the requirements of this section, the employer is required to meet and negotiate over employee compensation as provided for in chapter 179A.

Sec. 9. Minnesota Statutes 1992, section 290A.08, is amended to read:

290A.08 ONE CLAIMANT PER HOUSEHOLD.

Only one claimant per household per year is entitled to relief under this chapter. Payment of the claim for relief may be made payable to the husband and wife as one claimant. The commissioner, upon written request, may issue separate checks, to the husband and wife for one-half of the relief provided the original check has not been issued or has been returned. Individuals related as husband and wife who were married during the year may elect to file a joint claim which shall include each spouse's income, rent constituting property taxes, and property taxes payable. Husbands and wives who were married for the entire year and were domiciled in the same household for the entire year must file a joint claim. The maximum dollar amount allowable for a joint claim shall not exceed the amount that one person could receive.

Sec. 10. Minnesota Statutes 1992, section 290A.18, subdivision 2, is amended to read:

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, or if a claimant to whom a warrant has been issued does not cash that warrant within two years from the date the warrant was issued, the right to the credit shall lapse, and the warrant shall be deposited in the general fund.

Sec. 11. **[384.19] STATEMENT OF UNPAID DELINQUENT TAXES.**

Upon request of any person the county auditor shall search the official records of the office to determine if unpaid property taxes exist for any tax parcels of land listed in the request. The county auditor shall certify the results of the search for each parcel by showing the amount of tax unpaid for each tax year payable. For purposes of this section, "tax" includes penalty, interest, fees, and costs related to the unpaid tax.

At the option of the county auditor, magnetic tape or other electronic media may be employed to transmit the data request or the search results. For this service a fee may be charged in an amount established by the county board up to a maximum of \$5 per parcel, to recover the reasonable costs incurred to furnish the service. The provisions of section 276.041 are not affected by this section.

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Sec. 12. [385.42] STATEMENT OF UNPAID CURRENT TAXES.

Upon request of any person the county treasurer shall search the official records of the office to determine if unpaid property taxes exist for the current tax year for any tax parcels of land listed in the request. The county treasurer shall certify the results of the search for each parcel by showing the amount of tax unpaid. For purposes of this section, "tax" includes penalty, interest, fees, and costs related to the unpaid tax.

At the option of the county treasurer, magnetic tape or other electronic media may be employed to transmit the data request or the search results. For this service a fee may be charged in an amount established by the county board up to a maximum of \$5 per parcel, to recover the reasonable costs incurred to furnish the service. The provisions of section 276.041 are not affected by this section.

This section shall not authorize the treasurer or county auditor to charge a fee for certifying to taxes on a deed to be recorded.

Sec. 13. REPEALER.

Minnesota Statutes 1992, sections 270.0604, subdivision 6; 272.09; 272.46, subdivision 1; and 272.47 are repealed.

Sec. 14. EFFECTIVE DATES.

Sections 1, 2, and 5 are effective July 1, 1995.

Sections 3, 7, 11 to 13 are effective July 1, 1994.

Sections 4 and 10 are effective on the day following final enactment.

Sections 6 and 8 are effective for taxes payable in 1995 and thereafter.

Section 9 is effective for refunds based on rents paid in 1994, and property taxes payable in 1995, and thereafter.

ARTICLE 2

INCOME TAX

Section 1. Minnesota Statutes 1992, section 270.052, is amended to read:

270.052 AGREEMENT WITH INTERNAL REVENUE SERVICE.

Pursuant to section 270B.12, 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~~

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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 1992, section 289A.60, is amended by adding a subdivision to read:

Subd. 22. COMPOSITE RETURNS. For the purposes of the penalties imposed by subdivisions 1 and 2, the payment of a composite tax or filing of a composite return pursuant to section 289A.08, subdivision 7, is considered the payment and filing of a corporate tax.

Sec. 3. Minnesota Statutes 1992, section 289A.60, is amended by adding a subdivision to read:

Subd. 23. WITHHOLDING FOR NONRESIDENT PARTNERS OR SHAREHOLDERS. For the purposes of the penalties imposed by subdivisions 1, 2, and 5a, the filing of returns required by section 289A.09, subdivision 1, paragraphs (d) and (e), and the payment of amounts withheld under section 290.92, subdivisions 4b and 4c, are considered filing and payment corporate tax rather than withholding tax.

Sec. 4. Minnesota Statutes 1992, section 290.01, subdivision 3a, is amended to read:

Subd. 3a. TRUST. The term "trust" has the meaning provided under the Internal Revenue Code of 1986, as amended through December 31, ~~1994~~ 1993, and also means designated settlement fund as defined in and taxed federally under section 468B of the Internal Revenue Code of 1986, as amended through December 31, 1993.

Sec. 5. Minnesota Statutes 1993 Supplement, section 290.01, subdivision 19, is amended to read:

Subd. 19. NET INCOME. The term "net income" means the federal taxable income, as defined in 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.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(h) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

(1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply; and

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(2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

The net income of a designated settlement fund as defined in section 468B(d) of the Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal Revenue Code.

The Internal Revenue Code of 1986, as amended through December 31, 1986, shall be in effect for taxable years beginning after December 31, 1986. The provisions of sections 10104, 10202, 10203, 10204, 10206, 10212, 10221, 10222, 10223, 10226, 10227, 10228, 10611, 10631, 10632, and 10711 of the Omnibus Budget Reconciliation Act of 1987, Public Law Number 100-203, the provisions of sections 1001, 1002, 1003, 1004, 1005, 1006, 1008, 1009, 1010, 1011, 1011A, 1011B, 1012, 1013, 1014, 1015, 1018, 2004, 3041, 4009, 6007, 6026, 6032, 6137, 6277, and 6282 of the Technical and Miscellaneous Revenue Act of 1988, Public Law Number 100-647, and the provisions of sections 7811, 7816, and 7831 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, shall be effective at the time they become effective for federal income tax purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1987, shall be in effect for taxable years beginning after December 31, 1987. The provisions of sections 4001, 4002, 4011, 5021, 5041, 5053, 5075, 6003, 6008, 6011, 6030, 6031, 6033, 6057, 6064, 6066, 6079, 6130, 6176, 6180, 6182, 6280, and 6281 of the Technical and Miscellaneous Revenue Act of 1988, Public Law Number 100-647, the provisions of sections 7815 and 7821 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, and the provisions of section 11702 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, shall become effective at the time they become effective for federal tax purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1988, shall be in effect for taxable years beginning after December 31, 1988. The provisions of sections 7101, 7102, 7104, 7105, 7201, 7202, 7203, 7204, 7205, 7206, 7207, 7210, 7211, 7301, 7302, 7303, 7304, 7601, 7621, 7622, 7641, 7642, 7645, 7647, 7651, and 7652 of the Omnibus Budget Reconciliation Act of 1989, Public Law Number 101-239, the provision of section 1401 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law Number 101-73, and the provisions of sections 11701 and 11703 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, shall become effective at the time they become effective for federal tax purposes.

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The Internal Revenue Code of 1986, as amended through December 31, 1989, shall be in effect for taxable years beginning after December 31, 1989. The provisions of sections 11321, 11322, 11324, 11325, 11403, 11404, 11410, and 11521 of the Revenue Reconciliation Act of 1990, Public Law Number 101-508, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1990, shall be in effect for taxable years beginning after December 31, 1990.

The Internal Revenue Code of 1986, as amended through December 31, 1991, shall be in effect for taxable years beginning after December 31, 1991.

The provisions of sections 1936 and 1937 of the Comprehensive National Energy Policy Act of 1992, Public Law Number 102-486, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1992, shall be in effect for taxable years beginning after December 31, 1992.

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

Sec. 6. EFFECTIVE DATES.

Section 1 is effective the day following final enactment. Sections 2 and 3 are effective for tax returns due for tax years beginning after December 31, 1993. Sections 4 and 5 are effective for tax years beginning after December 31, 1993.

ARTICLE 3

SALES, USE, AND MOTOR VEHICLE EXCISE TAXES

Section 1. Minnesota Statutes 1992, section 270.60, subdivision 1, is amended to read:

Subdivision 1. **TAXES PAID BY INDIANS.** The commissioner of revenue is authorized to enter into a tax refund agreement with the governing body of any ~~Sioux or Chippewa~~ federally recognized Indian reservation in Minnesota. The agreement may provide for a mutually agreed upon amount as a refund to the governing body of any sales or excise tax paid by the total resident Indian population on or adjacent to a reservation into the state treasury, or for an amount which measures the economic value of an agreement by the ~~council~~ tribal government to pay the equivalent of the state sales tax on items included in the sales tax base but exempt on the reservation, notwithstanding any other law which limits the refundment of taxes. The total resident Indian population on or adjacent to a reservation shall be defined according to the United States

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Department of the Interior, Bureau of Indian Affairs, as determined and stated in its Report on Service Population and Labor Force.

Sec. 2. Minnesota Statutes 1992, section 270.60, subdivision 2, is amended to read:

Subd. 2. **CIGARETTE TAXES SALES, USE, AND EXCISE TAXES.** (a) ~~The commissioner of revenue is also authorized to enter into a tax refund agreement with the governing body of any federally recognized Indian reservation in Minnesota, for refund of a mutually agreed upon amount of the cigarette taxes collected from sales on reservations or trust lands of an Indian tribe to the established governing body of the tribe having jurisdiction over the reservation or trust land on which the sale is made: that provides for the state and the tribal government to share sales, use, and excise tax revenues generated from on reservation activities of non-Indians and off reservation activities of members of the reservation. Every agreement entered into pursuant to this subdivision must require the commissioner of revenue to collect all state and tribal taxes covered by the agreement.~~

(b) The commissioner of revenue is authorized to collect any tribal taxes imposed pursuant to any agreement entered into pursuant to this subdivision and to make payments authorized by the agreement to the tribal government from the funds collected.

(c) The commissioner shall pay to the tribal government its share of the taxes collected pursuant to the agreement, as indicated in the agreement, and grant the taxpayer a credit for the taxpayer's share of the amount paid to the tribal government against the taxpayer's Minnesota tax.

Sec. 3. Minnesota Statutes 1993 Supplement, section 270B.01, subdivision 8, is amended to read:

Subd. 8. **MINNESOTA TAX LAWS.** For purposes of this chapter only, "Minnesota tax laws" means the taxes administered by or paid to the commissioner under chapters 289A (except taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, and 297A and sections 295.50 to 295.59, or any similar Indian tribal tax administered by the commissioner pursuant to any tax agreement between the state and the Indian tribal government, and includes any laws for the assessment, collection, and enforcement of those taxes.

Sec. 4. Minnesota Statutes 1992, section 270B.03, subdivision 1, is amended to read:

Subdivision 1. **WHO MAY INSPECT.** Returns and return information must, on written request, be made open to inspection by or disclosure to the data subject. For purposes of this chapter, the following are the data subject:

- (1) in the case of an individual return, that individual;
- (2) in the case of an income tax return filed jointly, either of the individuals with respect to whom the return is filed;

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(3) in the case of a partnership return, any person who was a member of the partnership during any part of the period covered by the return;

(4) in the case of the return of a corporation or its subsidiary:

(i) any person designated by resolution of the board of directors or other similar governing body;

(ii) any officer or employee of the corporation upon written request signed by any officer and attested to by the secretary or another officer;

(iii) any bona fide shareholder of record owning one percent or more of the outstanding stock of the corporation;

(iv) if the corporation is a corporation that has made an election under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1988, any person who was a shareholder during any part of the period covered by the return during which an election was in effect; or

(v) if the corporation has been dissolved, any person authorized by state law to act for the corporation or any person who would have been authorized if the corporation had not been dissolved;

(5) in the case of an estate return:

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

(ii) any heir at law, next of kin, or beneficiary of the estate, but only if the commissioner finds that the heir at law, next of kin, or beneficiary has a material interest that will be affected by information contained in the return;

(6) in the case of a trust return:

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

(ii) any beneficiary of the trust; but only if the commissioner finds that the beneficiary has a material interest that will be affected by information contained in the return; ~~and~~

(7) if liability has been assessed to a transferee under section 289A.31, subdivision 3, the transferee is the data subject with regard to the returns and return information relating to the assessed liability; and

(8) in the case of an Indian tribal government or an Indian tribal government owned entity,

(i) the chair of the tribal government, or

(ii) any person authorized by the tribal government.

Sec. 5. Minnesota Statutes 1992, section 270B.12, subdivision 3, is amended to read:

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Subd. 3. **REQUEST FORM; NAMED INSPECTOR.** Inspections and disclosures permitted under subdivisions 1 ~~and~~ 2, and 10 are allowed only upon written request in a form prescribed by the commissioner and may be made only to the representatives of the agency, body, or commission named in the written request as the individuals who are to inspect or receive the returns or return information on behalf of the agency, body, or commission.

Sec. 6. Minnesota Statutes 1992, section 270B.12, is amended by adding a subdivision to read:

Subd. 10. INDIAN TRIBAL GOVERNMENTS. Sales and use tax returns and return information are open to inspection by or disclosure to the taxing officials of any Indian tribal government in Minnesota for the purpose of and to the extent necessary for the administration of any tax agreement entered into between the state and the Indian tribal government pursuant to section 270.60, subdivision 2. Prior to inspection or disclosure, the Indian tribal government must establish procedures for safeguarding the information.

Sec. 7. Minnesota Statutes 1993 Supplement, section 289A.18, subdivision 4, is amended to read:

Subd. 4. **SALES AND USE TAX RETURNS.** (a) Sales and use tax returns must be filed on or before the 20th day of the month following the close of the preceding reporting period, except that annual use tax returns provided for under section 289A.11, subdivision 1, must be filed by April 15 following the close of the calendar year, in the case of individuals. Annual use tax returns of businesses, including sole proprietorships, and annual sales tax returns must be filed by February 5 following the close of the calendar year.

(b) Returns filed by retailers required to remit liabilities by means of funds transfer under section 289A.20, subdivision 4, paragraph (d), are due on or before the 25th day of the month following the close of the preceding reporting period. The return for the May liability and 75 percent of the estimated June liability is due on the date payment of the estimated June liability is due, and on or before August 25 of a year, the retailer must file a return showing the actual June liability.

(c) If a retailer has an average sales and use tax liability, including local sales and use taxes administered by the commissioner, equal to or less than \$500 per month in any quarter of a calendar year, and has substantially complied with the tax laws during the preceding four calendar quarters, the retailer may request authorization to file and pay the taxes quarterly in subsequent calendar quarters. The authorization remains in effect during the period in which the retailer's quarterly returns reflect sales and use tax liabilities of less than \$1,500 and there is continued compliance with state tax laws.

(d) If a retailer has an average sales and use tax liability, including local sales and use taxes administered by the commissioner, equal to or less than \$100 per month during a calendar year, and has substantially complied with the tax

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laws during that period, the retailer may request authorization to file and pay the taxes annually in subsequent years. The authorization remains in effect during the period in which the retailer's annual returns reflect sales and use tax liabilities of less than \$1,200 and there is continued compliance with state tax laws.

(e) The commissioner may also grant quarterly or annual filing and payment authorizations to retailers if the commissioner concludes that the retailers' future tax liabilities will be less than the monthly totals identified in paragraphs (c) and (d). An authorization granted under this paragraph is subject to the same conditions as an authorization granted under paragraphs (c) and (d).

Sec. 8. Minnesota Statutes 1993 Supplement, section 289A.20, subdivision 4, is amended to read:

Subd. 4. **SALES AND USE TAX.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred or following another reporting period as the commissioner prescribes, except that use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year.

(b) A vendor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit the June liability for the next year in the following manner:

(1) Two business days before June 30 of the year, the vendor must remit 75 percent of the estimated June liability to the commissioner.

(2) On or before August 14 of the year, the vendor must pay any additional amount of tax not remitted in June.

~~(c) 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.~~

(d) A vendor having a liability of \$120,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the 14th day of the month following the month in which the taxable event occurred, except for 75 percent of the estimated June liability, which is due two business days before June 30. The remaining amount of the June liability is due on August 14. If the date the tax is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the tax is due.

~~(e)~~ (d) If the vendor required to remit by electronic funds transfer as pro-

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vided in paragraph ~~(d)~~ (c) is unable due to reasonable cause to determine the actual sales and use tax due on or before the due date for payment, the vendor may remit an estimate of the tax owed using one of the following options:

- (1) 100 percent of the tax reported on the previous month's sales and use tax return;
- (2) 100 percent of the tax reported on the sales and use tax return for the same month in the previous calendar year; or
- (3) 95 percent of the actual tax due.

Any additional amount of tax that is not remitted on or before the due date for payment, must be remitted with the return. ~~A vendor must notify the commissioner of the option that will be used to estimate the tax due, and must obtain approval from the commissioner to switch to another option.~~ If a vendor fails to remit the actual liability or does not remit using one of the estimate options by the due date for payment, the vendor must remit actual liability as provided in paragraph ~~(d)~~ (c) in all subsequent periods. This paragraph does not apply to the June sales and use tax liability.

Sec. 9. Minnesota Statutes 1993 Supplement, 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, dairy products, poultry and poultry products, fruits, vegetables, forage, grains and bees and apiary products. "Farm machinery" 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;
- (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 whether or not the equipment is installed by the seller and becomes part of the real property;~~ except irrigation equipment which is situated below ground and considered to be a part of the real property whether or not the equipment is installed by the seller and becomes part of the real property;
- (4) logging equipment, including chain saws used for commercial logging;
- (5) fencing used for the containment of farmed cervidae, as defined in section 17.451, subdivision 2; and

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(6) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, as defined in this subdivision, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products.

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 except fencing material covered by clause (5), 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. 10. Minnesota Statutes 1993 Supplement, section 297A.07, subdivision 1, is amended to read:

Subdivision 1. **HEARINGS.** If any person fails to comply with this chapter or the rules adopted under this chapter, without reasonable cause, the commissioner may schedule a hearing requiring the person to show cause why the permit should not be revoked. ~~The commissioner must give the person 15 days' notice in writing, specifying the time and place of the hearing and the reason for the proposed revocation~~ give the person 30 days' notice in writing, specifying the violations, and that based upon such violations the commissioner intends to revoke the person's permit. The notice shall also advise the person of the person's right to contest the revocation under this subdivision, and the general procedures for a contested case hearing under chapter 14, ~~and the notice requirement under subdivision 2.~~ The notice may be served personally or by mail in the manner prescribed for service of an order of assessment. A permit is revoked when the commissioner serves a notice of revocation of permit upon the person after 30 days have passed following the date of the notice of intent to revoke without the person requesting a hearing, or if a hearing is timely requested, and held, after the commissioner serves an order of revocation of permit under section 14.62, subdivision 1.

Sec. 11. Minnesota Statutes 1992, section 297A.25, subdivision 9, is amended to read:

Subd. 9. **MATERIALS CONSUMED IN PRODUCTION.** The gross receipts from the sale of and the storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials, including returnable containers used in packaging food and beverage products, feeds, seeds, fertilizers, electricity, gas and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used becomes an ingredient or constituent part of the property produced are exempt. Seeds, trees, fertilizers, and herbicides purchased for use by farmers in the Conservation Reserve Pro-

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gram under United States Code, title 16, section 590h, the Integrated Farm Management Program under section 1627 of Public Law Number 101-624, the Wheat and Feed Grain Programs under sections 301 to 305 and 401 to 405 of Public Law Number 101-624, and the conservation reserve program under sections 103F.505 to 103F.531, are included in this exemption. Chemicals used for cleaning food processing machinery and equipment are included in this exemption. Materials, including chemicals, fuels, and electricity purchased by persons engaged in agricultural or industrial production to treat waste generated as a result of the production process are included in this exemption. Such production shall include, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products whether vegetable or animal, commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity and the production of road building materials. Such production shall not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures, used in such production and fuel, electricity, gas or steam used for space heating or lighting, are not included within this exemption; however, accessory tools, equipment and other short lived items, which are separate detachable units used in producing a direct effect upon the product, where such items have an ordinary useful life of less than 12 months, are included within the exemption provided herein. Electricity used to make snow for outdoor use for ski hills, ski slopes, or ski trails is included in this exemption.

Sec. 12. Minnesota Statutes 1993 Supplement, 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, the University of Minnesota, state universities, community colleges, technical colleges, state academies, the Minnesota center for arts education, and school districts are exempt.

As used in this subdivision, "school districts" means public school entities and districts of every kind and nature organized under the laws of the state of Minnesota, including, without limitation, school districts, intermediate school districts, education districts, educational cooperative service units, secondary vocational cooperative centers, special education cooperatives, joint purchasing cooperatives, telecommunication cooperatives, regional management information centers, technical colleges, joint vocational technical districts, and any instrumentality of a school district, as defined in section 471.59.

Sales exempted by this subdivision include sales under section 297A.01,

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subdivision 3, paragraph (f), but do not include sales under section 297A.01, subdivision 3, paragraph (j), clause (vii).

Sales to hospitals and nursing homes owned and operated by political subdivisions of the state are exempt under this subdivision.

The sales to and exclusively for the use of libraries of books, periodicals, audio-visual materials and equipment, photocopiers for use by the public, and all cataloging and circulation equipment, and cataloging and circulation software for library use are exempt under this subdivision. For purposes of this paragraph "libraries" means libraries as defined in section 134.001, county law libraries under chapter 134A, the state library under section 480.09, and the legislative reference library.

Sales of supplies and equipment used in the operation of an ambulance service owned and operated by a political subdivision of the state are exempt under this subdivision provided that the supplies and equipment are used in the course of providing medical care. Sales to a political subdivision of repair and replacement parts for emergency rescue vehicles and fire trucks and apparatus are exempt under this subdivision.

Sales to a political subdivision of machinery and equipment, except for motor vehicles, used directly for mixed municipal solid waste collection and disposal services at a solid waste disposal facility as defined in section 115A.03, subdivision 10, are exempt under this subdivision.

Sales to political subdivisions of chore and homemaking services to be provided to elderly or disabled individuals are exempt.

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.

This exemption does not apply to the leasing of a motor vehicle as defined in section 297B.01, subdivision 5, except for leases entered into by the United States or its agencies or instrumentalities.

The tax imposed on sales to political subdivisions of the state under this section applies to all political subdivisions other than those explicitly exempted under this subdivision, notwithstanding section 115A.69, subdivision 6, 116A.25, 360.035, 458A.09, 458A.30, 458D.23, 469.101, subdivision 2, 469.127, 473.394, 473.448, 473.545, or 473.608 or any other law to the contrary enacted before 1992.

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Sales exempted by this subdivision include sales made to other states or political subdivisions of other states are exempt, if the sale would be exempt from taxation if it occurred in that state, but do not include sales under section 297A.01, subdivision 3, paragraphs (c) and (e).

Sec. 13. **REPEALER.**

Minnesota Statutes 1992, section 297A.07, subdivision 2, is repealed.

Sec. 14. **EFFECTIVE DATE.**

Sections 1 to 6 are effective July 1, 1994.

Section 8 is effective the day following final enactment.

Section 7 is effective for returns due after December 31, 1994.

Sections 9, 11, and 12 are effective for sales occurring after June 30, 1994.

Sections 10 and 13 are effective for notices dated after January 1, 1995.

ARTICLE 4

COLLECTIONS

Section 1, Minnesota Statutes 1992, section 270.10, is amended by adding a subdivision to read:

Subd. 5. APPEAL; PAYMENT OF ORDER. No collection action may be taken, including the filing of liens under section 270.69, and no penalties may be imposed if an order of the commissioner, excluding orders relating to property tax matters, is paid:

(1) within 60 days after notice and demand for payment of the order have been mailed to the taxpayer; or

(2) if an administrative appeal or a tax court appeal under chapter 271 is timely filed, within 60 days following final determination of the appeal if the appeal is based upon a constitutional challenge to the tax, and if not, when the decision of the tax court is made.

Sec. 2. **[270.102] SUCCESSOR LIABILITY OF BUSINESSES.**

Subdivision 1. DEFINITIONS. (a) The following terms used in this section have the following meanings.

(b) "Successor" means a person who directly or indirectly purchases, acquires, is gifted, or succeeds to the business or stock of goods of any person quitting, selling, or otherwise disposing of a business or stock of goods. Successor does not include a personal representative or beneficiary of an estate.

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(c) "Person" means an individual, partnership, corporation, sole proprietorship, joint venture, limited liability company, or any other type of business entity or association.

(d) "Withhold" means setting aside money or dealing with the payment of consideration in a manner that denies a transferring business the benefit of the transfer in an amount equal to the sales and withholding tax liability of the transferring business.

(e) "Purchase price" means the consideration paid or to be paid for the transfer by the successor to the transferring business, and includes amounts paid for tangible property or intangibles such as leases, licenses, or goodwill. Purchase price also includes debts assumed or forgiven by the successor, or real or personal property conveyed or to be conveyed by the successor to the transferring business.

(f) "Arm's length transaction" means a transfer for adequate consideration between independent parties both acting in their own best interests. If the parties are related to each other, a rebuttable presumption arises that the transaction is not at arm's length.

(g) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with a business or an interest in a business, or a stock of goods, whether by gift or for consideration. Transfer includes a change in the type of business entity or the name of the business, where one business is discontinued and a new one started. Transfer also includes the acquisition by a new corporation of the assets of a prior business in exchange for the stock of the new corporation.

Subd. 2. BULK TRANSFERS; LIABILITY OF SUCCESSOR; LIEN. (a) Whenever a business transfers in bulk to a successor all or any part of the business assets, other than in the ordinary course of business, and a lien for unpaid sales and withholding taxes has been filed against the business by the commissioner under section 270.69 in the office of the secretary of state or in the office of the county recorder for the county in which the business is located, at least 20 days before taking possession of the assets or paying the purchase price, the successor shall notify the commissioner of the transfer and the terms and conditions related to it. The notice must include the tax identification number of the transferring business.

(b) If the successor fails to give the notice required in paragraph (a), the successor is liable for any unpaid sales and withholding taxes, interest, and penalties due from the transferring business to the extent of the purchase price. If the successor provides the notice required in paragraph (a) and, within 20 days after receipt of the notice, the commissioner notifies the successor that tax liabilities exist in addition to those included on the lien or there are sales and withholding tax returns due but not filed, the successor is, in addition to being liable for the amounts included on the lien, liable for all other uncontested sales and withholding taxes, interest, and penalties as stated in the commissioner's notice from the transferring business to the extent the successor pays the purchase price or

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takes possession of the assets without withholding and remitting the liability to the commissioner. The successor is liable whether the purchase price is paid or the assets are transferred prior to or after notification from the commissioner. The commissioner may also notify the successor that there are no sales or withholding tax liabilities or returns due from the transferring business other than the liabilities included on the lien, and of the current balance due to satisfy the lien.

(c) The commissioner shall have a first priority lien for all consideration paid or to be paid toward the purchase price when the requirements of this section have not been met.

(d) If, based upon the information available, the commissioner determines that a transfer was not at arm's length or was a gift, the successor's liability under this section equals the value of the assets transferred. For purposes of imposing the liability, the value of the property transferred is presumed to equal the unpaid sales and withholding taxes, interest, and penalties of the transferring business.

(e) In the case of a gift resulting in successor liability under this section, return of the gifted property by the donee to the donor releases the donee's successor liability.

(f) The liability imposed by this section does not include assignments for the benefit of creditors under chapter 577, foreclosures of mortgages under chapters 580 to 582 or of security interests arising under article 9 of the Uniform Commercial Code, or sales by trustees in bankruptcy.

(g) A successor who complies with the requirements of paragraphs (a) and (b) is not liable for any assessments of sales and withholding taxes of the transferring business made after the commissioner provides notice to the successor under paragraph (b), except for taxes assessed on returns filed to comply with the notice. If the commissioner fails to provide the notice and the 20-day period expires, the successor is not liable for any sales and withholding taxes of the transferring business other than those included on the lien.

Subd. 3. ASSESSMENT PROCEDURE; NO STAY ON COLLECTION REMEDIES. The commissioner may assess liability under this section within the time prescribed for collecting the underlying sales and withholding taxes, interest, and penalties. The assessment is presumed to be valid, and the burden is upon the successor to show it is incorrect or invalid. An order assessing successor liability is reviewable administratively under section 289A.65 and is appealable to tax court under chapter 271. Collection remedies available against the transferring business are available against the successor from the date of assessment of successor liability.

Subd. 4. DISCLOSURE. Notification by the commissioner to the successor under subdivision 2, paragraph (b), that the transferring business owes sales and withholding taxes, interest, and penalties or has returns that are due, or that

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there are no outstanding liabilities or returns other than the liabilities included on the lien, or of the current balance due to satisfy the lien, is not a disclosure violation under chapter 270B.

Sec. 3. Minnesota Statutes 1992, section 270.69, subdivision 4, is amended to read:

Subd. 4. **PERIOD OF LIMITATIONS.** The lien imposed by this section shall, notwithstanding any other provision of law to the contrary, be enforceable from the time the lien arises and for ten years from the date of filing the notice of lien, which must be filed by the commissioner within five years after the date of assessment of the tax or final administrative or judicial determination of the assessment. A notice of lien filed in one county may be transcribed to any other county within ten years after the date of its filing, but the transcription shall not extend the period during which the lien is enforceable. A notice of lien may be renewed by the commissioner before the expiration of the ten-year period for an additional ten years. The taxpayer must receive written notice of the renewal.

Sec. 4. Minnesota Statutes 1992, section 270.69, is amended by adding a subdivision to read:

Subd. 15. ASSIGNMENT OF LIENS. The commissioner may sell and assign to a third party the right of redemption in specific real property for liens filed under this section. The redemption in the hands of the assignee shall not be enforceable by any of the collection remedies provided to the commissioner by law. The assignee is limited to the same rights of redemption the commissioner would have in any mortgage foreclosure proceeding, but in any bankruptcy proceeding does not obtain the priority of the commissioner as a tax claimant. Should the taxpayer or its assigns exercise the right of redemption the assignment by the commissioner is extinguished.

Sec. 5. Minnesota Statutes 1992, section 270.70, subdivision 2, is amended to read:

Subd. 2. **NOTICE AND DEMAND; COLLECTION BY LEVY; JEOPARDY COLLECTION.** (a) Before a levy is made, notice and demand for payment of the amount due must be given to the person liable for the payment or collection of the tax at least 30 days prior to the levy. ~~If the commissioner has reason to believe that collection of the tax is in jeopardy, notice and demand for immediate payment of the tax may be made by the commissioner. If the tax is not paid, the commissioner may proceed to collect by levy without regard to the period provided herein.~~ The notice required under this subdivision paragraph must be sent to the taxpayer's last known address and must include a brief statement that sets forth in simple and nontechnical terms:

- (1) the administrative appeals available to the taxpayer with respect to the levy and sale; and
- (2) the alternatives available to the taxpayer that can prevent a levy, including installment payment agreements under section 270.67, subdivision 2.

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(b) Notwithstanding the stay of collection provisions in sections 270.10, subdivision 5, and 289A.37, subdivision 1, paragraph (b), and the notice provisions in paragraph (a), if the commissioner has reason to believe that collection of the tax is in jeopardy, notice and demand for immediate payment of the tax may be made. If the tax is not paid, the commissioner may proceed to collect by levy.

Sec. 6. Minnesota Statutes 1992, 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 or has not filed returns. If the applicant taxpayer does not owe delinquent taxes but has not filed returns, the commissioner may not notify the licensing authority unless the taxpayer has been given 90 days' written notice to file the returns or show that the returns are not required to be filed. 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 and has filed all required returns.

Sec. 7. **[270.79] REFUNDS PAYABLE IN INSTALLMENTS.**

Subdivision 1. LAW HELD UNCONSTITUTIONAL. Where there is (1) a final judicial determination that a tax law is unconstitutional, is in violation of state or federal law, or that a regulation or statute has been misinterpreted by the department; and (2) the determination is not limited to prospective application, the procedures in this section relating to refunds attributable to that determination apply.

Subd. 2. ESTIMATE OF CUMULATIVE REFUNDS. The commissioner shall estimate the cumulative refunds due resulting from the judicial determination.

Subd. 3. GENERAL REFUND PROVISIONS. If the commissioner determines that the cumulative refunds due all affected taxpayers will not exceed \$50,000,000, the general provisions for refunding for the particular tax type apply.

Subd. 4. REFUND PROCEDURES. (a) If the commissioner determines that the cumulative refunds due all affected taxpayers will exceed \$50,000,000, the refund procedures in this subdivision apply.

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(b) The refunds due shall be paid in installments beginning after July 1 of the calendar year following the later of the filing of the refund claim or the final judicial determination and ending in the fifth calendar year or at the time that the return for that calendar year is filed.

(c) The refunds shall be paid in the form of refundable credits claimed on the tax return for the tax type giving rise to the refund.

(d) In the case of annual returns the credit allowable must be claimed on the annual return. When returns are filed on other than an annual basis, the allowable credit must be claimed on the first return due after July 1 of a calendar year.

(e) The credit allowed for each year equals 20 percent of the claimed refund unless the commissioner determines that the cumulative refunds due for a particular year under this section will exceed \$150,000,000. If the refunds payable will exceed that amount, the claimed refunds will be reduced pro rata with any balance remaining due payable with the final refund installment.

(f) Unless contrary to the provisions in this section, the provisions for refunds in the various tax types, including provisions related to the payment of interest, apply to the refunds subject to these provisions.

(g) The commissioner may establish a de minimis individual refund amount below which the installment provisions do not apply. The amount established under this paragraph is not subject to the provisions of chapter 14.

Sec. 8. Minnesota Statutes 1992, section 270B.14, is amended by adding a subdivision to read:

Subd. 14. DISCLOSURE TO SECRETARY OF STATE. The commissioner may disclose return information to the secretary of state to the extent necessary to verify that the annual fee collected from a foreign corporation under section 303.07, subdivision 2, is the correct amount due.

Sec. 9. Minnesota Statutes 1992, section 289A.37, subdivision 1, is amended to read:

Subdivision 1. **ORDER OF ASSESSMENT; NOTICE AND DEMAND TO TAXPAYER.** (a) When a return has been filed and the commissioner determines that the tax disclosed by the return is different than the tax determined by the examination, the commissioner shall send an order of assessment to the taxpayer. When no return has been filed, the commissioner may make a return for the taxpayer under section 289A.35 or may send an order of assessment under this subdivision. The order must explain the basis for the assessment and must explain the taxpayer's appeal rights. An order of assessment is final when made but may be reconsidered by the commissioner under section 289A.65.

(b) The penalty under section 289A.60, subdivision 1, is not imposed and no collection action can be taken, including the filing of liens under section

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270.69, if the amount shown on the order is paid to the commissioner: (1) within 60 days after notice of the amount and demand for its payment have been mailed to the taxpayer by the commissioner; or (2) if an administrative appeal is filed under section 289A.65 or a tax court appeal is filed under chapter 271, within 60 days following final determination of the appeal if the appeal is based upon a constitutional challenge to the tax, and if not, when the decision of the tax court is made.

Sec. 10. **EFFECTIVE DATE.**

Sections 1, 3 to 6, 8, and 9 are effective the day following final enactment. Section 2 is effective for business transfers, acquisitions, successions, or dissolutions on or after January 1, 1995.

Section 7 is effective for refunds resulting from final determinations made on or after the day following final enactment, including refunds resulting from appeals that were filed before that date but finally determined on or after that date.

ARTICLE 5

PETROLEUM TAXES

Section 1. Minnesota Statutes 1992, section 239.05, subdivision 10a, is amended to read:

Subd. 10a. **OXYGENATE.** "Oxygenate" means agriculturally derived, denatured ethanol, ETBE, MTBE, or other alcohol or ether, approved as an oxygenate by the United States Environmental Protection Agency.

Sec. 2. Minnesota Statutes 1992, section 239.761, subdivision 3, is amended to read:

Subd. 3. **GASOLINE.** Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with ASTM specification ~~Ø 439-89~~ D 4814-92c. Gasoline that is not blended with ethanol must also comply with the volatility requirements in Code of Federal Regulations, title 40, part 80. After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol as provided in subdivision 4;

(2) shall not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) shall not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

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(4) shall not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

Sec. 3. Minnesota Statutes 1992, section 296.01, subdivision 14, is amended to read:

Subd. 14. **DIESEL FUEL OIL.** "Diesel fuel oil" means a petroleum distillate or blend of petroleum distillate and residual fuels, intended for use as a motor fuel in internal combustion diesel engines, that meets the specifications in ASTM specification D 975-90. Diesel fuel includes number 1 and number 2 fuel oils. K-1 kerosene is not diesel fuel unless it is blended with diesel fuel for use in motor vehicles.

Sec. 4. Minnesota Statutes 1992, section 296.01, is amended by adding a subdivision to read:

Subd. 15a. **DYED FUEL.** "Dyed fuel" means diesel fuel that indelible dye has been added to either before or upon withdrawal at a terminal or refinery rack, and which may be sold for exempt purposes. The dye may be either dye required to be added per the Environmental Protection Agency or dye that meets other specifications required by the Internal Revenue Service or the department.

Sec. 5. Minnesota Statutes 1992, section 296.01, is amended by adding a subdivision to read:

Subd. 15b. **ETBE.** "ETBE" means "ethyl tertiary butyl ether," or the equivalent term "tert-butyl ethyl ether." ETBE is a hydrocarbon compound approved by the United States Environmental Protection Agency for use as an oxygenate in gasoline. ETBE is a liquid at normal atmospheric pressure and temperature. The chemical composition of ETBE is C₈H₁₈OC(CH₃)₃.

Sec. 6. Minnesota Statutes 1992, section 296.01, subdivision 18, is amended to read:

Subd. 18. **GASOLINE.** "Gasoline" means:

(a) all products commonly or commercially known or sold as gasoline regardless of their classification or uses, except casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761, subdivision 3, must not be blended with gasoline that has been sold, transferred, or otherwise removed from a refinery or terminal; and

(b) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion

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tion engines, and that when tested by the weights and measures division meets the specifications in ASTM specification ~~D 439-89~~ D 4814-92c.

(c) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with both ASTM specification D 439-89 and the volatility requirements in Code of Federal Regulations, title 40, part 80.

(d) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol, as provided in subdivision 20;

(2) must not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) must not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) must not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the United States Environmental Protection Agency.

Sec. 7. Minnesota Statutes 1992, section 296.01, subdivision 19, is amended to read:

Subd. 19. **GASOLINE BLENDED WITH AN A NONETHANOL OXYGENATE.** "Gasoline blended with ~~an~~ a nonethanol oxygenate" means gasoline blended with ~~an~~ ETBE, MTBE, or other alcohol or ether, ~~other than~~ except denatured ethanol, that is approved as an oxygenate by the United States Environmental Protection Agency, and that complies with ASTM specification D 4814-90a. Oxygenates, other than denatured ethanol, must not be blended into gasoline after the gasoline has been sold, transferred, or otherwise removed from a refinery or terminal.

Sec. 8. Minnesota Statutes 1992, section 296.01, subdivision 20, is amended to read:

Subd. 20. **GASOLINE BLENDED WITH ETHANOL.** "Gasoline blended with ethanol" means gasoline blended with up to ten percent, by volume, agriculturally derived, denatured ethanol. The blend must comply with the volatility requirements in Code of Federal Regulations, title 40, part 80. The blend must also comply with ASTM specification D 4814-90a, ~~except when subjected to a standard distillation test, or the gasoline base stock from which a gasoline-ethanol blend was produced~~ must comply with ASTM specification D 4814-90a; and the gasoline-ethanol blend must not be blended with casing head gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline

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after the gasoline-ethanol blend has been sold, transferred, or otherwise removed from a refinery or terminal. The blend need not comply with ASTM specification D 4814-90a if it is subjected to a standard distillation test. For a distillation test, a gasoline-ethanol blend is not required to comply with the temperature specification at the 50 percent liquid recovery point, if the gasoline from which the gasoline-ethanol blend was produced complies with all of the distillation specifications.

Sec. 9. Minnesota Statutes 1992, section 296.01, is amended by adding a subdivision to read:

Subd. 24a. MTBE. "MTBE" means "methyl tertiary butyl ether," or the equivalent term "tert-butyl methyl ether." MTBE is a hydrocarbon compound approved by the United States Environmental Protection Agency for use as an oxygenate in gasoline. MTBE is a liquid at normal atmospheric pressure and temperature. The chemical composition of MTBE is (CH₃)₂COCH₃.

Sec. 10. Minnesota Statutes 1992, section 296.01, subdivision 32, is amended to read:

Subd. 32. **RECEIVED.** (a) Except as otherwise provided in this subdivision, petroleum products brought into this state shall be deemed to be "received" in this state at the time and place the same are unloaded in this state. When so unloaded such products shall be deemed to be "received" in this state by the person who is the owner thereof immediately after such unloading; provided, however, that if such owner is not licensed as a distributor in this state and if such products were shipped or delivered into this state by a person who is licensed as a distributor, then such products shall be deemed to be "received" in this state by the licensed distributor by whom the same were so shipped or delivered.

(b) Petroleum products produced, manufactured, or refined, at a refinery in this state and stored thereat, or brought into the state by boat or barge or like form of transportation and delivered at a marine terminal in this state and stored thereat, or brought into the state by pipeline and delivered at a pipeline terminal in this state and stored thereat, shall not be considered "received" until the same are withdrawn from such refinery or terminal for sale or use in this state or for delivery or shipment to points within this state.

(c) When so withdrawn such products shall be deemed "received" by the person who was the owner thereof immediately prior to withdrawal; unless (1) such products are withdrawn for shipment or delivery to another licensed distributor, in which case the licensed distributor to whom such shipment or delivery is made shall be deemed to have "received" such products in this state, or (2) such products are withdrawn for shipment or delivery to a person not licensed as a distributor, pursuant to one or more sale or exchange agreements by or between persons one or more of whom is a licensed distributor, in which case the last purchaser or exchangee under such agreement or agreements, who is licensed as a distributor, shall be deemed to have "received" such products in this state.

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(d) Petroleum products produced in this state in any manner other than as covered heretofore in this subdivision shall be considered "received" by the producer thereof at the time and place produced.

Sec. 11. Minnesota Statutes 1992, section 296.01, subdivision 34, is amended to read:

Subd. 34. **SPECIAL FUEL.** "Special fuel" means (1) all combustible gases and liquid petroleum products or substitutes therefor including clear diesel fuel, except gasoline, which are delivered into the supply tank of a licensed motor vehicle or into storage tanks maintained by an owner or operator of a licensed motor vehicle as a source of supply for such vehicle; ~~or~~ (2) all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, when delivered to a licensed special fuel dealer or to the retail service station storage of a distributor who has elected to pay the special fuel excise tax as provided in section 296.12, subdivision 3; ~~or~~ (3) all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, which are used as aviation fuel; or (4) dyed fuel that is being used illegally in a licensed motor vehicle.

Sec. 12. Minnesota Statutes 1992, section 296.01, is amended by adding a subdivision to read:

Subd. 38. WET ALCOHOL. "Wet alcohol" means agriculturally derived fermentation ethyl alcohol having a purity of at least 50 percent but less than 99 percent.

Sec. 13. Minnesota Statutes 1992, section 296.02, subdivision 1, is amended to read:

Subdivision 1. **TAX IMPOSED; EXCEPTION FOR QUALIFIED SERVICE STATION.** There is imposed an excise tax on gasoline used in producing and generating power for propelling motor vehicles used on the public highways of this state. For purposes of this section, gasoline is defined in section 296.01, subdivisions 10, 15b, 18, 19, ~~and 20~~, and 24a. This tax is payable at the times, in the manner, and by persons specified in this chapter. The tax is payable at the rate specified in subdivision 1b, subject to the exceptions and reductions specified in this section.

(a) Notwithstanding any other provision of law to the contrary, the tax imposed on special fuel sold by a qualified service station may not exceed, or the tax on gasoline delivered to a qualified service station must be reduced to, a rate not more than three cents per gallon above the state tax rate imposed on such products sold by a service station in a contiguous state located within the distance indicated in clause (b).

(b) A "qualifying service station" means a service station located within 7.5 miles, measured by the shortest route by public road, from a service station selling like product in the contiguous state.

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(c) A qualified service station shall be allowed a credit by the supplier or distributor, or both, for the amount of reduction computed in accordance with clause (a).

A qualified service station, before receiving the credit, shall be registered with the commissioner of revenue.

Sec. 14. Minnesota Statutes 1992, section 296.025, subdivision 1, is amended to read:

Subdivision 1. **TAX IMPOSED FOR MOTOR VEHICLE USE.** There is hereby imposed an excise tax of the same rate per gallon as the gasoline excise tax on all special fuel. For clear diesel fuel, the tax is imposed on the first distributor who received the product in Minnesota. For dyed fuel being used illegally in a licensed motor vehicle, the tax is imposed on the owner or operator of the motor vehicle, or in some instances, on the dealer who supplied the fuel. For dyed fuel used in a motor vehicle but subject to a federal exemption, although no federal tax may be imposed, the fuel is subject to the state tax. For other fuels, including jet fuel, propane, and compressed natural gas, the tax is imposed on the distributor, special fuel dealer, or bulk purchaser. This tax ~~shall be~~ is payable at the time, and in the manner ~~and by persons~~ specified in this chapter. For purposes of this section, "owner or operator" means the operation of licensed 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.

Sec. 15. Minnesota Statutes 1992, section 296.025, is amended by adding a subdivision to read:

Subd. 7. TAX ON INVENTORY. For dealers paying tax on sales, all inventory as of 12:01 a.m. on September 1, 1994, shall be reported on the dealer's final report.

Sec. 16. Minnesota Statutes 1992, section 296.06, subdivision 2, is amended to read:

Subd. 2. **REQUIREMENTS FOR ISSUANCE; FEE.** A distributor's license shall be issued to any responsible person qualifying as a distributor who makes application therefor, and who shall pay to the commissioner at the time thereof and annually thereafter a license fee of \$25, and who shall further comply with the following conditions:

(1) A written application shall be made in a manner approved by the commissioner, who shall require the applicant or licensee to deposit with the state treasurer securities of the United States government or the state of Minnesota or to execute and file a bond, with a corporate surety approved by the commissioner, to the state of Minnesota in an amount to be determined by the commissioner and in a form to be fixed by the commissioner and approved by the attorney general, and which shall be conditioned for the payment when due of

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all excise taxes, inspection fees, 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; the bond shall cover all places of business within the state where petroleum products are received by the licensee; and the applicant or licensee shall designate and maintain an agent in this state upon whom service may be had for all purposes of this section.

(2) An initial applicant for a distributor's license shall furnish a bond in a minimum sum of \$3,000 for the first year;

(3) The commissioner, on reaching the opinion that the bond given by a licensee is inadequate in amount to fully protect the state, shall require an additional bond in such amount as the commissioner deems sufficient;

(4) A licensee who desires to be exempt from depositing securities or furnishing such bond, as hereinbefore provided shall furnish an itemized financial statement showing the assets and the liabilities of the applicant and if it shall appear to the commissioner, from the financial statement or otherwise, that the applicant is financially responsible, then the commissioner may exempt such applicant from depositing such securities or furnishing such bond until the commissioner otherwise orders.

(5) Each license period shall be for one year ending each June 30.

(6) Upon application to the commissioner and compliance by the applicant with the provisions of this subdivision, the commissioner also shall issue a distributor's license to (a) any person engaged in this state in the bulk storage of petroleum products and the distribution thereof by tank car or tank truck or both, and (b) any person holding an unrevoked license as a distributor ~~since~~ from January 1, 1947 to July 1, 1994, and (c) any person holding a license and performing a function under the motor fuel tax law of an adjoining state equivalent to that of a distributor under this act, who desires to ship or deliver petroleum products from that state to persons in this state not licensed as distributors in this state and who agrees to assume with respect to all petroleum products so shipped or delivered the liabilities of a distributor receiving petroleum products in this state, provided, however, that any such license shall be issued only for the purpose of permitting such person to receive in this state the petroleum products so shipped or delivered. Except as herein provided, all persons licensed as distributors under this clause shall have the same rights and privileges and be subject to the same duties, requirements and penalties as other licensed distributors.

Sec. 17. Minnesota Statutes 1992, section 296.12, subdivision 1, is amended to read:

Subdivision 1. **SPECIAL FUEL DEALERS' LICENSE REQUIREMENTS.** No person except a licensed distributor shall engage in the business of selling or delivering special fuel, upon which no tax has been imposed, as a special fuel dealer without having applied for and secured from the commissioner a special fuel dealer's license. The application shall be made in a manner

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approved by the commissioner and shall be accompanied by the payment of \$25, which shall be the license fee. A special fuel dealer's license shall be issued to any responsible person qualifying as a special fuel dealer who makes proper application therefor. The license shall be displayed in a conspicuous manner in the place of business and shall expire annually on November 30.

A special fuel dealer who discontinues, sells or disposes of the business in any manner, at any time, shall surrender the dealer's special fuel dealer's license at the commissioner's office in St. Paul, Minnesota.

Sec. 18. Minnesota Statutes 1992, section 296.12, subdivision 2, is amended to read:

Subd. 2. **BULK PURCHASERS' LICENSE REQUIREMENTS.** No person shall receive special fuel, upon which no tax has been imposed, as a bulk purchaser without having applied for and secured from the commissioner a bulk purchaser's license. The application shall be made in a manner approved by the commissioner and shall be accompanied by the payment of \$25, which shall be the license fee. A bulk purchaser's license shall be issued to any responsible person qualifying as a bulk purchaser who makes proper application therefor. The license shall be displayed in a conspicuous manner in the place of business and shall expire annually on November 30.

A bulk purchaser who discontinues, sells or disposes of the business in any manner, at any time, shall surrender the bulk purchaser's license at the commissioner's office in St. Paul, Minnesota.

Sec. 19. Minnesota Statutes 1992, section 296.12, subdivision 3, is amended to read:

Subd. 3. **TAX COLLECTION, REPORTING AND PAYMENT.** ~~Distributors shall pay the special fuel excise tax on all combustible gases and liquid petroleum products or substitutes therefor, except gasoline, delivered into storage tanks at retail service stations operated by them.~~ (a) For clear diesel fuel, the tax is imposed on the distributor who receives the fuel.

(b) For all other special fuels, the tax is imposed on the distributor, bulk purchaser, or special fuel dealer. The tax may be paid upon receipt or sale as follows:

(1) Distributors and special fuel dealers may, subject to the approval of the commissioner, elect to pay to the commissioner the special fuel excise tax on all special fuel delivered or sold into the supply tank of an aircraft or a licensed motor vehicle. Under this option an invoice must be issued at the time of each delivery showing the name and address of the purchaser, date of sale, number of gallons, price per gallon and total amount of sale. A separate sales ticket book shall be maintained for special fuel sales; and

(2) Bulk purchasers shall report and pay the excise tax on all special fuel purchased by them for storage, to the commissioner.

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(c) Any person delivering special fuel on which the excise tax has not previously been paid, into the supply tank of an aircraft or a licensed motor vehicle shall report such delivery and pay the excise tax on the special fuel so delivered, to the commissioner.

Sec. 20. Minnesota Statutes 1992, section 296.12, subdivision 4, is amended to read:

Subd. 4. **MONTHLY REPORTS; SHRINKAGE ALLOWANCE.** On or before the 23rd day of each month, the persons subject to the provisions of this section shall file in the office of the commissioner at St. Paul, Minnesota, a report in the following manner:

(1) Distributors of clear diesel fuel must file a monthly tax return with the department listing all purchases or receipts of clear diesel fuel. Distributors may be allowed to take a credit or credits under section 296.14, subdivision 2.

(2) ~~Distributors and special fuel dealers of special fuel other than clear diesel fuel shall report the total number of gallons delivered to them during the preceding calendar month and shall pay the special fuel excise tax due thereon to the commissioner. Credit for the excise tax due or previously paid on special fuel used by the distributor or special fuel dealer for heating the distributor's or dealer's place of business, or special fuel sold for any purpose other than use in licensed motor vehicles and evidenced by an invoice issued at time of sale, may be allowed in computing the tax liability.~~ The invoice must show the true and correct name and address of the purchaser, and the purchaser's signature. The report shall contain such other information as the commissioner may require.

(~~2~~) (3) Distributors and special fuel dealers of special fuel other than clear diesel fuel who have elected to pay the special fuel excise tax on all special fuel delivered into the supply tank of an aircraft or licensed motor vehicle as provided in subdivision 3, shall report the total number of gallons delivered into the supply tank of an aircraft or licensed motor vehicle during the preceding calendar month and shall pay the special fuel excise tax due thereon to the commissioner.

(~~3~~) (4) Bulk purchasers shall report and pay the special fuel excise tax on all special fuel except clear diesel fuel purchased by them for storage, during the preceding calendar month. In such cases as the commissioner may permit, credit for the excise tax due or previously paid on special fuel not used in aircraft or licensed motor vehicles, may be allowed in computing tax liability. The report shall contain such other information as the commissioner may require.

(4) (~~5~~) In computing the special fuel excise tax due ~~under clauses (1), (2), and (3)~~, a deduction of one percent of the quantity of special fuel on which tax is due shall be made for evaporation and loss.

(~~5~~) (6) Each report shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

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Sec. 21. Minnesota Statutes 1992, section 296.12, subdivision 5, is amended to read:

Subd. 5. **SALES TICKETS.** A sales ticket shall be issued for each delivery of special fuel to a special fuel dealer or bulk purchaser. A sales ticket shall also be issued for each delivery into the supply tank of an aircraft or a licensed motor vehicle, if so requested by the purchaser. The person who delivers the special fuel shall issue the sales ticket and shall show thereon the name and address of the purchaser, date of sale, number of gallons, price per gallon, amount of tax, and total amount of sale.

Sec. 22. Minnesota Statutes 1992, section 296.12, subdivision 8, is amended to read:

Subd. 8. **REGISTRAR SHALL NOTIFY COMMISSIONER.** When an application for registration of a motor vehicle discloses that such motor vehicle uses special fuel, the registrar of motor vehicles shall notify the commissioner, in written form, on an annual basis, by June 30 of each year, of the name and address of the owner and the make, model, year and license number of the vehicle.

Sec. 23. Minnesota Statutes 1992, section 296.12, subdivision 10, is amended to read:

Subd. 10. **ACCUMULATING METERS REQUIRED.** Every ~~purchaser licensed under subdivision 2~~ special fuel dealer shall make all withdrawals of special fuel except liquefied petroleum gas through an accumulating meter in working order, which shall be provided by such ~~bulk purchaser dealer~~. Whenever a ~~bulk purchaser~~ licensed special fuel dealer fails to comply with the provisions of this subdivision or of any rules of the commissioner pertinent thereto, the license issued to such ~~bulk purchaser dealer~~ pursuant to subdivision 2 1 may be revoked by the commissioner.

Sec. 24. Minnesota Statutes 1992, section 296.12, subdivision 11, is amended to read:

Subd. 11. **QUALIFIED BULK PURCHASERS.** Notwithstanding any other provision of law to the contrary, the commissioner of revenue may allow any bulk purchaser who receives special fuel other than clear diesel fuel in bulk storage for subsequent delivery into the supply tank of ~~passenger automobiles or other licensed motor vehicles or aircraft~~ operated by the bulk purchaser to purchase bulk special fuel on a tax paid basis from any consenting supplier licensed as a distributor or special fuel dealer under this section or section 296.06. Bulk purchasers qualifying under this provision must become registered in a manner approved by the commissioner but shall be exempt from the bulk purchaser license requirements. Every licensed distributor or special fuel dealer who sells or delivers special fuel other than clear diesel fuel on a tax paid basis to persons registered under this provision must report on or before the 23rd day of each month sales made during the preceding calendar month and shall pay the special

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fuel excise tax due thereon to the commissioner. The report shall contain information as the commissioner may require.

Sec. 25. [296.141] GASOLINE TAX; SPECIAL FUEL TAX; PETROLEUM TANK RELEASE CLEANUP FEE; AND INSPECTION FEE MONTHLY REPORTS.

Subdivision 1. PAYMENT OF GASOLINE TAX AND PETROLEUM TANK RELEASE CLEANUP FEE; SHRINKAGE ALLOWANCE. On or before the 23rd day of each month, every person who is required to pay a gasoline tax shall file in the office of the commissioner at St. Paul, Minnesota, a report in a manner approved by the commissioner showing the number of gallons of petroleum products received by the reporter during the preceding calendar month, and other information the commissioner may require. The number of gallons of gasoline must be reported in United States standard liquid gallons (231 cubic inches), except that the commissioner may upon written application and for cause shown permit the distributor to report the number of gallons of gasoline as corrected to a 60 degree Fahrenheit temperature. If the application is granted, all gasoline covered in the application and allowed by the commissioner must continue to be reported by the distributor on the adjusted basis for a period of one year from the date of the granting of the application. The number of gallons of petroleum products other than gasoline must be reported as originally invoiced.

Each report must show separately the number of gallons of aviation gasoline received by the reporter during such calendar month.

Each report must include the amount of gasoline tax on gasoline received by the reporter during the preceding month; provided that in computing the tax a deduction of three percent of the quantity of gasoline received by a distributor shall be made for evaporation and loss; provided further that at the time of reporting, the distributor shall submit satisfactory evidence that one-third of the three percent deduction has been credited or paid to dealers on quantities sold to them. The report is deemed to have been filed as required in this subdivision if postmarked on or before the 23rd day of the month in which payable.

Subd. 2. INSPECTION FEES. Persons required to pay an inspection fee under section 239.101 must file a report. Each report must include the amount of inspection fees due on petroleum products. The report is considered filed as required if postmarked on or before the 23rd day of the month in which payable.

Subd. 3. ELECTRONIC FUNDS TRANSFER REQUIRED. All remittances must be made by means of electronic funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the remittance is due. If the date the remittance is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the remittance is due.

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Subd. 4. CREDIT OR REFUND OF TAX PAID. The commissioner shall allow the distributor credit or refund of the tax paid on gasoline and special fuel:

(1) exported or sold for export from the state, other than in the supply tank of a motor vehicle or of an aircraft;

(2) sold to the United States government to be used exclusively in performing its governmental functions and activities or to any "cost plus a fixed fee" contractor employed by the United States government on any national defense project;

(3) if the fuel is placed in a tank used exclusively for residential heating;

(4) destroyed by accident while in the possession of the distributor;

(5) in error;

(6) sold for storage in an on-farm bulk storage tank, if the tax was not collected on the sale; and

(7) in such other cases as the commissioner may permit, not inconsistent with the provisions of this chapter and other laws relating to the gasoline and special fuel excise taxes.

Subd. 5. REFUND TO DEALER; DESTRUCTION BY ACCIDENT. Notwithstanding the provisions of subdivision 4, the commissioner shall allow a dealer a refund of the tax paid on gasoline or special fuel destroyed by accident while in the possession of the dealer.

Subd. 6. ON-FARM BULK STORAGE OF GASOLINE OR SPECIAL FUEL; ETHYL ALCOHOL FOR PERSONAL USE. Notwithstanding the provisions of this section, the producer of ethyl alcohol which is produced for personal use and not for sale in the usual course of business and a farmer who uses gasoline or any special fuel on which a tax has not been paid shall report and pay the tax on all ethyl alcohol, gasoline, or special fuel delivered into the supply tank of a licensed motor vehicle during the preceding calendar year. The tax must be reported and paid together with any refund claim filed by the taxpayer under section 296.18. If no refund claim is filed, the tax must be reported and paid annually by March 15 or more frequently, as the commissioner may prescribe. Any producer qualifying under this subdivision is exempt from the licensing requirements contained in section 296.06, subdivision 1.

Subd. 7. REFUNDS; REFRIGERATOR UNITS. Notwithstanding the provisions of subdivision 4, the commissioner shall allow a special fuel dealer a refund of the tax paid on fuel sold directly into a supply tank of a refrigeration unit with a separate engine and used exclusively by that refrigeration unit. A claim for refund may be filed as provided in section 296.18, subdivision 1.

Sec. 26. Minnesota Statutes 1992, section 296.15, subdivision 2, is amended to read:

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Subd. 2. **FAILURE TO PAY TAXES; PROCEEDINGS.** Upon the failure of any person to pay any tax or inspection fees within the time provided by sections 296.01 to 296.421, all taxes and inspection fees imposed by this chapter shall become immediately due and payable, ~~whether or not the person has previously reported the tax and inspection fees to the commissioner, and after the default in payment the commissioner may deliver to the attorney general a certified statement of the amount due from each person hereunder whose excise tax and inspection fees are delinquent. The statement shall give the address of the person owing such tax and inspection fees; the month for which the tax and inspection fees are due; the date of the delinquency; and such other information as may be required by the attorney general. It shall be the duty of the attorney general; upon receipt of the statement, to bring an action in the district court of Ramsey county, or of the county in which the delinquent taxpayer resides; to recover the amount of such tax and inspection fees; with penalty, interest and costs and disbursements; and the action may be tried in the county in which it is brought. The judgment of the court when so obtained shall draw interest at the rate specified in section 270.75 and shall be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions and may be collected as provided in chapter 270.~~

Sec. 27. Minnesota Statutes 1992, section 296.15, subdivision 4, is amended to read:

Subd. 4. **RECEIVER, APPOINTMENT.** In the event suit is instituted as herein provided in subdivision 2, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent defendant for the purpose of impounding the same as security for any judgment which has been or may be recovered.

Sec. 28. Minnesota Statutes 1992, section 296.15, subdivision 5, is amended to read:

Subd. 5. **SALE PROHIBITED UNDER CERTAIN CONDITIONS.** No petroleum product shall be unloaded or sold by any person or distributor whose tax and inspection fees ~~have been certified to the attorney general for collection~~ are the basis for collection action under subdivision 2.

Sec. 29. Minnesota Statutes 1992, section 296.15, subdivision 6, is amended to read:

Subd. 6. **LIMITATION OF ACTIONS.** No action shall be brought for the collection of delinquent excise taxes and inspection fees under ~~the provisions of this chapter section 270.68~~ unless commenced within five years after the date of assessment of the taxes and fees. In the case of a false or fraudulent report with intent to evade tax or inspection fee or of a failure to file a report, the taxes or fees may be assessed at any time, and a proceeding in court for their collection must be begun within five years after the assessment.

The period of time during which a tax or fee must be assessed under this

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chapter or collection proceedings commenced under this subdivision is 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 applies 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.

Sec. 30. **[296.151] PERSONAL LIABILITY FOR TAX.**

Liability for payment of taxes under this chapter includes a responsible person or entity described in the personal liability provisions of section 270.101.

Sec. 31. **[296.152] TAX AS A PERSONAL DEBT OF A FIDUCIARY.**

The tax imposed by this chapter, and interest and penalties, is a personal debt of the taxpayer from the time the liability arises, regardless of when the time for discharging the liability by payment occurs. The debt is, in the case of any fiduciary, that of the individual in the individual's official or fiduciary capacity only, unless the individual has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the individual is personally liable for the deficiency.

Sec. 32. Minnesota Statutes 1992, section 296.16, subdivision 2, is amended to read:

Subd. 2. **SELLER MAY COLLECT TAX.** A person who directly or indirectly pays either of the taxes provided for by sections 296.02 and 296.025 and does not in fact use the gasoline or special fuel in motor vehicles in this state or receive, store, or withdraw it from storage to be used personally for the purpose of producing or generating power for propelling aircraft, but sells or otherwise disposes of the same, except as provided in section 296.14, subdivision 2, is hereby authorized to collect (from the person to whom the gasoline or special fuel is so sold or disposed of) the tax so paid, and is hereby required, upon request, to make, sign, and deliver to such person an invoice of such sale or disposition. The sums collected must be held as a special fund in trust for the state of Minnesota.

Sec. 33. Minnesota Statutes 1992, section 296.165, subdivision 1, is amended to read:

Subdivision 1. **SEIZURE.** The commissioner or authorized designees may seize gasoline or special fuel being transported for delivery in violation of section 296.06, subdivision 1, and any vehicle or other method of conveyance used for transporting the gasoline or special fuel. Any untaxed motor vehicle fuel that is received by a person other than a licensee is subject to seizure along with the vehicle or other means of transportation used to transport the motor vehicle fuel. Any motor vehicle fuel, along with the transporting vehicle, brought into

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Minnesota by a transporter for use, distribution, storage, or sale that is not supported by a manifest, bill of lading, or invoice, reflecting the licensed distributor responsible for the tax and/or fees is subject to seizure by the Minnesota department of revenue. Property seized under this subdivision is subject to forfeiture as provided in subdivisions 2 and 3.

Sec. 34. Minnesota Statutes 1992, section 296.25, subdivision 1, is amended to read:

Subdivision 1. **PENALTIES IMPOSED.** (a) A person who fails to comply with a provision of sections 296.01 to 296.421, or who knowingly provides false information, including, but not limited to, false odometer readings, or who knowingly makes a false statement in a report, record, claim, or sales ticket required by section 296.12; 296.14; 296.17, subdivisions 5, or 7 to 22; 296.18, subdivision 2; or 296.21, is guilty of a gross misdemeanor.

(b) A person who willfully attempts in any manner to evade or defeat any tax imposed by sections 296.01 to 296.421, including, but not limited to, making and subscribing any false statement in any report, record, claim, or sales ticket required by sections 296.12; 296.14; 296.17, subdivisions 5, or 7 to 22; 296.18, subdivision 2; and 296.21; or making a false claim for a refund under section 296.18, subdivision 4, is guilty of a felony.

(c) It is a misdemeanor for a person to operate, or cause to be operated, a licensed motor vehicle on the public highways of this state on special fuel on which the excise tax provided by this chapter has not been paid or the liability therefore assumed by another person licensed under this chapter. A person who uses gasoline, delivered into an on-farm bulk storage tank and on which no tax has been collected, for propelling a motor vehicle on the public highways of this state is also guilty of a misdemeanor.

(d) An officer or employee of the state of Minnesota charged with the enforcement of a provision of sections 296.01 to 296.421 who is employed by or who engages in business as a distributor or dealer in petroleum products is guilty of a misdemeanor.

(e) The authorization in this chapter for the collection of the excise taxes by persons other than the commissioner for and in behalf of the state of Minnesota establishes a fiduciary relationship, for the violation of which, in failure to make payment when due and payable, the person so authorized to collect these excise taxes shall be deemed guilty of a violation of this chapter and of section 609.54, and punished accordingly.

(f) A minimum fine of \$200 shall be imposed on a person who fails to obtain a license or trip permit required under section 296.17, subdivisions 10 and 17.

Sec. 35. Minnesota Statutes 1992, section 296.25, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 1a. IMPOSITION OF PENALTY; DYED FUEL. (a) If any dyed fuel is sold or held for sale by a person for any use which the person knows or has reason to know is not a nontaxable use of the fuel; or if any dyed fuel is held for use or used by any person for a use other than a nontaxable use and the person knew, or had reason to know, that the fuel was so dyed; or if any person willfully alters, or attempts to alter, the strength or composition of any dye or marking in any dyed fuel, then the person shall pay a penalty in addition to the tax, if any.

(b) Except as provided in paragraph (c), the amount of penalty under paragraph (a) for each act is the greater of \$1,000, or \$10 for each gallon of dyed fuel involved.

(c) With regard to a multiple violation under paragraph (a), the penalty is increased by taking the penalty amount multiplied by the number of prior penalties imposed by this section on the person, or a related person, or any predecessor of the person or related person.

(d) If a penalty is imposed under this section on a business entity, each officer, employee, or agent of the entity who willfully participated in any act giving rise to the penalty is jointly and severally liable with the entity for the penalty.

Sec. 36. REPEALER.

Minnesota Statutes 1992, sections 296.03; 296.14; and 296.15, subdivision 3, are repealed.

Sec. 37. EFFECTIVE DATES.

Sections 1 to 36 are effective September 1, 1994, except that section 25, subdivision 3, is effective for taxes payable on or after January 1, 1995.

ARTICLE 6

SPECIAL TAXES

Section 1. Minnesota Statutes 1993 Supplement, section 116.07, subdivision 10, is amended to read:

Subd. 10. SOLID WASTE ASSESSMENTS. (a) A person that collects mixed municipal solid waste shall collect and remit to the commissioner of revenue a solid waste assessment from each of the person's customers as provided in paragraphs (b) and (c).

For the purposes of this subdivision, a "person that collects mixed municipal solid waste" means each person that collects sales tax on solid waste collection services under section 297A.45. A disposal facility that accepts mixed municipal solid waste shall collect and remit to the commissioner of revenue a solid waste assessment as provided in paragraph (g).

New language is indicated by underline, deletions by ~~strikeout~~.

(b) "Residential customer" includes the following:

(1) a person who resides in a single residence; and

(2) a person residing in a building or at a site containing multiple residences, including a townhome or mobile home park, where each resident either has separate trash pickup, or is separately assessed for such service. Each dwelling unit will be considered a residential customer if there is separate waste collection for each resident, even if the resident pays to the owner or an association a monthly maintenance fee which includes the expense of waste collection, and the owner or association pays the waste collector for waste collection in one lump sum.

The amount of the assessment for each residential customer is \$2 per year. Each waste collector shall collect the assessment annually from each residential customer that is receiving waste collection service on July 1 of each year and shall remit the amount collected along with the collector's first remittance of the sales tax on solid waste collection services, described in section 297A.45, made after October 1 of each year. ~~Any amount of the assessment that is received by the waste collector after October 1 of each year must be remitted along with the collector's next remittance of sales tax after receipt of the assessment.~~

(c) "Nonresidential customer" includes the following:

(1) an industry, business, including a home-operated business, church, nursing home, nonprofit organization and schools, and other commercial accounts;

(2) an owner of a building or site containing multiple residences, including a townhome or mobile home park, where no resident has separate trash pickup, and no resident is separately assessed for such service; and

(3) a vendor who sells to customers waste collection bags or stickers supplied by a waste collector, the cost of which is a substitute for a waste collection fee. A 30 gallon bag equals .15 cubic yard, and a 38 gallon bag equals .19 cubic yard.

The amount of the assessment for each nonresidential customer is 12 cents per noncompacted cubic yard of periodic waste collection capacity purchased by the customer. The capacity of a "noncompacted cubic yard" means the number of loose cubic yards of mixed municipal solid waste, and is based on the size of the waste collection container. "Periodic waste collection" means each time the container is emptied by the waste collector. If the capacity purchased is for compacted cubic yards, instead of noncompacted cubic yards, the capacity is calculated based on the compaction ratio of 3:1. For purposes of this subdivision, one compacted cubic yard equals 600 pounds.

Each waste collector shall collect the assessment from each nonresidential customer as part of each statement for payment of waste collection charges and shall remit the amount collected along with the next remittance of sales tax ~~after receipt of the assessment.~~

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(d) The commissioner of revenue shall redesign sales tax forms for solid waste collectors and disposal facilities to accommodate payment of the assessment. The commissioner of revenue shall deposit the amounts remitted under this subdivision in the environmental fund and shall credit four-sevenths of the receipts to the landfill cleanup account established in section 115B.42.

(e) For the purposes of this subdivision, a "person that collects mixed municipal solid waste" means each person that pays sales tax on solid waste collection services under section 297A.45. The remitter of the solid waste assessment may offset against the fees payable, with respect to any reporting period, the amount of assessment imposed by this section previously remitted to the commissioner of revenue, which qualified as a bad debt under section 166(a) of the Internal Revenue Code, as amended through December 31, 1993, during such reporting period, but only in proportion to the portion of such debt which became uncollectible.

(f) The audit, penalty, enforcement, and administrative provisions applicable to taxes imposed under chapter 297A apply to the assessments imposed under this subdivision.

(g) A disposal facility must collect an assessment of 12 cents per noncompacted cubic yard from a person who self-hauls mixed municipal solid waste to the disposal facility, or from a hauler that does not collect the sales tax on collection services. The disposal facility must remit the amount assessed along with the next remittance of sales tax.

(h) To avoid undue hardship and to promote the effective and reasonable application and enforcement of this subdivision, the commissioner may permit a solid waste collector or disposal facility to use a formula, or some other method of allocation, in calculating the amount of solid waste assessment due to the commissioner of revenue. The solid waste collector or disposal facility must receive written approval from the commissioner of revenue before using an alternative method.

(i) A waste collector that contracts with a town, statutory city, or other similar governmental entity for waste collection, shall collect from the entity as follows:

(1) to the extent the bill is based on the number of residential stops it makes, a \$2 annual fee for each residential periodic waste collection location that the collector services as of July 1 of each year;

(2) to the extent the bill is based on the volume of the waste containers it empties at nonresidential sites, 12 cents per noncompacted cubic yard of periodic waste collection capacity; and

(3) to the extent the bill is based, not on the number of residential stops, but on the number of bags collected from residences, 12 cents per noncompacted cubic yard of periodic waste collection capacity. A 30 gallon bag equals .15 cubic yard, and a 38 gallon bag equals .19 cubic yard.

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Sec. 2. Minnesota Statutes 1993 Supplement, section 270.06, is amended to read:

270.06 POWERS AND DUTIES.

The commissioner of revenue shall:

(1) have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state;

(2) confer with, advise, and give the necessary instructions and directions to local assessors and local boards of review throughout the state as to their duties under the laws of the state;

(3) direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and cause complaints to be made against local assessors, members of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty;

(4) require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the laws of this state in respect to the assessment and taxation of property in their respective districts or counties;

(5) require town, city, county, and other public officers to report information as to the assessment of property, collection of taxes received from licenses and other sources, and such other information as may be received in the work of the department of revenue, in such form and upon such blanks as the commissioner may prescribe;

(6) require individuals, copartnerships, companies, associations, and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes, as well as all other statements now required by law for taxation purposes;

(7) subpoena witnesses, at a time and place reasonable under the circumstances, to appear and give testimony, and to produce books, records, papers and documents for inspection and copying relating to any matter which the commissioner may have authority to investigate or determine;

(8) issue a subpoena which does not identify the person or persons with respect to whose liability the subpoena is issued, but only if (a) the subpoena relates to the investigation of a particular person or ascertainable group or class

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of persons, (b) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any law administered by the commissioner, (c) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the subpoena is issued) is not readily available from other sources, (d) the subpoena is clear and specific as to the information sought to be obtained, and (e) the information sought to be obtained is limited solely to the scope of the investigation. Provided further that the party served with a subpoena which does not identify the person or persons with respect to whose tax liability the subpoena is issued shall have the right, within 20 days after service of the subpoena, to petition the district court for the judicial district in which lies the county in which that party is located for a determination as to whether the commissioner of revenue has complied with all the requirements in (a) to (e), and thus, whether the subpoena is enforceable. If no such petition is made by the party served within the time prescribed, the subpoena shall have the force and effect of a court order;

(9) cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions in the district court, in any matter which the commissioner may have authority to investigate or determine;

(10) investigate the tax laws of other states and countries and to formulate and submit to the legislature such legislation as the commissioner may deem expedient to prevent evasions of assessment and taxing laws, and secure just and equal taxation and improvement in the system of assessment and taxation in this state;

(11) consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the department of revenue, and furnish the governor, from time to time, such assistance and information as the governor may require relating to tax matters;

(12) transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even-numbered year, the report of the department of revenue for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;

(13) inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance with the laws requiring the assessment of all property not exempt from taxation;

(14) administer and enforce the assessment and collection of state taxes and, from time to time, make, publish, and distribute rules for the administration and enforcement of assessments and fees administered by the commissioner and state tax laws. The rules have the force of law;

New language is indicated by underline, deletions by ~~strikeout~~.

(15) prepare blank forms for the returns required by state tax law and distribute them throughout the state, furnishing them subject to charge on application;

(16) prescribe rules governing the qualification and practice of agents, attorneys, or other persons representing taxpayers before the commissioner. The rules may require that those persons, agents, and attorneys show that they are of good character and in good repute, have the necessary qualifications to give taxpayers valuable services, and are otherwise competent to advise and assist taxpayers in the presentation of their case before being recognized as representatives of taxpayers. After due notice and opportunity for hearing, the commissioner may suspend and disbar from further practice before the commissioner any person, agent, or attorney who is shown to be incompetent or disreputable, who refuses to comply with the rules, or who with intent to defraud, willfully or knowingly deceives, misleads, or threatens a taxpayer or prospective taxpayer, by words, circular, letter, or by advertisement. This clause does not curtail the rights of individuals to appear in their own behalf or partners or corporations' officers to appear in behalf of their respective partnerships or corporations;

(17) appoint agents as the commissioner considers necessary to make examinations and determinations. The agents have the rights and powers conferred on the commissioner to subpoena, examine, and copy books, records, papers, or memoranda, subpoena witnesses, administer oaths and affirmations, and take testimony. In addition to administrative subpoenas of the commissioner and the agents, upon demand of the commissioner or an agent, the court administrator of any district court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, or memoranda before the agent for inspection and copying. Disobedience of a court administrator's subpoena shall be punished by the district court of the district in which the subpoena is issued, or in the case of a subpoena issued by the commissioner or an agent, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of the district court;

(18) appoint and employ additional help, purchase supplies or materials, or incur other expenditures in the enforcement of state tax laws as considered necessary. The salaries of all agents and employees provided for in this chapter shall be fixed by the appointing authority, subject to the approval of the commissioner of administration;

(19) execute and administer any agreement with the secretary of the treasury of the United States or a representative of another state regarding the exchange of information and administration of the tax laws;

(20) administer and enforce the provisions of sections 325D.30 to 325D.42, the Minnesota unfair cigarette sales act;

(21) authorize the use of unmarked motor vehicles to conduct seizures or criminal investigations pursuant to the commissioner's authority; and

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(22) exercise other powers and perform other duties required of or imposed upon the commissioner of revenue by law.

Sec. 3. Minnesota Statutes 1992, section 270B.02, subdivision 3, is amended to read:

Subd. 3. **CONFIDENTIAL DATA ON INDIVIDUALS; PROTECTED NONPUBLIC DATA.** (a) Except as provided in paragraph (b), names of informers, informer letters, and other unsolicited data, in whatever form, given to the department of revenue by a person, other than the data subject, ~~that inform who~~ informs that a specific taxpayer is not or may not be in compliance with tax laws, or nontax laws administered by the department of revenue, are confidential data on individuals or protected nonpublic data as defined in section 13.02, subdivisions 3 and 13.

(b) Data under paragraph (a) may be disclosed with the consent of the informer or upon a written finding by a court that the information provided by the informer was false and that there is evidence that the information was provided in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the rules of criminal procedure.

Sec. 4. Minnesota Statutes 1992, section 270B.02, subdivision 5, is amended to read:

Subd. 5. **MAINTAINING CLASSIFICATIONS.** Notwithstanding section 13.03, subdivision 7, returns and return information retain the classification designated under this chapter. Notwithstanding sections 13.03, subdivision 8, and 13.10, data classified under subdivision 3 and department of revenue data classified under this chapter as nonpublic data, protected nonpublic data, private data on individuals, or confidential data on individuals remain so classified.

Sec. 5. Minnesota Statutes 1992, section 297.03, subdivision 7, is amended to read:

Subd. 7. **LICENSED DISTRIBUTOR'S PERMIT NUMBER.** The commissioner shall assign a permit number to each person licensed as a distributor at the time of issuance of the first license, which shall be inscribed and printed upon all licenses issued to that distributor. ~~If the commissioner determines that cancellation of the stamps is necessary for the enforcement of sections 297.01 to 297.13, the distributor shall use the permit number, in a manner prescribed by the commissioner, as the cancellation mark for the stamps affixed by the distributor.~~

Sec. 6. **[297.075] INFORMATIONAL REPORTS.**

Subdivision 1. REPORTS REQUIRED. The following persons shall file with the commissioner a monthly informational report in the manner and on the form prescribed by the commissioner:

(1) distributors licensed to ship cigarettes into Minnesota;

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(2) persons who manufacture cigarettes within the state;

(3) all other persons who import cigarettes into Minnesota; and

(4) those who possess, receive, store, or warehouse cigarettes in Minnesota, upon which the tax imposed by section 297.02 or 297.22 has not been paid.

Subd. 2. FILING DATES; FAILURE TO FILE. No payment of any tax is required to be remitted with this report. The report must be filed on or before the tenth day following the end of each calendar month, regardless of whether or not the person shipped, manufactured, possessed, received, stored, or warehoused any cigarettes into or within Minnesota during the previous month, unless the commissioner determines that a longer filing period is appropriate for a particular person. A person failing to file this report is guilty of a misdemeanor. The requirement of filing an informational report does not apply to persons conveying or possessing cigarettes described in section 297.05, subdivision 2, nor to any lawful manufacture of cigarettes within the state for personal consumption.

Subd. 3. CONSUMERS. A person who files a cigarette consumer return as required by section 297.23 may fulfill the requirements of subdivision 1 by indicating on the cigarette consumer's return which of the items reported on the return were transported into the state by the consumer. The requirement of filing an informational report does not apply to consumers who import 200 or less cigarettes into this state.

Subd. 4. LICENSED DISTRIBUTORS. A licensed distributor may fulfill the requirements of subdivision 1 by filing a tax return as required by section 297.07.

Sec. 7. Minnesota Statutes 1992, section 297C.13, subdivision 1, is amended to read:

Subdivision 1. **FELONIES.** It is a felony for a holder of an alcoholic beverage license to:

(1) evade or attempt to evade the excise tax on intoxicating liquor and 3.2 percent malt liquor;

(2) fraudulently neglect or fail to keep complete accounts in book or books of account, or to make true and exact entries in them as required by the rules of the commissioner of public safety and the commissioner of revenue, or by law;

(3) conspire to violate a provision of this chapter;

(4) fail to do or cause not to be done anything required by law;

(5) refill or cause to be refilled a bottle or other container of intoxicating liquor in order to evade tax; ~~or~~

New language is indicated by underline, deletions by ~~strikeout~~.

(6) sell intoxicating liquor or 3.2 percent malt liquor on which the excise tax has not been paid and thereby evade the tax;

(7) file with the commissioner a return, report, or other document known by the person to be fraudulent or false concerning a material matter; or

(8) knowingly aid or assist in, or advise in the preparation or presentation of a return, report, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud committed is with the knowledge or consent of the person authorized or required to present the return, report, or other document.

Sec. 8. **EFFECTIVE DATE.**

Sections 1 to 7 are effective the day following final enactment.

Presented to the governor April 22, 1994

Signed by the governor April 25, 1994, 1:12 p.m.

CHAPTER 511—H.F.No. 228

An act relating to local government; providing procedures and criteria for municipal annexations; providing for the application of city development regulations; amending Minnesota Statutes 1992, sections 414.01, subdivision 14, and by adding a subdivision; 414.0325, subdivision 1a; 414.033, subdivisions 2, 2a, and by adding subdivisions; 414.061, subdivision 5; 414.07, subdivision 1; and 414.09, subdivisions 1 and 2.

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

Section 1. Minnesota Statutes 1992, section 414.01, subdivision 14, is amended to read:

Subd. 14. When a board order enlarges or diminishes the area of an existing municipality or town, the population of the annexed or detached area shall be as found by the board at its hearing or, in cases in which no hearing by the board for the boundary change is required, as stated in the resolution or ordinance. The effective date of the population change shall be the same as the effective date of the order whether or not the order is from a hearing or from the approval of an annexation resolution or ordinance. The board shall communicate its population finding to the state demographer who shall incorporate that data into the population estimate for the municipality or town. When a new municipality is created by an order of the board, the municipality shall request a separation census from the United States bureau of the census and bear any costs incurred.

Sec. 2. Minnesota Statutes 1992, section 414.01, is amended by adding a subdivision to read:

New language is indicated by underline, deletions by ~~strikeout~~.