with the sale of food by the concessionaire. All provisions of Minnesota Statutes, chapter 340A, not inconsistent herewith, apply to licenses issued under this section.

(b) For purposes of this section "Minnesota-produced wine" means wine produced by a farm winery licensed under Minnesota Statutes, section 340A.315, and made from at least 75 percent Minnesota-grown grapes, grape juice, other fruit bases, other juices, and honey.

Sec. 30. **EFFECTIVE DATE.**

Sections 1 to 9 and 13 to 29 are effective the day following final enactment.

Presented to the governor May 24, 2003

Signed by the governor May 28, 2003, 1:39 p.m.

CHAPTER 127—S.F.No. 1505

An act relating to financing and operation of government in this state; making changes to income, corporate franchise, estate, property, sales and use, motor vehicle sales, gross earnings, hazardous waste generator, solid waste management, aggregate materials, insurance premiums, taconite production, and cigarette and tobacco taxes, and tax provisions; changing, providing, or abolishing tax exemptions and credits; changing property tax valuation, appraisal, homestead, assessment, classification, levy, notice, review, appeal, apportionment, distribution, and aid provisions; conforming to certain changes in the internal revenue code; modifying sales tax provisions to comply with Streamlined Sales Tax Project Agreement; providing for tax administration, collection, compromise, compliance, liens, liability, and enforcement; changing tax return, refund, interest, and payment provisions; changing or imposing certain requirements on assessors; changing provisions relating to property tax refunds, tax increment financing, border city development zones, tax-forfeited land sales, recording or registration of documents, revenue recapture, and sustainable forest management incentives; clarifying commissioner of revenue's rulemaking authority; changing taconite production tax distribution provisions; authorizing certain certificates of motor vehicle title; authorizing certain sales by limited use vehicle dealers; providing for public finance instrumentalities and instruments; authorizing, validating, expanding, limiting, and clarifying public financing and economic development structures, instruments, and procedures for local public entities; imposing certain requirements for cigarettes shipped for sale in another state; imposing a fee on cigarettes produced by certain manufacturers; authorizing a Central Lakes Region Sanitary District; changing provisions relating to Cook county hospital district; giving certain powers to the Iron Range Resources and Rehabilitation Agency; giving certain authority and powers to certain cities, towns, and counties; authorizing actions by the metropolitan mosquito control district; authorizing disclosure of data and requiring access to certain records; changing, clarifying, and imposing penalties; amending Minnesota Statutes 2002, sections 8.30; 18B.07, subdivision 2; 115B.24, subdivision 8; 168.27, subdivision 4a; 168A.03; 168A.05, subdivision 1a; 216B.2424, subdivision 5; 270.059; 270.06; 270.10, subdivision 1a; 270.67, subdivision 4; 270.69, by adding a subdivision; 270.701, subdivision 2, by adding a subdivision; 270.72, subdivision 2; 270A.03, subdivision 2; 270B.12, by adding a subdivision; 272.02, subdivisions 31, 47, 53, by adding subdivisions; 272.12; 273.01; 273.05,

subdivision 1; 273.061, by adding subdivisions; 273.08; 273.11, subdivision 1a; 273.124, subdivisions 1, 14; 273.13, subdivisions 22, 23, 25; 273.1315; 273.134; 273.135, subdivisions 1, 2; 273.1391, subdivision 2; 273.1398, subdivisions 4b, 4d; 273.372; 273.42, subdivision 2; 274.01, subdivision 1; 274.13, subdivision 1; 275.025, subdivisions 1, 3, 4; 276.10; 276.11, subdivision 1; 277.20, subdivision 2; 278.01, subdivision 4; 278.05, subdivision 6; 279.06, subdivision 1; 281.17; 282.01, subdivision 7a; 282.08; 289A.02, subdivision 7; 289A.10, subdivision 1; 289A.18, subdivision 4; 289A.19, subdivision 4; 289A.31, subdivisions 3, 4, by adding a subdivision; 289A.36, subdivision 7, by adding subdivisions; 289A.40, subdivision 2; 289A.50, subdivision 2a, by adding subdivisions; 289A.56, subdivisions 3, 4; 289A.60, subdivisions 7, 15, by adding a subdivision; 290.01, subdivisions 19, 19a, 19b, 19c, 19d, 31; 290.06, subdivisions 2c, 24; 290.0671, subdivision 1; 290.0675, subdivisions 2, 3; 290.0679, subdivision 2; 290.0802, subdivision 1; 290A.03, subdivisions 8, 15; 290C.02, subdivisions 3, 7; 290C.03; 290C.07; 290C.09; 290C.10; 290C.11; 291.005, subdivision 1; 291.03, subdivision 1; 295.50, subdivision 9b; 295.53, subdivision 1; 297A.61, subdivisions 3, 7, 10, 12, 17, 30, 34, by adding subdivisions; 297A.66, by adding a subdivision; 297A.665; 297A.668; 297A.67, subdivisions 2, 8, by adding a subdivision; 297A.68, subdivisions 2, 5, 36, by adding a subdivision; 297A.69, subdivisions 2, 3, 4; 297A.75, subdivision 4; 297A.81; 297A.85; 297A.99, subdivisions 5, 10, 12; 297A.995, by adding a subdivision; 297B.025, subdivisions 1, 2; 297B.035, subdivision 1, by adding a subdivision; 297F.01, subdivisions 21a, 23; 297F.05, subdivision 1; 297F.06, subdivision 4; 297F.08, subdivision 7, by adding a subdivision; 297F.09, subdivision 2; 297F.20, subdivisions 1, 2, 3, 6, 9; 297H.06, subdivision 1; 297I.01, subdivision 9; 297I.20; 298.2211, subdivision 1; 298.27; 298.28, subdivision 4; 298.292, subdivision 2; 298.296, subdivision 4; 298.2961, by adding a subdivision; 298.75, subdivision 1; 352.15, subdivision 1; 353.15, subdivision 1; 354.10, subdivision 1; 354B.30; 354C.165; 373.01, subdivision 3; 373.45, subdivision 1; 373.47, subdivision 1; 376.009; 376.55, subdivision 3, by adding a subdivision; 376.56, subdivision 3; 410.32; 412.301; 469.1731, subdivision 3; 469.174, subdivisions 3, 6, 10, 25, by adding a subdivision; 469.175, subdivisions 1, 3, 4, 6; 469.176, subdivisions 1c, 2, 3, 7; 469.1763, subdivisions 1, 3, 6; 469.177, subdivisions 1, 12; 469.1771, subdivision 4, by adding a subdivision; 469.178, subdivision 7; 469.1791, subdivision 3; 469.1792, subdivisions 1, 2, 3; 469.1813, subdivision 8; 469.1815, subdivision 1; 473.39, by adding a subdivision; 473.702; 473.703, subdivision 1; 473.704, subdivision 17; 473.705; 473.711, subdivision 2a; 473.714, subdivision 1; 473.898, subdivision 3; 473F.07, subdivision 4; 474A.061, subdivision 1; 475.58, subdivision 3b; 515B.1-116; Laws 1967, chapter 558, section 1, subdivision 5, as amended; Laws 1989, chapter 211, section 8, subdivisions 2, as amended, 4, as amended; Laws 1997, chapter 231, article 10, section 25; Laws 2001, First Special Session chapter 5, article 3, section 61; Laws 2001, First Special Session chapter 5, article 3, section 63; Laws 2001, First Special Session chapter 5, article 9, section 12; Laws 2002, chapter 377, article 6, section 4; Laws 2002, chapter 377, article 7, section 3; Laws 2002, chapter 377, article 11, section 1; Laws 2002, chapter 377, article 12, section 17; proposing coding for new law in Minnesota Statutes, chapters 37; 123A; 270; 273; 274; 275; 276; 290C; 297A; 297F; 410; 469; repealing Minnesota Statutes 2002, sections 270.691, subdivision 8; 274.04; 290.0671, subdivision 3; 290.0675, subdivision 5; 294.01; 294.02; 294.021; 294.03; 294.06; 294.07; 294.08; 294.09; 294.10; 294.11; 294.12; 297A.61, subdivisions 14, 15; 297A.69, subdivision 5; 297A.72, subdivision 1; 297A.97; 298.24, subdivision 3; 473.711, subdivision 2b; 473.714, subdivision 2; 477A.065; Laws 1984, chapter 652, section 2; Laws 2002, chapter 377, article 9, section 12; Minnesota Rules, parts 8007.0300, subpart 3; 8009.7100; 8009.7200; 8009.7300; 8009.7400; 8092.1000; 8106.0100, subparts 11, 15, 16; 8106.0200; 8125.1000; 8125.1300, subpart 1; 8125.1400; 8130.0800, subparts 5, 12; 8130.1300; 8130.1600, subpart 5; 8130.1700, subparts 3, 4; 8130.4800, subpart 2; 8130.7500, subpart 5; 8130.8000; 8130.8300.

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

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

ARTICLE 1

SALES TAX

Section 1. Minnesota Statutes 2002, section 168.27, subdivision 4a, is amended to read:

Subd. 4a. **LIMITED USED VEHICLE LICENSE.** A limited used vehicle license shall be provided to a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code whose primary business in the transfer of vehicles is to raise funds for the corporation, who acquires vehicles for sale through donation, and who uses a licensed motor vehicle auctioneer to sell vehicles to retail customers. This license does not apply to educational institutions whose primary purpose is to train students in the repair, maintenance, and sale of motor vehicles. A limited used vehicle license allows the organization to accept assignment of vehicles without the requirement to transfer title as provided in section 168A.10 until sold to a retail customer or licensed motor vehicle dealer. Limited used vehicle license holders are not entitled to dealer plates, and shall report all vehicles held for resale to the department of public safety in a manner and time prescribed by the department.

EFFECTIVE DATE. This section is effective for sales made after June 30, 2003.

Sec. 2. Minnesota Statutes 2002, section 168A.03, is amended to read:

168A.03 **EXEMPT VEHICLES.**

Subdivision 1. The registrar shall not issue a certificate of title for:

(1) a vehicle owned by the United States;

(2) a ~~vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used pursuant to section 168.27 or 168.28, or a vehicle used by a manufacturer solely for testing;~~

~~(3)~~ a vehicle owned by a nonresident and not required by law to be registered in this state;

~~(4)~~ (3) a vehicle owned by a nonresident and regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state;

~~(5)~~ (4) a vehicle moved solely by animal power;

~~(6)~~ (5) an implement of husbandry;

~~(7)~~ (6) special mobile equipment;

~~(8)~~ (7) a self-propelled wheelchair or invalid tricycle;

~~(9)~~ (8) a trailer (i) having a gross weight of 4,000 pounds or less unless a secured party holds an interest in the trailer or a certificate of title was previously issued by this state or any other state or (ii) designed primarily for agricultural purposes except recreational equipment or a manufactured home, both as defined in section 168.011, subdivisions 8 and 25;

~~(10)~~ (9) a snowmobile.

Subd. 2. **DEALERS.** No certificate of title need be obtained for a vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used pursuant to section 168.27 or 168.28, or a vehicle used by a manufacturer solely for testing.

EFFECTIVE DATE. This section is effective for sales made after June 30, 2003.

Sec. 3. Minnesota Statutes 2002, 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 for the June reporting period filed by retailers required to remit their June liability under section 289A.20, subdivision 4, paragraph (b), are due on or before August 20.

(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 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).

(f) A taxpayer who is a materials supplier may report gross receipts either on:

(1) the cash basis as the consideration is received; or

(2) the accrual basis as sales are made.

As used in this paragraph, "materials supplier" means a person who provides materials for the improvement of real property; who is primarily engaged in the sale of lumber and building materials-related products to owners, contractors, subcontractors, repairers, or consumers; who is authorized to file a mechanics lien upon real property and improvements under chapter 514; and who files with the commissioner an election to file sales and use tax returns on the basis of this paragraph.

(g) Notwithstanding paragraphs (a) to (f), a seller that is not a Model 1, 2, or 3 seller, as those terms are used in the Streamlined Sales and Use Tax Agreement, that does not have a legal requirement to register in Minnesota, and that is registered under the agreement, must file a return by February 5 following the close of the calendar year in which the seller initially registers, and must file subsequent returns on February 5 on an annual basis in succeeding years. Additionally, a return must be submitted on or before the 20th day of the month following any month by which sellers have accumulated state and local tax funds for the state in the amount of $1,000 or more.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 4. Minnesota Statutes 2002, section 289A.40, subdivision 2, is amended to read:

Subd. 2. **BAD DEBT LOSS.** If a claim relates to an overpayment because of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim is considered timely if filed within seven years from the date prescribed for the filing of the return. A claim relating to an overpayment of taxes under chapter 297A must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extensions granted for filing the return, but only if filed within the extended time~~, or within one year from the date the taxpayer's federal income tax return is timely filed claiming the bad debt deduction, whichever period expires later~~. The refund or credit is limited to the amount of overpayment attributable to the loss. "Bad debt" for purposes of this subdivision, has the same meaning as that term is used in United States Code, title 26, section 166, except that the following are excluded from the calculation of bad debt: financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid; expenses incurred in attempting to collect any debt; and repossessed property.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 5. Minnesota Statutes 2002, section 289A.50, is amended by adding a subdivision to read:

Subd. 2b. **CERTIFIED SERVICE PROVIDER; BAD DEBT CLAIM.** A certified service provider, as defined in section 297A.995, subdivision 2, may claim on behalf of a taxpayer that is its client any bad debt allowance provided by section 297A.81. The certified service provider must credit or refund to its client the full amount of any bad debt allowance or refund received.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 6. Minnesota Statutes 2002, section 289A.50, is amended by adding a subdivision to read:

Subd. 2c. **NOTICE FROM PURCHASER TO VENDOR REQUESTING REFUND.** (a) If a vendor has collected from a purchaser a tax on a transaction that is not subject to the tax imposed by chapter 297A, the purchaser may seek from the vendor a return of over-collected sales or use taxes as follows:

(1) the purchaser must provide written notice to the vendor;

(2) the notice to the vendor must contain the information necessary to determine the validity of the request; and

(3) no cause of action against the vendor accrues until the vendor has had 60 days to respond to the written notice.

(b) In connection with a purchaser's request from a vendor of over-collected sales or use taxes, a vendor is presumed to have a reasonable business practice, if in the collection of such sales or use taxes, the vendor: (1) uses a certified service provider as defined in section 297A.995, a certified automated system, as defined in section 297A.995, or a proprietary system that is certified by the state; and (2) has remitted to the state all taxes collected less any deductions, credits, or collection allowances.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 7. Minnesota Statutes 2002, section 289A.56, subdivision 4, is amended to read:

Subd. 4. **CAPITAL EQUIPMENT AND CERTAIN BUILDING MATERIALS REFUNDS; REFUNDS TO PURCHASERS.** Notwithstanding subdivision 3, for refunds payable under ~~section~~ sections 297A.75, subdivision 1, ~~clauses (1), (2), (3), and (5), interest is computed from the date the refund claim is filed with the commissioner. For refunds payable under section~~ and 289A.50, subdivision 2a, interest is computed from ~~the 20th day of the month following the month of the invoice date for the purchase which is the subject of the refund, if the refund claim includes a detailed schedule of purchases made during each of the periods in the claim. If the refund claim submitted does not contain a schedule reflecting purchases made in each period, interest is computed from the date the claim was filed~~ 90 days after the refund claim is filed with the commissioner.

EFFECTIVE DATE. This section is effective for refund claims filed on or after April 1, 2003.

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

Sec. 8. Minnesota Statutes 2002, section 297A.61, subdivision 3, is amended to read:

Subd. 3. **SALE AND PURCHASE.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision.

(b) Sale and purchase include:

(1) any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, for a consideration in money or by exchange or barter; and

(2) the leasing of or the granting of a license to use or consume, for a consideration in money or by exchange or barter, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing.

(d) Sale and purchase include the preparing for a consideration of food. Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

(1) prepared food sold by the retailer;

(2) soft drinks;

(3) candy; and

(4) all food sold through vending machines.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

(f) A sale and a purchase includes the transfer for a consideration of prewritten computer software whether delivered electronically, by load and leave, or otherwise.

(g) A sale and a purchase includes the furnishing for a consideration of the following services:

(1) the privilege of admission to places of amusement, recreational areas, or athletic events, and the making available of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp and the granting of any similar license to use real property other than the renting or leasing of it for a continuous period of 30 days or more;

(3) parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(4) the granting of membership in a club, association, or other organization if:

(i) the club, association, or other organization makes available for the use of its members sports and athletic facilities, without regard to whether a separate charge is assessed for use of the facilities; and

(ii) use of the sports and athletic facility is not made available to the general public on the same basis as it is made available to members.

Granting of membership means both onetime initiation fees and periodic membership dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and squash courts; basketball and volleyball facilities; running tracks; exercise equipment; swimming pools; and other similar athletic or sports facilities;

(5) delivery of aggregate materials and concrete block by a third party if the delivery would be subject to the sales tax if provided by the seller of the aggregate material or concrete block; and

(6) services as provided in this clause:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) detective, security, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota department of corrections;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(viii) the furnishing of lodging, board, and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable. Services performed by a partnership or association for another partnership or association are not taxable if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of this section, "affiliated group of corporations" includes those entities that would be classified as members of an affiliated group under United States Code, title 26, section 1504, and that are eligible to file a consolidated tax return for federal income tax purposes.

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

(i) A sale and a purchase includes the furnishing for a consideration of telecommunications services, including cable television services and direct satellite services. Telecommunications services are taxed to the extent allowed under federal law ~~if those services:~~.

~~(1) either (i) originate and terminate in this state; or (ii) originate in this state and terminate outside the state and the service is charged to a telephone number customer located in this state or to the account of any transmission instrument in this state; or (iii) originate outside this state and terminate in this state and the service is charged to a telephone number customer located in this state or to the account of any transmission instrument in this state; or~~

~~(2) are rendered by providing a private communications service for which the customer has one or more locations within Minnesota connected to the service and the service is charged to a telephone number customer located in this state or to the account of any transmission instrument in this state.~~

~~All charges for mobile telecommunications services, as defined in United States Code, title 4, section 124, are deemed to be provided by the customer's home service provider and sourced to the customer's place of primary use and are subject to tax based upon the customer's place of primary use in accordance with the Mobile Telecommunications Sourcing Act, United States Code, title 4, sections 116 to 126. All other definitions and provisions of the Mobile Telecommunications Sourcing Act as provided in United States Code, title 4, are hereby adopted.~~

(j) A sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed.

(k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer to a customer when (1) the vehicle is rented by the customer for a consideration, or (2) the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section 65B.29, subdivision 1, clause (1).

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

EFFECTIVE DATE. This section, paragraph (f), and the changes made to paragraph (i) are effective for sales and purchases made on or after January 1, 2004. This section, paragraph (k), is effective for sales and purchases made on or after July 1, 2003.

Sec. 9. Minnesota Statutes 2002, section 297A.61, subdivision 7, is amended to read:

Subd. 7. **SALES PRICE.** (a) "Sales price" means the measure subject to sales tax, and means the total amount of consideration, including cash, credit, personal property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(1) the seller's cost of the property sold;

(2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expenses of the seller;

(3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(4) delivery charges;

(5) installation charges; and

(6) the value of exempt property given to the purchaser when taxable and exempt personal property have been bundled together and sold by the seller as a single product or piece of merchandise.

(b) Sales price does not include:

(1) discounts, including cash, terms, or coupons, that are not reimbursed by a third party and that are allowed by the seller and taken by a purchaser on a sale;

(2) interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser; and

(3) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 10. Minnesota Statutes 2002, section 297A.61, subdivision 10, is amended to read:

Subd. 10. **TANGIBLE PERSONAL PROPERTY.** (a) "Tangible personal property" means ~~corporeal personal property of any kind, including property that is to become real property as a result of incorporation, attachment, or installation following its acquisition.~~

~~(b) Tangible personal property includes, but is not limited to:~~

~~(1) computer software, whether contained on tape, discs, cards, or other devices; and~~

~~(2) prepaid telephone calling cards.~~

~~(c)~~ personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes, but is not limited to, electricity, water, gas, steam, prewritten computer software, and prepaid calling cards.

(b) Tangible personal property does not include:

(1) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;

(2) property which is subject to an ad valorem property tax;

(3) property described in section 272.02, subdivision 9, clauses (a) to (d); and

(4) property described in section 272.03, subdivision 2, clauses (3) and (5).

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 11. Minnesota Statutes 2002, section 297A.61, is amended by adding a subdivision to read:

Subd. 14a. **LEASE OR RENTAL.** (a) "Lease or rental" means any transfer of possession or control of tangible personal property for a fixed or indeterminate term for consideration. A lease or rental may include future options to purchase or extend.

(b) Lease or rental does not include:

(1) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(2) a transfer of possession or control of property under an agreement that requires the transfer of title upon completion of required payments and payment of an option price does not exceed the greater of $100 or one percent of the total required payments; or

(3) providing tangible personal property along with an operator for a fixed or indeterminate period of time. A condition of this exclusion is that the operator is necessary for the equipment to perform as designed. For the purpose of this subdivision, an operator must do more than maintain, inspect, or set up the tangible personal property.

(c) Lease or rental does include agreements covering motor vehicles and trailers where the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in United States Code, title 26, section 7701(h)(1).

(d) This definition must be used for sales and use tax purposes regardless if a transaction is characterized as a lease or rental under generally accepted accounting principles, the Internal Revenue Code, chapter 336, or other provisions of federal, state, or local law.

EFFECTIVE DATE. This section is effective for leases and rentals entered into on or after January 1, 2004.

Sec. 12. Minnesota Statutes 2002, section 297A.61, subdivision 17, is amended to read:

Subd. 17. **PREWRITTEN COMPUTER SOFTWARE.** "Prewritten computer software" means ~~a computer program, either in the form of written procedures or contained on tapes, discs, cards, or another device, or any required documentation or manuals designed to facilitate the use of the computer program.~~ computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions of the programs does not cause the combination to be other than "prewritten computer software." "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion of it that is modified or enhanced to any degree, if the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software"; provided, however, that if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, the modification or enhancement does not constitute "prewritten computer software." For purposes of this subdivision:

(1) "computer" ~~does not include tape-controlled automatic drilling, milling, or other manufacturing machinery or equipment~~ means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions; ~~and~~

(2) ~~"computer program" means information and directions that dictate the function performed by data processing equipment. It includes the complete plan for the solution of a problem, such as the complete sequence of automatic data processing equipment instructions necessary to solve a problem and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs. Computer program includes a "canned" or prewritten computer program that is held or existing for general or repeated sale or lease, even if the prewritten or "canned" program was initially developed on a custom basis or for in-house use.~~ "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities; and

(3) "computer software" means a set of coded instructions designed to cause a "computer" or automatic data processing equipment to perform a task.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 13. Minnesota Statutes 2002, section 297A.61, is amended by adding a subdivision to read:

Subd. 17a. **DELIVERED ELECTRONICALLY.** "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 14. Minnesota Statutes 2002, section 297A.61, is amended by adding a subdivision to read:

Subd. 17b. **LOAD AND LEAVE.** "Load and leave" means delivered to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 15. Minnesota Statutes 2002, section 297A.61, subdivision 30, is amended to read:

Subd. 30. **DELIVERY CHARGES.** "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 16. Minnesota Statutes 2002, section 297A.61, is amended by adding a subdivision to read:

Subd. 35. **DIRECT MAIL.** "Direct mail" means printed material delivered or distributed by United States Mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 17. Minnesota Statutes 2002, section 297A.66, is amended by adding a subdivision to read:

Subd. 5. **WITHDRAWAL FROM STREAMLINED SALES AND USE TAX AGREEMENT.** If the state has withdrawn its membership or been expelled from the

streamlined sales and use tax agreement, it shall not use a seller's registration with the central registration system and the collection of sales and use taxes in the state as a factor in determining whether the seller has nexus with that state for any tax at any time.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 18. **[297A.666] AMNESTY FOR REGISTRATION.**

Subdivision 1. **AMNESTY PROVISIONS.** Subject to the limitations of subdivision 2:

(1) this state shall provide amnesty for uncollected or unpaid sales or use tax to a seller who registers to pay or to collect and remit applicable sales or use tax on sales made to purchasers in this state in accordance with the terms of the streamlined sales and use tax agreement, provided that the seller was not so registered in this state in the 12-month period preceding the effective date of the state's participation in the agreement; and

(2) the amnesty shall preclude assessment for uncollected or unpaid sales or use tax together with penalty or interest for sales made during the period the seller was not registered in this state, provided registration occurs within 12 months of the effective date of the state's participation in the agreement.

Subd. 2. **LIMITATIONS.** (a) The amnesty is not available to a seller with respect to any matter or matters for which the seller received notice of the commencement of an audit and the audit is not yet finally resolved, including any related administrative and judicial processes.

(b) The amnesty is not available for sales or use taxes already paid or remitted to this state or to taxes collected by the seller.

(c) The amnesty is fully effective, absent the seller's fraud or intentional misrepresentation of a material fact, as long as the seller continues registration and continues payment or collection and remittance of applicable sales or use taxes for a period of at least 36 months. The statute of limitations provisions of chapter 289A applicable to asserting a sales or use tax liability must be tolled during this 36-month period.

(d) The amnesty is applicable only to sales or use taxes due from a seller in its capacity as a seller and not to sales or use taxes due from a seller in its capacity as a buyer.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 19. Minnesota Statutes 2002, section 297A.668, is amended to read:

297A.668 **SOURCING OF SALE; SITUS IN THIS STATE.**

Subdivision 1. ~~**SOURCING RULES**~~ **APPLICABILITY.** ~~(a)~~ The ~~following~~ provisions of this section apply regardless of the characterization of a product as

tangible personal property, a digital good, or a service; but do not apply to telecommunications services, or the sales of motor vehicles, watercraft, aircraft, modular homes, manufactured homes, or mobile homes. These provisions only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's sale of a product. These provisions do not affect the obligation of a seller as purchaser to remit tax on the use of the product.

Subd. 2. **SOURCING RULES.** (a) The retail sale, excluding lease or rental, of a product shall be sourced as required in paragraphs (b) through (f).

(b) When the product is received by the purchaser at a business location of the seller, the sale is sourced to that business location.

(c) When the product is not received by the purchaser at a business location of the seller, the sale is sourced to the location where receipt by the purchaser or the donee designated by the purchaser occurs, including the location indicated by instructions for delivery to the purchasers or the purchaser's donee, known to the seller.

(d) When paragraphs (b) and (c) do not apply, the sale is sourced to the location indicated by an address for the purchaser that is available from the business records of the seller that are maintained in the ordinary course of the seller's business, when use of this address does not constitute bad faith.

(e) When paragraphs (b), (c), and (d) do not apply, the sale is sourced to the location indicated by an address for the purchaser obtained during the consummation of the sale, including the address of a purchaser's payment instrument if no other address is available, when use of this address does not constitute bad faith.

(f) When paragraphs (b), (c), (d), and (e) do not apply, including the circumstance where the seller is without sufficient information to apply the previous paragraphs, then the location is determined by the address from which tangible personal property was shipped, from which the digital good or the computer software delivered electronically was first available for transmission by the seller, or from which the service was provided. For purposes of this paragraph, the seller must disregard any location that merely provided the digital transfer of the product sold.

(g) For purposes of this subdivision, the terms "receive" and "receipt" mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods or the computer software delivered electronically, whichever occurs first. The terms receive and receipt do not include possession by a carrier for hire on behalf of the purchaser.

Subd. 3. **LEASE OR RENTAL OF TANGIBLE PERSONAL PROPERTY.** The lease or rental of tangible personal property, other than property identified in subdivision 4 or 5, shall be sourced as required in paragraphs (a) to (c).

(a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subdivision 6. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary

property location must be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location must not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subdivision 2.

(c) This subdivision does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

Subd. 4. **LEASE OR RENTAL OF MOTOR VEHICLES, TRAILERS, SEMITRAILERS, OR AIRCRAFT THAT DO NOT QUALIFY AS TRANSPORTATION EQUIPMENT.** The lease or rental of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment, as defined in subdivision 5, shall be sourced as required in paragraphs (a) to (c).

(a) For a lease or rental that requires recurring periodic payments, each periodic payment is sourced to the primary property location. The primary property location must be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. This location must not be altered by intermittent use at different locations.

(b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subdivision 2.

(c) This subdivision does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

Subd. 5. **TRANSPORTATION EQUIPMENT.** (a) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subdivision 2, notwithstanding the exclusion of lease or rental in subdivision 2.

(b) "Transportation equipment" means any of the following:

(1) locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce; and/or

(2) trucks and truck-tractors with a gross vehicle weight rating (GVWR) of 10,001 pounds or greater, trailers, semitrailers, or passenger buses that are:

(i) registered through the international registration plan; and

(ii) operated under authority of a carrier authorized and certified by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce.

Subd. ~~2.~~ 6. **MULTIPLE POINTS OF USE.** (a) Notwithstanding the provisions of ~~subdivision 1~~ subdivisions 2 to 5, a business purchaser that is not a holder of a direct pay permit that knows at the time of its purchase of a digital good, computer software delivered electronically, or a service that the digital good, computer software delivered electronically, or service will be concurrently available for use in more than one taxing jurisdiction shall deliver to the seller in conjunction with its purchase a multiple points of use exemption certificate disclosing this fact.

(b) Upon receipt of the multiple points of use exemption certificate, the seller is relieved of the obligation to collect, pay, or remit the applicable tax and the purchaser is obligated to collect, pay, or remit the applicable tax on a direct pay basis.

(c) A purchaser delivering the multiple points of use exemption certificate may use any reasonable, but consistent and uniform, method of apportionment that is supported by the purchaser's business records as they exist at the time of the consummation of the sale.

(d) The multiple points of use exemption certificate remains in effect for all future sales by the seller to the purchaser until it is revoked in writing, except as to the subsequent sale's specific apportionment that is governed by the principle of paragraph (c) and the facts existing at the time of the sale.

(e) A holder of a direct pay permit is not required to deliver a multiple points or use exemption certificate to the seller. A direct pay permit holder shall follow the provisions of paragraph (c) in apportioning the tax due on a digital good, computer software delivered electronically, or a service that will be concurrently available for use in more than one taxing jurisdiction.

~~Subd. 3. **DEFINITION OF TERMS.** For purposes of this section, the terms "receive" and "receipt" mean taking possession of tangible personal property, making first use of services, or taking possession or making first use of digital goods, whichever occurs first. The terms receive and receipt do not include possession by a carrier for hire on behalf of the purchaser.~~

Subd. 7. **DIRECT MAIL.** (a) Notwithstanding other subdivisions of this section, a purchaser of direct mail that is not a holder of a direct pay permit shall provide to the seller, in conjunction with the purchase, either a direct mail form or information to show the jurisdictions to which the direct mail is delivered to recipients.

(1) Upon receipt of the direct mail form, the seller is relieved of all obligations to collect, pay, or remit the applicable tax and the purchaser is obligated to pay or remit the applicable tax on a direct pay basis. A direct mail form remains in effect for all future sales of direct mail by the seller to the purchaser until it is revoked in writing.

(2) Upon receipt of information from the purchaser showing the jurisdictions to which the direct mail is delivered to recipients, the seller shall collect the tax according to the delivery information provided by the purchaser. In the absence of bad faith, the seller is relieved of any further obligation to collect tax on any transaction for which

the seller has collected tax pursuant to the delivery information provided by the purchaser.

(b) If the purchaser of direct mail does not have a direct pay permit and does not provide the seller with either a direct mail form or delivery information, as required by paragraph (a), the seller shall collect the tax according to subdivision 2, paragraph (f). Nothing in this paragraph limits a purchaser's obligation for sales or use tax to any state to which the direct mail is delivered.

(c) If a purchaser of direct mail provides the seller with documentation of direct pay authority, the purchaser is not required to provide a direct mail form or delivery information to the seller.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 20. **[297A.669] TELECOMMUNICATION SOURCING.**

Subdivision 1. **CALL-BY-CALL BASIS SOURCING.** Except for the defined telecommunication services in subdivision 3, the sale of telecommunication service sold on a call-by-call basis shall be sourced to (1) each level of taxing jurisdiction where the call originates and terminates in that jurisdiction; or (2) each level of taxing jurisdiction where the call either originates or terminates and in which the service address is also located.

Subd. 2. **OTHER THAN CALL-BY-CALL BASIS SOURCING.** Except for the defined telecommunication services in subdivision 3, a sale of telecommunications services sold on a basis other than a call-by-call basis is sourced to the customer's place of primary use.

Subd. 3. **DEFINED TELECOMMUNICATIONS SERVICES SOURCING.** The sale of the following telecommunication services shall be sourced to each level of taxing jurisdiction in paragraphs (a) to (d).

(a) A sale of mobile telecommunications services, other than air-to-ground radiotelephone service and prepaid calling service, is sourced to the customer's place of primary use as required by the Mobile Telecommunications Sourcing Act.

(b) A sale of postpaid calling service is sourced to the origination point of the telecommunications signal as first identified by either:

(1) the seller's telecommunications system; or

(2) information received by the seller from its service provider, where the system used to transport such signals is not that of the seller.

(c) A sale of prepaid calling service is sourced in accordance with section 297A.668, subdivision 2. However, in the case of a sale of mobile telecommunications service that is a prepaid telecommunications service, the rule provided in section 297A.668, subdivision 2, paragraph (f), shall include as an option the location associated with the mobile telephone number.

(d) A sale of a private communication service is sourced as follows:

(1) service for a separate charge related to a customer channel termination point is sourced to each level of jurisdiction in which the customer channel termination point is located;

(2) service where all customer termination points are located entirely within one jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel termination points are located;

(3) service for segments of a channel between two customer channel termination points located in different jurisdictions and which segment of channel are separately charged is sourced 50 percent in each level of jurisdiction in which the customer channel termination points are located; and

(4) service for segments of a channel located in more than one jurisdiction or levels of jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on the percentage determined by dividing the number of customer channel termination points in the jurisdiction by the total number of customer channel termination points.

Subd. 4. **AIR-TO-GROUND RADIOTELEPHONE SERVICE.** "Air-to-ground radiotelephone service," for purposes of this section, means a radio service, as that term is defined in Code of Federal Regulations, title 47, section 22.99, in which common carriers are authorized to offer and provide radio telecommunications service for hire to subscribers in aircraft.

Subd. 5. **CALL-BY-CALL BASIS.** "Call-by-call basis," for purposes of this section, means any method of charging for telecommunications services where the price is measured by individual calls.

Subd. 6. **COMMUNICATIONS CHANNEL.** "Communications channel," for purposes of this section, means a physical or virtual path of communications over which signals are transmitted between or among customer channel termination points.

Subd. 7. **CUSTOMER.** "Customer," for purposes of this section, means the person or entity that contracts with the seller of telecommunications services. If the end user of telecommunications services is not the contracting party, the end user of the telecommunications service is the customer of the telecommunication service, but this sentence applies only for the purpose of sourcing sales of telecommunications services under this section. Customer does not include a reseller of telecommunications service or for mobile telecommunications service of a serving carrier under an agreement to serve the customer outside the home service provider's licensed service area.

Subd. 8. **CUSTOMER CHANNEL TERMINATION POINT.** "Customer channel termination point," for purposes of this section, means the location where the customer either inputs or receives the communications.

Subd. 9. **END USER.** "End user," for purposes of this section, means the person who utilizes the telecommunication service. In the case of an entity, end user means the individual who utilizes the service on behalf of the entity.

Subd. 10. **HOME SERVICE PROVIDER.** "Home service provider," for purposes of this section, means the same as that term is defined in Section 124(5) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

Subd. 11. **MOBILE TELECOMMUNICATIONS SERVICE.** "Mobile telecommunications service," for purposes of this section, means the same as that term is defined in Section 124(1) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).

Subd. 12. **PLACE OF PRIMARY USE.** "Place of primary use," for purposes of this section, means the street address representative of where the customer's use of the telecommunications service primarily occurs, which must be the residential street address or the primary business street address of the customer. In the case of mobile telecommunications services, place of primary use must be within the licensed service area of the home service provider.

Subd. 13. **POSTPAID CALLING SERVICE.** "Postpaid calling service," for purposes of this section, means the telecommunications service obtained by making a payment on a call-by-call basis either through the use of a credit card or payment mechanism such as a bank card, travel card, credit card, or debit card, or by a charge made to a telephone number that is not associated with the origination or termination of the telecommunications service. A postpaid calling service includes a telecommunications service that would be a prepaid calling service except it is not exclusively a telecommunication service.

Subd. 14. **PREPAID CALLING SERVICE.** "Prepaid calling service," for purposes of this section, means the right to access exclusively telecommunications services, which must be paid for in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed, and that is sold in predetermined units or dollars of which the number declines with use in a known amount.

Subd. 15. **PRIVATE COMMUNICATION SERVICES.** "Private communication services," for purposes of this section, means the same as that term is defined in section 297A.61, subdivision 26.

Subd. 16. **SERVICE ADDRESS.** "Service address," for purposes of this section, means:

(1) the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;

(2) if the location in paragraph (a) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller; or

(3) if the location in paragraphs (a) and (b) is not known, the service address means the location of the customer's place of primary use.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 21. Minnesota Statutes 2002, section 297A.67, subdivision 8, is amended to read:

Subd. 8. **CLOTHING.** (a) Clothing is exempt. For purposes of this subdivision, "clothing" means all human wearing apparel suitable for general use.

(b) Clothing includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

(c) Clothing does not include the following:

(1) belt buckles sold separately;

(2) costume masks sold separately;

(3) patches and emblems sold separately;

(4) sewing equipment and supplies, including but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles;

(5) sewing materials that become part of clothing, including but not limited to, buttons, fabric, lace, thread, yarn, and zippers;

(6) clothing accessories or equipment;

(7) sports or recreational equipment; and

(8) protective equipment.

Clothing also does not include apparel made from fur if a uniform definition of "apparel made from fur" is developed by the member states of the Streamlined Sales and Use Tax Agreement.

For purposes of this subdivision, "clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. Clothing accessories and equipment include, but are not limited to, briefcases; cosmetics; hair notions, including barrettes, hair bows, and hairnets; handbags; handkerchiefs; jewelry; nonprescription sunglasses; umbrellas; wallets; watches; and wigs and hairpieces. "Sports or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. Sports and recreational equipment includes, but is not limited to, ballet and tap shoes; cleated or spiked athletic shoes; gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf gloves; goggles; hand and elbow guards; life preservers and vests; mouth guards; roller and ice skates; shin guards; shoulder pads;

ski boots; waders; and wetsuits and fins. "Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. Protective equipment includes, but is not limited to, breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; finger guards; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welders gloves and masks.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 22. Minnesota Statutes 2002, section 297A.67, is amended by adding a subdivision to read:

Subd. 31. **SERVICE LOANER VEHICLE COVERED BY WARRANTY.** The loan of a vehicle by a motor vehicle dealer to a customer as a replacement for a vehicle being serviced or repaired is exempt if the vehicle is loaned pursuant to a warranty included in the original purchase price of the vehicle being serviced or repaired.

EFFECTIVE DATE. This section is effective for vehicle loans made after June 30, 2003.

Sec. 23. Minnesota Statutes 2002, section 297A.68, subdivision 2, is amended to read:

Subd. 2. **MATERIALS CONSUMED IN INDUSTRIAL PRODUCTION.** (a) Materials stored, used, or consumed in industrial production of personal property intended to be sold ultimately at retail are exempt, whether or not the item so used becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

(1) chemicals, including chemicals used for cleaning food processing machinery and equipment;

(2) materials, including chemicals, fuels, and electricity purchased by persons engaged in industrial production to treat waste generated as a result of the production process;

(3) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of the average climate control or lighting for the production area, and (ii) it is necessary to produce that particular product;

(4) petroleum products and lubricants;

(5) packaging materials, including returnable containers used in packaging food and beverage products;

(6) accessory tools, equipment, and other items that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product; and

(7) the following materials, tools, and equipment used in metalcasting: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks.

(b) This exemption does not include:

(1) machinery, equipment, implements, tools, accessories, appliances, contrivances and furniture and fixtures, except those listed in paragraph (a), clause (6); and

(2) petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state.

(c) Industrial production includes, 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, and the research, development, design, or production of computer software. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 24. Minnesota Statutes 2002, section 297A.68, subdivision 5, is amended to read:

Subd. 5. **CAPITAL EQUIPMENT.** (a) Capital equipment is exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

"Capital equipment" means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating, mining, or refining. Capital equipment also includes machinery and equipment used to electronically transmit results retrieved by a customer of an online computerized data retrieval system.

(b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies used to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment;

(7) materials used to construct and install special purpose buildings used in the production process; ~~and~~

(8) ready-mixed concrete trucks in which the ready-mixed concrete is mixed as part of the delivery process; and

(9) machinery or equipment used for research, development, design, or production of computer software.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials, except for materials included in paragraph (b), clauses (6) and (7);

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property; or

(7) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.

(4) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(5) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(6) "Mining" means the extraction of minerals, ores, stone, or peat.

(7) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(8) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(9) "Refining" means the process of converting a natural resource to a product, including the treatment of water to be sold at retail.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 25. Minnesota Statutes 2002, section 297A.68, subdivision 36, is amended to read:

Subd. 36. **DELIVERY OR DISTRIBUTION CHARGES; ~~PRINTED MATERIALS~~ DIRECT MAIL.** Charges for the delivery or distribution of ~~printed materials, including individual account information,~~ direct mail are exempt if ~~(1)~~ the charges are separately stated, ~~(2) the delivery or distribution is to a mass audience or to a mailing list provided at the direction of the customer, and (3) the cost of the materials is not billed directly to the recipients~~ on an invoice or similar billing document given to the purchaser.

EFFECTIVE DATE. This section is effective for purchases and sales made on or after January 1, 2004.

Sec. 26. Minnesota Statutes 2002, section 297A.75, subdivision 4, is amended to read:

Subd. 4. **INTEREST.** Interest must be paid on the refund at the rate in section 270.76 from ~~the date the refund claim is filed for taxes paid under subdivision 1, clauses (1) to (3), and (5), and from 60 days after the date the refund claim is filed with the commissioner for claims filed under subdivision 1, clauses (4), (6), (7), (8), and (9)~~ 90 days after the refund claim is filed with the commissioner for taxes paid under subdivision 1.

EFFECTIVE DATE. This section is effective for refund claims filed on or after April 1, 2003.

Sec. 27. Minnesota Statutes 2002, section 297A.81, is amended to read:

297A.81 **UNCOLLECTIBLE DEBTS; OFFSET AGAINST OTHER TAXES.**

Subdivision 1. **GENERAL.** The taxpayer may offset against the taxes payable for any reporting period the amount of taxes imposed by this chapter previously paid as a result of any transaction the consideration for which became a debt owed to the taxpayer that became uncollectible during the reporting period, but only in proportion to the portion of the debt that became uncollectible. Section 289A.40, subdivision 2, applies to an offset under this section.

Subd. 2. **MANNER OF ALLOWING DEDUCTION FOR UNCOLLECTIBLE DEBT.** (a) Uncollectible debt is allowed as a deduction in the manner provided in this subdivision.

(b) If the uncollectible debt arose with respect to a sale required to be included in gross receipts, subject to a tax imposed under chapter 297A, the entire amount of the debt remaining uncollected is allowed as a deduction.

(c) If the uncollectible debt arose with respect to a sale partly subject to the tax imposed under chapter 297A and partly exempt, the amount of the uncollectible debt allowed as a deduction is the amount derived by multiplying the uncollectible debt by the percentage that the taxable sale bears to the total sales.

(d) If the uncollectible debt arose with respect to two or more sales made at successive intervals, payments made before the date the debt became uncollectible must be applied first to the earliest sale upon which there is an unpaid balance, and to following sales in successive order.

(e) If the books and records of the taxpayer claiming the bad debt allowance support an allocation of the bad debts among the member states of the streamlined sales and use tax agreement, such an allocation shall be allowed.

Subd. 3. **CERTIFIED SERVICE PROVIDER.** A certified service provider, as defined in section 297A.995, subdivision 2, on behalf of a taxpayer who is its client, may offset against taxes as provided by this section.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 28. Minnesota Statutes 2002, section 297A.99, subdivision 5, is amended to read:

Subd. 5. **TAX RATE.** (a) The tax rate is as specified in the special law authorization and as imposed by the political subdivision.

(b) The full political subdivision rate applies to any sales that are taxed at a state rate ~~less than or more than the state general sales and use tax rate.~~, and the political subdivision must not have more than one local sales tax rate or more than one local use tax rate. This paragraph does not apply to sales or use taxes imposed on electricity, piped natural or artificial gas, or other heating fuels delivered by the seller, or the retail sale or transfer of motor vehicles, aircraft, watercraft, modular homes, manufactured homes, or mobile homes.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 29. Minnesota Statutes 2002, section 297A.99, subdivision 10, is amended to read:

Subd. 10. **USE OF ZIP CODE IN DETERMINING LOCATION OF SALE.** ~~To determine whether to impose the local tax, the retailer may use zip codes if the zip code area is entirely within the political subdivision. When a zip code area is not entirely within a political subdivision, the retailer shall not collect the local tax if the purchaser notifies the retailer that the purchaser's delivery address is outside of the political subdivision, unless the retailer verifies that the delivery address is in the political subdivision using a means other than the zip code.~~ The lowest combined tax rate imposed in the zip code area applies if the area includes more than one tax rate in any level of taxing jurisdictions. If a nine-digit zip code designation is not available for a street address or if a seller is unable to determine the nine-digit zip code designation of a purchaser after exercising due diligence to determine the designation, the seller may apply the rate for the five-digit zip code area. For the purposes of this subdivision, there is a rebuttable presumption that a seller has exercised due diligence if the seller has attempted to determine the nine-digit zip code designation by utilizing software approved by the governing board that makes this designation from the street address and the five-digit zip code of the purchaser. Notwithstanding subdivision 13, this subdivision applies to all local sales taxes without regard to the date of authorization. This subdivision does not apply when the purchased product is received by the purchaser at the business location of the seller.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 30. Minnesota Statutes 2002, section 297A.99, subdivision 12, is amended to read:

Subd. 12. **EFFECTIVE DATES; NOTIFICATION.** (a) A political subdivision may impose a tax under this section starting only on the first day of a calendar quarter. A political subdivision may repeal a tax under this section stopping only on the last day of a calendar quarter.

(b) The political subdivision shall notify the commissioner of revenue at least 90 days before imposing, changing the rate of, or repealing a tax under this section.

(c) The political subdivision shall change the rate of tax imposed under this section starting only on the first day of a calendar quarter, and only after the commissioner has notified sellers at least 60 days prior to the change.

(d) The political subdivision shall apply the rate change for sales tax imposed under this section to purchases from printed catalogs, wherein the purchaser computed the tax based upon local tax rates published in the catalog, starting only on the first day of a calendar quarter, and only after the commissioner has notified sellers at least 120 days prior to the change.

(e) The political subdivision shall apply local jurisdiction boundary changes to taxes imposed under this section starting only on the first day of a calendar quarter, and only after the commissioner has notified sellers at least 60 days prior to the change.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 31. Minnesota Statutes 2002, section 297A.995, is amended by adding a subdivision to read:

Subd. 10. **RELIEF FROM CERTAIN LIABILITY.** Notwithstanding subdivision 9, sellers and certified service providers are relieved from liability to the state for having charged and collected the incorrect amount of sales or use tax resulting from the seller or certified service provider (1) relying on erroneous data provided by this state on tax rates, boundaries, or taxing jurisdiction assignments, or (2) relying on erroneous data provided by the state in its taxability matrix concerning the taxability of products and services.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after January 1, 2004.

Sec. 32. Minnesota Statutes 2002, section 297B.035, is amended by adding a subdivision to read:

Subd. 5. **USE BY DEALER.** If a motor vehicle dealer uses a vehicle, purchased for resale in the ordinary course of business, other than for demonstration purposes, the dealer may elect to pay the motor vehicle sales tax under this chapter or the use tax under chapter 297A based on the reasonable rental value of the vehicle. If the motor vehicle dealer fails to report the use tax under chapter 297A, it is presumed that the dealer elected to pay the motor vehicle sales tax under this chapter.

EFFECTIVE DATE. This section is effective for sales made after June 30, 2003.

Sec. 33. **CITY OF NEWPORT; LODGING TAX.**

Subdivision 1. **LODGING TAX.** Notwithstanding Minnesota Statutes, section 477A.016, or any ordinance, city charter, or other provision of law, the city of Newport may, by ordinance, impose a tax of up to four percent upon the gross receipts from the sale of lodging for periods of less than 30 days in hotels and motels located in the city. The tax does not apply to the furnishing of lodging by a business having less than 25 lodging rooms. The total amount of taxes imposed under this section and under Minnesota Statutes, section 469.190, shall not exceed four percent.

Subd. 2. **USE OF PROCEEDS.** The proceeds of any tax imposed in subdivision 1 shall be used by the city to fund economic development and redevelopment of the city. Authorized expenses include, but are not limited to, acquisition and development costs of open space, parks, and trails.

Subd. 3. **ENFORCEMENT, COLLECTION, AND ADMINISTRATION.** The tax shall be collected and administered in the same manner as local lodging taxes under Minnesota Statutes, section 469.190.

EFFECTIVE DATE. This section is effective upon approval by the Newport city council and compliance with Minnesota Statutes, section 645.021, subdivision 3.

Sec. 34. **REPEALER.**

(a) Minnesota Statutes 2002, section 297A.61, subdivisions 14 and 15, are repealed effective for sales and purchases made on or after January 1, 2004.

(b) Minnesota Statutes 2002, section 297A.69, subdivision 5, is repealed effective January 1, 2006.

(c) Laws 2002, chapter 377, article 9, section 12, the effective date, is repealed effective for sales and purchases made on or after January 1, 2004.

ARTICLE 2

PROPERTY TAX

Section 1. **[123A.455] REALIGNING SPLIT RESIDENTIAL PARCELS.**

Subdivision 1. **DEFINITIONS.** "Split residential property parcel" means a parcel of real estate that is located within the boundaries of more than one school district and that is classified as residential property under:

(1) section 273.13, subdivision 22, paragraph (a) or (b);

(2) section 273.13, subdivision 25, paragraph (b), clause (1); or

(3) section 273.13, subdivision 25, paragraph (c), clause (1).

Subd. 2. **PETITION.** The owner of a split residential property parcel may petition the auditor of the county where the split parcel is located to transfer that part into the adjoining school district so the entire property will be located in the same school district. The petition must contain:

(1) a correct description of the split parcel to be affected by the transfer including supporting data on location and title to the land;

(2) a list of the school districts in which the split parcels currently lie;

(3) the school district into which the petitioner desires to have the whole split parcel transferred; and

(4) the district of attendance of any students currently residing on the property.

Subd. 3. **AUDITOR'S ORDER.** Within 60 days of receipt of the petition, the auditor of the county in which the petition was filed under subdivision 2 shall issue an order to transfer the affected parcel to the district determined by the county board. Orders issued on or before July 1 will be effective for taxes payable in the following

year. The auditor must notify the affected school districts and the commissioner of the change in school district boundaries.

Subd. 4. **COMMISSIONER.** The commissioner shall modify the records of school district boundaries to conform to the order.

Subd. 5. **TAXABLE PROPERTY.** Upon the effective date of the order, the whole split property parcel is transferred into a single school district. Beginning in the next subsequent taxes payable year, all taxable property in the whole split parcel is:

(1) relieved of all school district taxes from the district in which the parcel is no longer located; and

(2) subject to all school district taxes in the district in which the whole split parcel is now located.

EFFECTIVE DATE. This section is effective for petitions filed on or after the day following final enactment. Orders issued under subdivision 3 on or before September 15, 2003, are effective for taxes payable in 2004.

Sec. 2. Minnesota Statutes 2002, section 168A.05, subdivision 1a, is amended to read:

Subd. 1a. **MANUFACTURED HOME; STATEMENT OF PROPERTY TAX PAYMENT.** In the case of a manufactured home as defined in section 327.31, subdivision 6, the department shall not issue a certificate of title unless the application under section 168A.04 is accompanied with a statement from the county auditor or county treasurer where the manufactured home is presently located, stating that all manufactured home personal property taxes levied on the unit ~~that are due from~~ in the name of the current owner at the time of transfer ~~for which the application applies,~~ have been paid.

EFFECTIVE DATE. This section is effective for certificates of title issued by the department on or after July 1, 2003.

Sec. 3. Minnesota Statutes 2002, section 216B.2424, subdivision 5, is amended to read:

Subd. 5. **MANDATE.** (a) A public utility, as defined in section 216B.02, subdivision 4, that operates a nuclear-powered electric generating plant within this state must construct and operate, purchase, or contract to construct and operate (1) by December 31, 1998, 50 megawatts of electric energy installed capacity generated by farm-grown closed-loop biomass scheduled to be operational by December 31, 2001; and (2) by December 31, 1998, an additional 75 megawatts of installed capacity so generated scheduled to be operational by December 31, 2002.

(b) Of the 125 megawatts of biomass electricity installed capacity required under this subdivision, no more than 50 megawatts of this capacity may be provided by a facility that uses poultry litter as its primary fuel source and any such facility:

(1) need not use biomass that complies with the definition in subdivision 1;

(2) must enter into a contract with the public utility for such capacity, that has an average purchase price per megawatt hour over the life of the contract that is equal to or less than the average purchase price per megawatt hour over the life of the contract in contracts approved by the public utilities commission before April 1, 2000, to satisfy the mandate of this section, and file that contract with the public utilities commission prior to September 1, 2000; and

(3) must schedule such capacity to be operational by December 31, 2002.

(c) Of the total 125 megawatts of biomass electric energy installed capacity required under this section, no more than 75 megawatts may be provided by a single project.

(d) Of the 75 megawatts of biomass electric energy installed capacity required under paragraph (a), clause (2), no more than 25 megawatts of this capacity may be provided by a St. Paul district heating and cooling system cogeneration facility utilizing waste wood as a primary fuel source. The St. Paul district heating and cooling system cogeneration facility need not use biomass that complies with the definition in subdivision 1.

(e) The public utility must accept and consider on an equal basis with other biomass proposals:

(1) a proposal to satisfy the requirements of this section that includes a project that exceeds the megawatt capacity requirements of either paragraph (a), clause (1) or (2), and that proposes to sell the excess capacity to the public utility or to other purchasers; and

(2) a proposal for a new facility to satisfy more than ten but not more than 20 megawatts of the electrical generation requirements by a small business-sponsored independent power producer facility to be located within the northern quarter of the state, which means the area located north of Constitutional Route No. 8 as described in section 161.114, subdivision 2, and that utilizes biomass residue wood, sawdust, bark, chipped wood, or brush to generate electricity. A facility described in this clause is not required to utilize biomass complying with the definition in subdivision 1, but must ~~have the capacity required by this clause operational~~ be under construction by December 31, ~~2002~~ 2005.

(f) If a public utility files a contract with the commission for electric energy installed capacity that uses poultry litter as its primary fuel source, the commission must do a preliminary review of the contract to determine if it meets the purchase price criteria provided in paragraph (b), clause (2), of this subdivision. The commission shall perform its review and advise the parties of its determination within 30 days of filing of such a contract by a public utility. A public utility may submit by September 1, 2000, a revised contract to address the commission's preliminary determination.

(g) The commission shall finally approve, modify, or disapprove no later than July 1, 2001, all contracts submitted by a public utility as of September 1, 2000, to meet the mandate set forth in this subdivision.

(h) If a public utility subject to this section exercises an option to increase the generating capacity of a project in a contract approved by the commission prior to April 25, 2000, to satisfy the mandate in this subdivision, the public utility must notify the commission by September 1, 2000, that it has exercised the option and include in the notice the amount of additional megawatts to be generated under the option exercised. Any review by the commission of the project after exercise of such an option shall be based on the same criteria used to review the existing contract.

(i) A facility specified in this subdivision qualifies for exemption from property taxation under section 272.02, subdivision 43.

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

Sec. 4. Minnesota Statutes 2002, section 270B.12, is amended by adding a subdivision to read:

Subd. 13. **COUNTY ASSESSORS; CLASS 1B HOMESTEADS.** The commissioner may disclose to a county assessor, and to the assessor's designated agents or employees, a listing of parcels of property qualifying for the class 1b property tax classification under section 273.13, subdivision 22.

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

Sec. 5. Minnesota Statutes 2002, section 272.02, subdivision 31, is amended to read:

Subd. 31. **BUSINESS INCUBATOR PROPERTY.** Property owned by a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1997, that is intended to be used as a business incubator in a high-unemployment county, is exempt. As used in this subdivision, a "business incubator" is a facility used for the development of nonretail businesses, offering access to equipment, space, services, and advice to the tenant businesses, for the purpose of encouraging economic development, diversification, and job creation in the area served by the organization, and "high-unemployment county" is a county that had an average annual unemployment rate of 7.9 percent or greater in 1997. Property that qualifies for the exemption under this subdivision is limited to no more than two contiguous parcels and structures that do not exceed in the aggregate 40,000 square feet. This exemption expires after taxes payable in ~~2005~~ 2011.

Sec. 6. Minnesota Statutes 2002, section 272.02, subdivision 47, is amended to read:

Subd. 47. **POULTRY LITTER BIOMASS GENERATION FACILITY; PERSONAL PROPERTY.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an electrical generating facility that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize poultry litter as a primary fuel source; and

(2) be constructed for the purpose of generating power at the facility that will be sold pursuant to a contract approved by the public utilities commission in accordance with the biomass mandate imposed under section 216B.2424.

Construction of the facility must be commenced after January 1, ~~2000~~ 2003, and before December 31, ~~2002~~ 2003. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

EFFECTIVE DATE. This section is effective for taxes levied in 2004, payable in 2005, and thereafter.

Sec. 7. Minnesota Statutes 2002, section 272.02, subdivision 53, is amended to read:

Subd. 53. **ELECTRIC GENERATION FACILITY; PERSONAL PROPERTY.** Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a 3.2 megawatt run-of-the-river hydroelectric generation facility and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) utilize two turbine generators at a dam site existing on March 31, 1994;

(2) be located on publicly owned land and within 1,500 feet of a 13.8 kilovolt distribution substation; and

(3) be eligible to receive a renewable energy production incentive payment under section 216C.41.

Construction of the facility must be commenced after January 1, 2002, and before January 1, ~~2004~~ 2005. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

Sec. 8. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 56. **ELECTRIC GENERATION FACILITY; PERSONAL PROPERTY.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a combined-cycle combustion-turbine electric generation facility that exceeds 550 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) be designed to utilize natural gas as a primary fuel;

(2) not be owned by a public utility as defined in section 216B.02, subdivision 4;

(3) be located within five miles of an existing natural gas pipeline and within four miles of an existing electrical transmission substation;

(4) be located outside the metropolitan area as defined under section 473.121, subdivision 2; and

(5) be designed to provide energy and ancillary services and have received a certificate of need under section 216B.243.

(b) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2007. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

EFFECTIVE DATE. This section is effective for assessment year 2005, taxes payable in 2006, and thereafter.

Sec. 9. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 67. **ELECTRIC GENERATION FACILITY; PERSONAL PROPERTY.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a combined-cycle combustion-turbine electric generation facility that exceeds 150 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

(1) utilize natural gas as a primary fuel;

(2) be owned by an electric generation and transmission cooperative;

(3) be located within ten miles of parallel existing 24-inch and 30-inch natural gas pipelines and a 345-kilovolt high-voltage electric transmission line;

(4) be designed to provide intermediate energy and ancillary services, and have received a certificate of need under section 216B.243, demonstrating demand for its capacity; and

(5) have received by resolution, the approval from the governing body of the county and city in which the proposed facility is to be located for the exemption of personal property under this subdivision.

(b) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2009. Property eligible for this exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility.

(c) The exemption under this section will take effect only if the owner of the facility enters into agreements with the governing bodies of the county and the city in which the facility is located. The agreements may include a requirement that the facility must pay a host fee to compensate the county and city for hosting the facility.

EFFECTIVE DATE. This section is effective for assessment year 2005, taxes payable in 2006, and thereafter.

Sec. 10. Minnesota Statutes 2002, section 273.01, is amended to read:

273.01 **LISTING AND ASSESSMENT, TIME.**

All real property subject to taxation shall be listed and at least ~~one-fourth~~ one-fifth of the parcels listed shall be appraised each year with reference to their value on January 2 preceding the assessment so that each parcel shall be reappraised at maximum intervals of ~~four~~ five years. All real property becoming taxable in any year shall be listed with reference to its value on January 2 of that year. Except as provided in this section and section 274.01, subdivision 1, all real property assessments shall be completed two weeks prior to the date scheduled for the local board of review or equalization. No changes in valuation or classification which are intended to correct errors in judgment by the county assessor may be made by the county assessor after the board of review or the county board of equalization has adjourned; however, corrections of errors that are merely clerical in nature or changes that extend homestead treatment to property are permitted after adjournment until the tax extension date for that assessment year. Any changes made by the assessor after adjournment must be fully documented and maintained in a file in the assessor's office and shall be available for review by any person. A copy of any changes made during this period shall be sent to the county board no later than December 31 of the assessment year. In the event a valuation and classification is not placed on any real property by the dates scheduled for the local board of review or equalization the valuation and classification determined in the preceding assessment shall be continued in effect and the provisions of section 273.13 shall, in such case, not be applicable, except with respect to real estate which has been constructed since the previous assessment. Real property containing iron ore, the fee to which is owned by the state of Minnesota, shall, if leased by the state after January 2 in any year, be subject to assessment for that year on the value of any iron ore removed under said lease prior to January 2 of the following year. Personal property subject to taxation shall be listed and assessed annually with reference to its value on January 2; and, if acquired on that day, shall be listed by or for the person acquiring it.

EFFECTIVE DATE. This section is effective for assessments on or after January 2, 2004.

Sec. 11. Minnesota Statutes 2002, section 273.08, is amended to read:

273.08 **ASSESSOR'S DUTIES.**

The assessor shall actually view, and determine the market value of each tract or lot of real property listed for taxation, including the value of all improvements and structures thereon, at maximum intervals of ~~four~~ five years and shall enter the value opposite each description.

EFFECTIVE DATE. This section is effective for assessments on or after January 2, 2004.

Sec. 12. Minnesota Statutes 2002, section 273.124, subdivision 14, is amended to read:

Subd. 14. **AGRICULTURAL HOMESTEADS; SPECIAL PROVISIONS.** (a) Real estate of less than ten acres that is the homestead of its owner must be classified as class 2a under section 273.13, subdivision 23, paragraph (a), if:

(1) the parcel on which the house is located is contiguous on at least two sides to (i) agricultural land, (ii) land owned or administered by the United States Fish and Wildlife Service, or (iii) land administered by the department of natural resources on which in lieu taxes are paid under sections 477A.11 to 477A.14;

(2) its owner also owns a noncontiguous parcel of agricultural land that is at least 20 acres;

(3) the noncontiguous land is located not farther than four townships or cities, or a combination of townships or cities from the homestead; and

(4) the agricultural use value of the noncontiguous land and farm buildings is equal to at least 50 percent of the market value of the house, garage, and one acre of land.

Homesteads initially classified as class 2a under the provisions of this paragraph shall remain classified as class 2a, irrespective of subsequent changes in the use of adjoining properties, as long as the homestead remains under the same ownership, the owner owns a noncontiguous parcel of agricultural land that is at least 20 acres, and the agricultural use value qualifies under clause (4). Homestead classification under this paragraph is limited to property that qualified under this paragraph for the 1998 assessment.

(b)(i) Agricultural property consisting of at least 40 acres shall be classified as the owner's homestead, to the same extent as other agricultural homestead property, if all of the following criteria are met:

(1) the owner, the owner's spouse, or the son or daughter of the owner or owner's spouse, is actively farming the agricultural property, either on the person's own behalf as an individual or on behalf of a partnership operating a family farm, family farm corporation, joint family farm venture, or limited liability company of which the person is a partner, shareholder, or member;

(2) both the owner of the agricultural property and the person who is actively farming the agricultural property under clause (1), are Minnesota residents;

(3) neither the owner nor the spouse of the owner claims another agricultural homestead in Minnesota; and

(4) neither the owner nor the person actively farming the property lives farther than four townships or cities, or a combination of four townships or cities, from the agricultural property, except that if the owner or the owner's spouse is required to live in employer-provided housing, the owner or owner's spouse, whichever is actively farming the agricultural property, may live more than four townships or cities, or combination of four townships or cities from the agricultural property.

The relationship under this paragraph may be either by blood or marriage.

(ii) Real property held by a trustee under a trust is eligible for agricultural homestead classification under this paragraph if the qualifications in clause (i) are met, except that "owner" means the grantor of the trust.

(iii) Property containing the residence of an owner who owns qualified property under clause (i) shall be classified as part of the owner's agricultural homestead, if that property is also used for noncommercial storage or drying of agricultural crops.

(c) Noncontiguous land shall be included as part of a homestead under section 273.13, subdivision 23, paragraph (a), only if the homestead is classified as class 2a and the detached land is located in the same township or city, or not farther than four townships or cities or combination thereof from the homestead. Any taxpayer of these noncontiguous lands must notify the county assessor that the noncontiguous land is part of the taxpayer's homestead, and, if the homestead is located in another county, the taxpayer must also notify the assessor of the other county.

(d) Agricultural land used for purposes of a homestead and actively farmed by a person holding a vested remainder interest in it must be classified as a homestead under section 273.13, subdivision 23, paragraph (a). If agricultural land is classified class 2a, any other dwellings on the land used for purposes of a homestead by persons holding vested remainder interests who are actively engaged in farming the property, and up to one acre of the land surrounding each homestead and reasonably necessary for the use of the dwelling as a home, must also be assessed class 2a.

(e) Agricultural land and buildings that were class 2a homestead property under section 273.13, subdivision 23, paragraph (a), for the 1997 assessment shall remain classified as agricultural homesteads for subsequent assessments if:

(1) the property owner abandoned the homestead dwelling located on the agricultural homestead as a result of the April 1997 floods;

(2) the property is located in the county of Polk, Clay, Kittson, Marshall, Norman, or Wilkin;

(3) the agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 1997 assessment year and continue to be used for agricultural purposes;

(4) the dwelling occupied by the owner is located in Minnesota and is within 30 miles of one of the parcels of agricultural land that is owned by the taxpayer; and

(5) the owner notifies the county assessor that the relocation was due to the 1997 floods, and the owner furnishes the assessor any information deemed necessary by the assessor in verifying the change in dwelling. Further notifications to the assessor are not required if the property continues to meet all the requirements in this paragraph and any dwellings on the agricultural land remain uninhabited.

(f) Agricultural land and buildings that were class 2a homestead property under section 273.13, subdivision 23, paragraph (a), for the 1998 assessment shall remain classified agricultural homesteads for subsequent assessments if:

(1) the property owner abandoned the homestead dwelling located on the agricultural homestead as a result of damage caused by a March 29, 1998, tornado;

(2) the property is located in the county of Blue Earth, Brown, Cottonwood, LeSueur, Nicollet, Nobles, or Rice;

(3) the agricultural land and buildings remain under the same ownership for the current assessment year as existed for the 1998 assessment year;

(4) the dwelling occupied by the owner is located in this state and is within 50 miles of one of the parcels of agricultural land that is owned by the taxpayer; and

(5) the owner notifies the county assessor that the relocation was due to a March 29, 1998, tornado, and the owner furnishes the assessor any information deemed necessary by the assessor in verifying the change in homestead dwelling. For taxes payable in 1999, the owner must notify the assessor by December 1, 1998. Further notifications to the assessor are not required if the property continues to meet all the requirements in this paragraph and any dwellings on the agricultural land remain uninhabited.

(g) Agricultural property consisting of at least 40 acres of a family farm corporation, joint family farm venture, family farm limited liability company, or partnership operating a family farm as described under subdivision 8 shall be classified homestead, to the same extent as other agricultural homestead property, if all of the following criteria are met:

(1) a shareholder, member, or partner of that entity is actively farming the agricultural property;

(2) that shareholder, member, or partner who is actively farming the agricultural property is a Minnesota resident;

(3) neither that shareholder, member, or partner, nor the spouse of that shareholder, member, or partner claims another agricultural homestead in Minnesota; and

(4) that shareholder, member, or partner does not live farther than four townships or cities, or a combination of four townships or cities, from the agricultural property.

Homestead treatment applies under this paragraph for property leased to a family farm corporation, joint farm venture, limited liability company, or partnership operating a family farm if legal title to the property is in the name of an individual who is a member, shareholder, or partner in the entity.

(h) To be eligible for the special agricultural homestead under this subdivision, an initial full application must be submitted to the county assessor where the property is located. Owners and the persons who are actively farming the property shall be required to complete only a one-page abbreviated version of the application in each subsequent year provided that none of the following items have changed since the initial application:

(1) the day-to-day operation, administration, and financial risks remain the same;

(2) the owners and the persons actively farming the property continue to live within the four townships or city criteria and are Minnesota residents;

(3) the same operator of the agricultural property is listed with the farm service agency;

(4) a Schedule F or equivalent income tax form was filed for the most recent year;

(5) the property's acreage is unchanged; and

(6) none of the property's acres have been enrolled in a federal or state farm program since the initial application.

The owners and any persons who are actively farming the property must include the appropriate social security numbers, and sign and date the application. If any of the specified information has changed since the full application was filed, the owner must notify the assessor, and must complete a new application to determine if the property continues to qualify for the special agricultural homestead. The commissioner of revenue shall prepare a standard reapplication form for use by the assessors.

EFFECTIVE DATE. This section is effective for applications filed for the 2004 assessment and thereafter.

Sec. 13. Minnesota Statutes 2002, section 273.13, subdivision 22, is amended to read:

Subd. 22. **CLASS 1.** (a) Except as provided in subdivision 23 and in paragraphs (b) and (c), real estate which is residential and used for homestead purposes is class 1a. In the case of a duplex or triplex in which one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first $500,000 of market value of class 1a property has a net class rate of one percent of its market value; and the market value of class 1a property that exceeds $500,000 has a class rate of 1.25 percent of its market value.

(b) Class 1b property includes homestead real estate or homestead manufactured homes used for the purposes of a homestead by

(1) any ~~blind~~ person who is blind as defined in section 256D.35, or the blind person and the blind person's spouse; or

(2) any person, hereinafter referred to as "veteran," who:

(i) served in the active military or naval service of the United States; and

(ii) is entitled to compensation under the laws and regulations of the United States for permanent and total service-connected disability due to the loss, or loss of use, by reason of amputation, ankylosis, progressive muscular dystrophies, or paralysis, of both lower extremities, such as to preclude motion without the aid of braces, crutches, canes, or a wheelchair; and

(iii) has acquired a special housing unit with special fixtures or movable facilities made necessary by the nature of the veteran's disability, or the surviving spouse of the deceased veteran for as long as the surviving spouse retains the special housing unit as a homestead; or

(3) any person who~~:~~

~~(i)~~ is permanently and totally disabled ~~and~~

~~(ii) receives 90 percent or more of total household income, as defined in section 290A.03, subdivision 5, from~~

~~(A) aid from any state as a result of that disability; or~~

~~(B) supplemental security income for the disabled; or~~

~~(C) workers' compensation based on a finding of total and permanent disability; or~~

~~(D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or~~

~~(E) aid under the federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or~~

~~(F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability; or~~

~~(G) pension, annuity, or other income paid as a result of that disability from a private pension or disability plan, including employer, employee, union, and insurance plans and~~

~~(iii) has household income as defined in section 290A.03, subdivision 5, of $50,000 or less; or~~

~~(4) any person who is permanently and totally disabled and whose household income as defined in section 290A.03, subdivision 5, is 275 percent or less of the federal poverty level.~~

Property is classified and assessed under clause ~~(4)~~ (3) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph.

Property is classified and assessed pursuant to clause (1) only if the commissioner of ~~economic security~~ revenue certifies to the assessor that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first $32,000 market value of class 1b property has a net class rate of .45 percent of its market value. The remaining market value of class 1b property has a class rate using the rates for class 1a or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by

the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort ~~or~~, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation ~~or~~, partnership, or limited liability company. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. The first $500,000 of market value of class 1c property has a class rate of one percent, and the remaining market value of class 1c property has a class rate of one percent, with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore. If any portion of the class 1c resort property is classified as class 4c under subdivision 25, the entire property must meet the requirements of subdivision 25, paragraph (d), clause (1), to qualify for class 1c treatment under this paragraph.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same class rates as class 1a property under paragraph (a).

EFFECTIVE DATE. This section is effective for property taxes levied in 2003, payable in 2004, and thereafter, except that the amendments to paragraph (b) are effective for taxes payable in 2005 and thereafter.

Sec. 14. Minnesota Statutes 2002, section 273.13, subdivision 23, is amended to read:

Subd. 23. **CLASS 2.** (a) Class 2a property is agricultural land including any improvements that is homesteaded. The market value of the house and garage and immediately surrounding one acre of land has the same class rates as class 1a property under subdivision 22. The value of the remaining land including improvements up to and including $600,000 market value has a net class rate of 0.55 percent of market value. The remaining property over $600,000 market value has a class rate of one percent of market value.

(b) Class 2b property is (1) real estate, rural in character and used exclusively for growing trees for timber, lumber, and wood and wood products; (2) real estate that is not improved with a structure and is used exclusively for growing trees for timber, lumber, and wood and wood products, if the owner has participated or is participating in a cost-sharing program for afforestation, reforestation, or timber stand improvement on that particular property, administered or coordinated by the commissioner of natural resources; (3) real estate that is nonhomestead agricultural land; or (4) a landing area or public access area of a privately owned public use airport. Class 2b property has a net class rate of one percent of market value.

(c) Agricultural land as used in this section means contiguous acreage of ten acres or more, used during the preceding year for agricultural purposes. "Agricultural purposes" as used in this section means the raising or cultivation of agricultural products. "Agricultural purposes" also includes ~~or~~ enrollment in the Reinvest in Minnesota program under sections 103F.501 to 103F.535 or the federal Conservation Reserve Program as contained in Public Law ~~Number~~ 99-198 if the property was classified as agricultural (i) under this subdivision for the assessment year 2002 or (ii) in the year prior to its enrollment. Contiguous acreage on the same parcel, or contiguous acreage on an immediately adjacent parcel under the same ownership, may also qualify as agricultural land, but only if it is pasture, timber, waste, unusable wild land, or land included in state or federal farm programs. Agricultural classification for property shall be determined excluding the house, garage, and immediately surrounding one acre of land, and shall not be based upon the market value of any residential structures on the parcel or contiguous parcels under the same ownership.

(d) Real estate, excluding the house, garage, and immediately surrounding one acre of land, of less than ten acres which is exclusively and intensively used for raising or cultivating agricultural products, shall be considered as agricultural land.

Land shall be classified as agricultural even if all or a portion of the agricultural use of that property is the leasing to, or use by another person for agricultural purposes.

Classification under this subdivision is not determinative for qualifying under section 273.111.

The property classification under this section supersedes, for property tax purposes only, any locally administered agricultural policies or land use restrictions that define minimum or maximum farm acreage.

(e) The term "agricultural products" as used in this subdivision includes production for sale of:

(1) livestock, dairy animals, dairy products, poultry and poultry products, fur-bearing animals, horticultural and nursery stock described in sections 18.44 to 18.61, fruit of all kinds, vegetables, forage, grains, bees, and apiary products by the owner;

(2) fish bred for sale and consumption if the fish breeding occurs on land zoned for agricultural use;

(3) the commercial boarding of horses if the boarding is done in conjunction with raising or cultivating agricultural products as defined in clause (1);

(4) property which is owned and operated by nonprofit organizations used for equestrian activities, excluding racing;

(5) game birds and waterfowl bred and raised for use on a shooting preserve licensed under section 97A.115;

(6) insects primarily bred to be used as food for animals;

(7) trees, grown for sale as a crop, and not sold for timber, lumber, wood, or wood products; and

(8) maple syrup taken from trees grown by a person licensed by the Minnesota department of agriculture under chapter 28A as a food processor.

(f) If a parcel used for agricultural purposes is also used for commercial or industrial purposes, including but not limited to:

(1) wholesale and retail sales;

(2) processing of raw agricultural products or other goods;

(3) warehousing or storage of processed goods; and

(4) office facilities for the support of the activities enumerated in clauses (1), (2), and (3),

the assessor shall classify the part of the parcel used for agricultural purposes as class 1b, 2a, or 2b, whichever is appropriate, and the remainder in the class appropriate to its use. The grading, sorting, and packaging of raw agricultural products for first sale is considered an agricultural purpose. A greenhouse or other building where horticultural or nursery products are grown that is also used for the conduct of retail sales must be classified as agricultural if it is primarily used for the growing of horticultural or nursery products from seed, cuttings, or roots and occasionally as a showroom for the retail sale of those products. Use of a greenhouse or building only for the display of already grown horticultural or nursery products does not qualify as an agricultural purpose.

The assessor shall determine and list separately on the records the market value of the homestead dwelling and the one acre of land on which that dwelling is located. If any farm buildings or structures are located on this homesteaded acre of land, their market value shall not be included in this separate determination.

(g) To qualify for classification under paragraph (b), clause (4), a privately owned public use airport must be licensed as a public airport under section 360.018. For purposes of paragraph (b), clause (4), "landing area" means that part of a privately owned public use airport properly cleared, regularly maintained, and made available to the public for use by aircraft and includes runways, taxiways, aprons, and sites upon which are situated landing or navigational aids. A landing area also includes land

underlying both the primary surface and the approach surfaces that comply with all of the following:

(i) the land is properly cleared and regularly maintained for the primary purposes of the landing, taking off, and taxiing of aircraft; but that portion of the land that contains facilities for servicing, repair, or maintenance of aircraft is not included as a landing area;

(ii) the land is part of the airport property; and

(iii) the land is not used for commercial or residential purposes.

The land contained in a landing area under paragraph (b), clause (4), must be described and certified by the commissioner of transportation. The certification is effective until it is modified, or until the airport or landing area no longer meets the requirements of paragraph (b), clause (4). For purposes of paragraph (b), clause (4), "public access area" means property used as an aircraft parking ramp, apron, or storage hangar, or an arrival and departure building in connection with the airport.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 15. Minnesota Statutes 2002, section 273.1315, is amended to read:

273.1315 **CERTIFICATION OF 1B PROPERTY.**

Any property owner seeking classification and assessment of the owner's homestead as class 1b property pursuant to section 273.13, subdivision 22, paragraph (b), ~~clause (2) or (3),~~ shall file with the commissioner of revenue ~~for each assessment year~~ a 1b homestead declaration, on a form prescribed by the commissioner. The declaration shall contain the following information:

(a) the information necessary to verify that the property owner or the owner's spouse satisfies the requirements of section 273.13, subdivision 22, paragraph (b), ~~clause (2) or (3),~~ for 1b classification; and

(b) ~~the property owner's household income, as defined in section 290A.03, for the previous calendar year; and~~

~~(c)~~ any additional information prescribed by the commissioner.

The declaration ~~shall~~ must be filed on or before ~~March~~ October 1 ~~of each year~~ to be effective for property taxes payable during the succeeding calendar year. The declaration and any supplementary information received from the property owner pursuant to this section shall be subject to chapter 270B. If approved by the commissioner, the declaration remains in effect until the property no longer qualifies under section 273.13, subdivision 22, paragraph (b). Failure to notify the commissioner within 30 days that the property no longer qualifies under that paragraph because of a sale, change in occupancy, or change in the status or condition of an occupant shall result in the penalty provided in section 273.124, subdivision 13, computed on the basis of the class 1b benefits for the property, and the property shall lose its current class 1b classification.

The commissioner shall provide to the assessor on or before ~~April~~ November 1 a listing of the parcels of property qualifying for 1b classification.

EFFECTIVE DATE. This section is effective for taxes payable in 2005 and thereafter.

Sec. 16. **[274.014] LOCAL BOARDS; APPEALS AND EQUALIZATION COURSE AND MEETING REQUIREMENTS.**

Subdivision 1. **HANDBOOK FOR LOCAL BOARDS.** By no later than January 1, 2005, the commissioner of revenue must develop a handbook detailing procedures, responsibilities, and requirements for local boards of appeal and equalization. The handbook must include, but need not be limited to, the role of the local board in the assessment process, the legal and policy reasons for fair and impartial appeal and equalization hearings, local board meeting procedures that foster fair and impartial assessment reviews and other best practices recommendations, quorum requirements for local boards, and explanations of alternate methods of appeal.

Subd. 2. **APPEALS AND EQUALIZATION COURSE.** By no later than January 1, 2006, and each year thereafter, there must be at least one member at each meeting of a local board of appeal and equalization who has attended an appeals and equalization course developed or approved by the commissioner within the last four years, as certified by the commissioner. The course may be offered in conjunction with a meeting of the Minnesota League of Cities or the Minnesota Association of Townships. The course content must include, but need not be limited to, a review of the handbook developed by the commissioner under subdivision 1.

Subd. 3. **PROOF OF COMPLIANCE; TRANSFER OF DUTIES.** Any city or town that does not provide proof to the county assessor by December 1, 2006, and each year thereafter, that it is in compliance with the requirements of subdivision 2, and that it had a quorum at each meeting of the board of appeal and equalization in the prior year, is deemed to have transferred its board of appeal and equalization powers to the county under section 274.01, subdivision 3, for the following year's assessment.

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

A local board whose powers are transferred to the county under this subdivision may be reinstated by resolution of the governing body of the city or town and upon proof of compliance with the requirements of subdivision 2. The resolution and proofs must be provided to the county assessor by December 1 in order to be effective for the following year's assessment.

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

Sec. 17. **[275.75] CHARTER EXEMPTION FOR AID LOSS.**

Notwithstanding any other provision of a municipal charter that limits ad valorem taxes to a lesser amount, or that would require voter approval for any increase, the governing body of a municipality may by resolution increase its levy for taxes payable in 2004 and 2005 only by an amount equal to the reduction in the amount of aid it is certified to receive under sections 477A.011 to 477A.03 for that same payable year compared to the amount certified for payment in 2003.

Sec. 18. Minnesota Statutes 2002, section 278.01, subdivision 4, is amended to read:

Subd. 4. **FILING OF APPEAL DEADLINE; EXCEPTION.** Notwithstanding the ~~March 31~~ April 30 date in subdivision 1, whenever the exempt status, valuation, or classification of real or personal property is changed other than by an abatement or a court decision, and the owner responsible for payment of the tax is not given notice of the change until after ~~January 31~~ February 28 of the year the tax is payable or after July 1 in the case of property subject to section 273.125, subdivision 4, an eligible petitioner, as defined and limited in subdivision 1, has 60 days from the date of mailing of the notice to initiate an appeal of the property's exempt status, classification, or valuation change under this chapter.

EFFECTIVE DATE. This section is effective for taxes payable in 2003 and thereafter.

Sec. 19. Minnesota Statutes 2002, section 278.05, subdivision 6, is amended to read:

Subd. 6. **DISMISSAL OF PETITION; EXCLUSION OF CERTAIN EVIDENCE.** (a) Information, including income and expense figures, verified net rentable areas, and anticipated income and expenses, for income-producing property must be provided to the county assessor ~~within 60 days after the petition has been filed under this chapter~~ no later than 60 days after the applicable filing deadline contained in section 278.01, subdivision 1 or 4. Failure to provide the information required in this paragraph shall result in the dismissal of the petition, unless (1) the failure to provide it was due to the unavailability of the evidence at ~~that~~ the time that the information was due, or (2) the petitioner was not aware of or informed of the requirement to provide the information.

If the petitioner proves that the requirements under clause (2) are met, the petitioner has an additional 30 days to provide the information from the time the petitioner became aware of or was informed of the requirement to provide the information, otherwise the petition shall be dismissed.

(b) Provided that the information as contained in paragraph (a) is timely submitted to the county assessor, the county assessor shall furnish the petitioner at least five days before the hearing under this chapter with the property's appraisal, if any, which will be presented to the court at the hearing. The petitioner shall furnish to the county assessor at least five days before the hearing under this chapter with the property's appraisal, if any, which will be presented to the court at the hearing. An appraisal of

the petitioner's property done by or for the county shall not be admissible as evidence if the county assessor does not comply with the provisions in this paragraph. The petition shall be dismissed if the petitioner does not comply with the provisions in this paragraph.

EFFECTIVE DATE. This section is effective for petitions filed on or after July 1, 2003.

Sec. 20. Minnesota Statutes 2002, section 290A.03, subdivision 8, is amended to read:

Subd. 8. **CLAIMANT.** (a) "Claimant" means a person, other than a dependent, as defined under sections 151 and 152 of the Internal Revenue Code disregarding section 152(b)(3) of the Internal Revenue Code, who filed a claim authorized by this chapter and who was a resident of this state as provided in chapter 290 during the calendar year for which the claim for relief was filed.

(b) In the case of a claim relating to rent constituting property taxes, the claimant shall have resided in a rented or leased unit on which ad valorem taxes or payments made in lieu of ad valorem taxes, including payments of special assessments imposed in lieu of ad valorem taxes, are payable at some time during the calendar year covered by the claim.

(c) "Claimant" shall not include a resident of a nursing home, intermediate care facility, ~~or~~ long-term residential facility, or a facility that accepts group residential housing payments whose rent constituting property taxes is paid pursuant to the supplemental security income program under title XVI of the Social Security Act, the Minnesota supplemental aid program under sections 256D.35 to 256D.54, the medical assistance program pursuant to title XIX of the Social Security Act, ~~or~~ the general assistance medical care program pursuant to section 256D.03, subdivision 3, or the group residential housing program under chapter 256I.

If only a portion of the rent constituting property taxes is paid by these programs, the resident shall be a claimant for purposes of this chapter, but the refund calculated pursuant to section 290A.04 shall be multiplied by a fraction, the numerator of which is income as defined in subdivision 3, paragraphs (1) and (2), reduced by the total amount of income from the above sources other than vendor payments under the medical assistance program or the general assistance medical care program and the denominator of which is income as defined in subdivision 3, paragraphs (1) and (2), plus vendor payments under the medical assistance program or the general assistance medical care program, to determine the allowable refund pursuant to this chapter.

(d) Notwithstanding paragraph (c), if the claimant was a resident of the nursing home, intermediate care facility ~~or~~, long-term residential facility, or facility for which the rent was paid for the claimant by the group residential housing program for only a portion of the calendar year covered by the claim, the claimant may compute rent constituting property taxes by disregarding the rent constituting property taxes from the nursing home~~, intermediate care facility,~~ or ~~long-term residential~~ facility and use only that amount of rent constituting property taxes or property taxes payable relating

to that portion of the year when the claimant was not in the facility. The claimant's household income is the income for the entire calendar year covered by the claim.

(e) In the case of a claim for rent constituting property taxes of a part-year Minnesota resident, the income and rental reflected in this computation shall be for the period of Minnesota residency only. Any rental expenses paid which may be reflected in arriving at federal adjusted gross income cannot be utilized for this computation. When two individuals of a household are able to meet the qualifications for a claimant, they may determine among them as to who the claimant shall be. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. If a homestead property owner was a part-year Minnesota resident, the income reflected in the computation made pursuant to section 290A.04 shall be for the entire calendar year, including income not assignable to Minnesota.

(f) If a homestead is occupied by two or more renters, who are not husband and wife, the rent shall be deemed to be paid equally by each, and separate claims shall be filed by each. The income of each shall be each renter's household income for purposes of computing the amount of credit to be allowed.

EFFECTIVE DATE. This section is effective for claims based on rent paid in 2003 and thereafter.

Sec. 21. Laws 1989, chapter 211, section 8, subdivision 2, as amended by Laws 2002, chapter 390, section 24, is amended to read:

Subd. 2. **OPERATION OF DISTRICT.** (a) A hospital district created under this section shall be subject to Minnesota Statutes, sections 447.32, except subdivision 1, to 447.41, and except as provided otherwise in this act.

(b) A hospital district created under this section is a municipal corporation and a political subdivision of the state.

EFFECTIVE DATE. This section is effective upon compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the Cook county hospital district.

Sec. 22. Laws 1989, chapter 211, section 8, subdivision 4, as amended by Laws 2002, chapter 390, section 24, is amended to read:

Subd. 4. **TAX LEVY.** The tax levied under Minnesota Statutes, section 447.34, shall not exceed $300,000 ~~in any year, and its~~ for taxes levied in 2002. For taxes levied in 2003 and subsequent years, the tax must not exceed the lesser of:

(1) the product of the hospital district's property tax levy limitation for the previous year determined under this subdivision, multiplied by 103 percent; or

(2) the product of the hospital district's property tax levy limitation for the previous year determined under this subdivision multiplied by the ratio of the most recent available annual medical care expenditure category of the revised Consumer Price Index, U.S. citywide average, for all urban consumers prepared by the United States Department of Labor to the same annual index for the previous year.

The proceeds of the tax may be used for all purposes of the hospital district.

EFFECTIVE DATE. This section is effective upon compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the Cook county hospital district.

ARTICLE 3

DEPARTMENT INCOME, CORPORATE FRANCHISE, AND ESTATE TAX INITIATIVES

Section 1. Minnesota Statutes 2002, section 289A.10, subdivision 1, is amended to read:

Subdivision 1. **RETURN REQUIRED.** In the case of a decedent who has an interest in property with a situs in Minnesota, the personal representative must submit a Minnesota estate tax return to the commissioner, on a form prescribed by the commissioner, if:

(1) a federal estate tax return is required to be filed; or

(2) the federal gross estate exceeds $700,000 for estates of decedents dying after December 31, 2001, and before January 1, 2004; $850,000 for estates of decedents dying after December 31, 2003, and before January 1, 2005; $950,000 for estates of decedents dying after December 31, 2004, and before January 1, 2006; and $1,000,000 for estates of decedents dying after December 31, 2005.

The return must contain a computation of the Minnesota estate tax due. The return must be signed by the personal representative.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 2. Minnesota Statutes 2002, section 289A.19, subdivision 4, is amended to read:

Subd. 4. **ESTATE TAX RETURNS.** When in the commissioner's judgment good cause exists, the commissioner may extend the time for filing an estate tax return for not more than six months. When an extension to file the federal estate tax return has been granted under section 6081 of the Internal Revenue Code, the time for filing the estate tax return is extended for that period.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2001.

Sec. 3. Minnesota Statutes 2002, section 289A.31, is amended by adding a subdivision to read:

Subd. 8. **LIABILITY OF VENDOR FOR REPAYMENT OF REFUND.** If an individual income tax refund resulting from claiming an education credit under section 290.0674 is paid by means of directly depositing the proceeds of the refund into a bank account controlled by the vendor of the product or service upon which the education credit is based, and the commissioner subsequently disallows the credit, the commissioner may seek repayment of the refund from the vendor. The amount of the repayment must be assessed and collected in the same time and manner as an erroneous refund under section 289A.37, subdivision 2.

EFFECTIVE DATE. This section is effective for refunds paid to accounts controlled by a vendor on or after the day following final enactment.

Sec. 4. Minnesota Statutes 2002, section 289A.56, subdivision 3, is amended to read:

Subd. 3. **WITHHOLDING TAX, ENTERTAINER WITHHOLDING TAX, WITHHOLDING FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS, ESTATE TAX, AND SALES TAX OVERPAYMENTS.** When a refund is due for overpayments of withholding tax, entertainer withholding tax, or withholding from payments to out-of-state contractors, ~~or estate tax,~~ interest is computed from the date of payment to the date the refund is paid or credited. For purposes of this subdivision, the date of payment is the later of the date the tax was finally due or was paid.

For the purposes of computing interest on estate tax refunds, interest is paid from the later of the date of overpayment, the date the estate tax return is due, or the date the original estate tax return is filed to the date the refund is paid.

For purposes of computing interest on sales and use tax refunds, interest is paid from the date of payment to the date the refund is paid or credited, if the refund claim includes a detailed schedule reflecting the tax periods covered in the claim. If the refund claim submitted does not include a detailed schedule reflecting the tax periods covered in the claim, interest is computed from the date the claim was filed.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2003.

Sec. 5. Minnesota Statutes 2002, section 289A.60, subdivision 7, is amended to read:

Subd. 7. **PENALTY FOR FRIVOLOUS RETURN.** If a taxpayer files what purports to be a tax return or a claim for refund but which does not contain information on which the substantial correctness of the purported return or claim for refund may be judged or contains information that on its face shows that the purported return or claim for refund is substantially incorrect and the conduct is due to a position that is frivolous or a desire that appears on the purported return or claim for refund to delay or impede the administration of Minnesota tax laws, then the individual shall pay a penalty of ~~$500~~ the greater of $1,000 or 25 percent of the amount of tax required to be shown on the return. In a proceeding involving the issue of whether or not a person is liable for this penalty, the burden of proof is on the commissioner.

EFFECTIVE DATE. This section is effective for returns filed after December 31, 2003.

Sec. 6. Minnesota Statutes 2002, section 290.01, subdivision 19a, is amended to read:

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

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

(ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and

(iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located;

(2) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income tax is the last itemized deduction disallowed;

(3) the capital gain amount of a lump sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law ~~Number~~ 99-514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

(5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10;

(6) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code; and

(7) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed.

EFFECTIVE DATE. This section is effective for taxable years ending after September 10, 2001.

Sec. 7. Minnesota Statutes 2002, section 290.01, subdivision 19b, is amended to read:

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

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

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

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed $1,625 for each qualifying child in grades kindergarten to 6 and $2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to,

extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) ~~to the extent not deducted in determining federal taxable income or used to claim the long-term care insurance credit under section 290.0672, the amount paid for health insurance of self-employed individuals as determined under section 162(l) of the Internal Revenue Code, except that the percent limit does not apply. If the individual deducted insurance payments under section 213 of the Internal Revenue Code of 1986, the subtraction under this clause must be reduced by the lesser of:~~

~~(i) the total itemized deductions allowed under section 63(d) of the Internal Revenue Code, less state, local, and foreign income taxes deductible under section 164 of the Internal Revenue Code and the standard deduction under section 63(c) of the Internal Revenue Code; or~~

~~(ii) the lesser of (A) the amount of insurance qualifying as "medical care" under section 213(d) of the Internal Revenue Code to the extent not deducted under section 162(1) of the Internal Revenue Code or excluded from income or (B) the total amount deductible for medical care under section 213(a);~~

~~(7) the exemption amount allowed under Laws 1995, chapter 255, article 3, section 2, subdivision 3;~~

~~(8)~~ to the extent included in federal taxable income, postservice benefits for youth community service under section 124D.42 for volunteer service under United States Code, title 42, sections 12601 to 12604;

~~(9)~~ (7) to the extent not deducted in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code over $500;

~~(10)~~ (8) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

~~(11)~~ (9) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the

carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit; and

~~(12)~~ (10) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero.

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2003.

Sec. 8. Minnesota Statutes 2002, section 290.01, subdivision 19c, is amended to read:

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

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes, including but not limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

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

(3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal Revenue Code;

(4) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss deduction under section 810 of the Internal Revenue Code;

(5) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 of the Internal Revenue Code;

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

(7) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code;

(8) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code;

(9) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;

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

(11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g);

(12) the amount of any environmental tax paid under section 59(a) of the Internal Revenue Code;

(13) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;

(14) the amount of net income excluded under section 114 of the Internal Revenue Code;

(15) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law Number 107-147; and

(16) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed.

EFFECTIVE DATE. This section is effective for taxable years ending after September 10, 2001.

Sec. 9. Minnesota Statutes 2002, section 290.01, subdivision 19d, is amended to read:

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

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

(2) the amount of salary expense not allowed for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code;

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

bank owned by the United States or the instrumentality;

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

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

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

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:

(i) for capital losses incurred in taxable years beginning after December 31, 1986, capital loss carrybacks shall not be allowed;

(ii) for capital losses incurred in taxable years beginning after December 31, 1986, a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(iii) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryback to each of the three taxable years preceding the loss year, subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and

(iv) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryover to each of the five taxable years succeeding the loss year to the extent such loss was not used in a prior taxable year and subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or 291 of the Internal Revenue Code in computing federal taxable income;

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

(8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through

December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7;

(9) amounts included in federal taxable income that are due to refunds of income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or a foreign country or possession of the United States to the extent that the taxes were added to federal taxable income under section 290.01, subdivision 19c, clause (1), in a prior taxable year;

(10) 80 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation;

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

(12) the amount of handicap access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;

(13) the amount of qualified research expenses not allowed for federal income tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that the amount exceeds the amount of the credit allowed under section 290.068;

(14) the amount of salary expenses not allowed for federal income tax purposes due to claiming the Indian employment credit under section 45A(a) of the Internal Revenue Code;

(15) the amount of any refund of environmental taxes paid under section 59A of the Internal Revenue Code;

(16) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(17) for a corporation whose foreign sales corporation, as defined in section 922 of the Internal Revenue Code, constituted a foreign operating corporation during any taxable year ending before January 1, 1995, and a return was filed by August 15, 1996, claiming the deduction under ~~this~~ section 290.21, subdivision 4, for income received from the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of income excluded under section 114 of the Internal Revenue Code, provided the income is not income of a foreign operating company;

(18) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law Number 107-147; and

(19) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of

the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (16). The resulting delayed depreciation cannot be less than zero.

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

Sec. 10. Minnesota Statutes 2002, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. **SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.** (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

(1) On the first $25,680, 5.35 percent;

(2) On all over $25,680, but not over $102,030, 7.05 percent;

(3) On all over $102,030, 7.85 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

(1) On the first $17,570, 5.35 percent;

(2) On all over $17,570, but not over $57,710, 7.05 percent;

(3) On all over $57,710, 7.85 percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

(1) On the first $21,630, 5.35 percent;

(2) On all over $21,630, but not over $86,910, 7.05 percent;

(3) On all over $86,910, 7.85 percent.

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

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

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), and (6), and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), and (6), and reduced by the amounts specified in section 290.01, subdivision 19b, clause (1).

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2002.

Sec. 11. Minnesota Statutes 2002, section 290.0671, subdivision 1, is amended to read:

Subdivision 1. **CREDIT ALLOWED.** (a) An individual is allowed a credit against the tax imposed by this chapter equal to a percentage of earned income. To receive a credit, a taxpayer must be eligible for a credit under section 32 of the Internal Revenue Code.

(b) For individuals with no qualifying children, the credit equals 1.9125 percent of the first $4,620 of earned income. The credit is reduced by 1.9125 percent of earned income or modified adjusted gross income, whichever is greater, in excess of $5,770, but in no case is the credit less than zero.

(c) For individuals with one qualifying child, the credit equals 8.5 percent of the first $6,920 of earned income and 8.5 percent of earned income over $12,080 but less than $13,450. The credit is reduced by 5.73 percent of earned income or modified adjusted gross income, whichever is greater, in excess of $15,080, but in no case is the credit less than zero.

(d) For individuals with two or more qualifying children, the credit equals ten percent of the first $9,720 of earned income and 20 percent of earned income over $14,860 but less than $16,800. The credit is reduced by 10.3 percent of earned income or modified adjusted gross income, whichever is greater, in excess of $17,890, but in no case is the credit less than zero.

(e) For a nonresident or part-year resident, the credit must be allocated based on the percentage calculated under section 290.06, subdivision 2c, paragraph (e).

(f) For a person who was a resident for the entire tax year and has earned income not subject to tax under this chapter, the credit must be allocated based on the ratio of

federal adjusted gross income reduced by the earned income not subject to tax under this chapter over federal adjusted gross income.

(g) For tax years beginning after December 31, 2001, and before December 31, 2004, the $5,770 in paragraph (b) ~~is increased to $6,770~~, the $15,080 in paragraph (c) ~~is increased to $16,080~~, and the $17,890 in paragraph (d) ~~is increased to $18,890~~, after being adjusted for inflation under subdivision 7, are each increased by $1,000 for married taxpayers filing joint returns.

(h) For tax years beginning after December 31, 2004, and before December 31, 2007, the $5,770 in paragraph (b) ~~is increased to $7,770~~, the $15,080 in paragraph (c) ~~is increased to $17,080~~, and the $17,890 in paragraph (d) ~~is increased to $19,890~~, after being adjusted for inflation under subdivision 7, are each increased by $2,000 for married taxpayers filing joint returns.

(i) For tax years beginning after December 31, 2007, and before December 31, 2010, the $5,770 in paragraph (b) ~~is increased to $8,770~~, the $15,080 in paragraph (c) ~~is increased to $18,080~~, and the $17,890 in paragraph (d) ~~is increased to $20,890~~, after being adjusted for inflation under subdivision 7, are each increased by $3,000 for married taxpayers filing joint returns. For tax years beginning after December 31, 2008, the $3,000 is adjusted annually for inflation under subdivision 7.

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

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2002.

Sec. 12. Minnesota Statutes 2002, section 290.0675, subdivision 2, is amended to read:

Subd. 2. **CREDIT ALLOWED.** A married couple filing a joint return is allowed a credit against the tax imposed under section 290.06.

~~The minimum taxable income for the married couple to be eligible for the credit is $25,680, and the minimum earned income in order for the couple to be eligible for the credit is $14,250 for each spouse.~~

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2002.

Sec. 13. Minnesota Statutes 2002, section 290.0675, subdivision 3, is amended to read:

Subd. 3. **CREDIT AMOUNT.** The credit amount is the difference between the tax on the couple's joint Minnesota taxable income under the rates and income levels in section 290.06, subdivision 2c, paragraph (a), as adjusted for the taxable year by section 290.06, subdivision 2d, and the sum of the tax under the rates and income levels of section 290.06, subdivision 2c, paragraph (b), as adjusted for the taxable year

by section 290.06, subdivision 2d, on the earned income of the lesser-earning spouse, and the tax under the rates and income levels of section 290.06, subdivision 2c, paragraph (b), as adjusted for the taxable year by section 290.06, subdivision 2d, on the couple's joint Minnesota taxable income, minus the earned income of the lesser-earning spouse.

The commissioner of revenue shall prepare and make available to taxpayers a comprehensive table showing the credit under this section at brackets of earnings of the lesser-earning spouse and joint taxable income. The brackets of earnings shall not be more than $2,000.

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2002.

Sec. 14. Minnesota Statutes 2002, section 290.0679, subdivision 2, is amended to read:

Subd. 2. **CONDITIONS FOR ASSIGNMENT.** A qualifying taxpayer may assign all or part of an anticipated refund for the current and future taxable years to a financial institution or a qualifying organization. A financial institution or qualifying organization accepting assignment must pay the amount secured by the assignment to a third-party vendor. The commissioner of children, families, and learning shall ~~provide a list of categories of~~, upon request from a third-party vendor, certify that the vendor's products and services ~~that~~ qualify for the education credit ~~to financial institutions and qualifying organizations~~. A denial of a certification is subject to the contested case procedure under chapter 14. A financial institution or qualifying organization that accepts assignments under this section must verify as part of the assignment documentation that the product or service to be provided by the third-party vendor ~~qualifies~~ has been certified by the commissioner of children, families, and learning as qualifying for the education credit. The amount assigned for the current and future taxable years may not exceed the maximum allowable education credit for the current taxable year. Both the taxpayer and spouse must consent to the assignment of a refund from a joint return.

EFFECTIVE DATE. This section is effective for assignments made on or after the day following final enactment.

Sec. 15. Minnesota Statutes 2002, section 290.0802, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given.

(a) "Adjusted gross income" means federal adjusted gross income as used in section 22(d) of the Internal Revenue Code for the taxable year, plus a lump sum distribution as defined in section 402(e)(3) of the Internal Revenue Code, and less any pension, annuity, or disability benefits included in federal gross income but not subject to state taxation other than the subtraction allowed under section 290.01, subdivision 19b, clause (4).

(b) "Disability income" means disability income as defined in section 22(c)(2)(B)(iii) of the Internal Revenue Code.

(c) "Nontaxable retirement and disability benefits" means the amount of pension, annuity, or disability benefits that would be included in the reduction under section 22(c)(3) of the Internal Revenue Code and pension, annuity, or disability benefits included in federal gross income but not subject to state taxation ~~other than the subtraction allowed under section 290.01, subdivision 19b, clause (4)~~.

(d) "Qualified individual" means a qualified individual as defined in section 22(b) of the Internal Revenue Code.

~~(e) "Social security benefits above the second federal threshold" means the amount of social security benefits included in federal taxable income due to the provisions of section 13215 of the Omnibus Budget Reconciliation Act of 1993, Public Law Number 103-66.~~

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2002.

Sec. 16. Minnesota Statutes 2002, section 291.005, subdivision 1, is amended to read:

Subdivision 1. Unless the context otherwise clearly requires, the following terms used in this chapter shall have the following meanings:

(1) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.

(2) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included therein which has its situs outside Minnesota ~~and pensions exempt from tax under this chapter pursuant to section 352.15, subdivision 1; 353.15, subdivision 1; 354.10, subdivision 1; 354B.30; or 354C.165~~, and (b) including therein any property omitted from the federal gross estate which is includable therein, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

(3) "Personal representative" means the executor, administrator or other person appointed by the court to administer and dispose of the property of the decedent. If there is no executor, administrator or other person appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the Minnesota estate tax due with respect to the property.

(4) "Resident decedent" means an individual whose domicile at the time of death was in Minnesota.

(5) "Nonresident decedent" means an individual whose domicile at the time of death was not in Minnesota.

(6) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.

(7) "Commissioner" means the commissioner of revenue or any person to whom the commissioner has delegated functions under this chapter.

(8) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through December 31, ~~2000~~ 2002.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 17. Minnesota Statutes 2002, section 291.03, subdivision 1, is amended to read:

Subdivision 1. **TAX AMOUNT.** The tax imposed shall be an amount equal to the proportion of the maximum credit computed under section 2011 of the Internal Revenue Code, as amended through December 31, 2000, for state death taxes as the Minnesota gross estate bears to the value of the federal gross estate. ~~For a resident decedent, the tax shall be the maximum credit computed under section 2011 of the Internal Revenue Code reduced by the amount of the death tax paid the other state and credited against the federal estate tax if this results in a larger amount of tax than the proportionate amount of the credit.~~ The tax determined under this paragraph shall not be greater than the federal estate tax computed under section 2001 of the Internal Revenue Code after the allowance of the federal credits allowed under section 2010 of the Internal Revenue Code of 1986, as amended through December 31, 2000. For the purposes of this section, expenses which are deducted for federal income tax purposes under section 642(g) of the Internal Revenue Code as amended through December 31, 2002, are not allowable in computing the tax under this chapter.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 18. Minnesota Statutes 2002, section 352.15, subdivision 1, is amended to read:

Subdivision 1. **EXEMPTION; EXCEPTIONS.** None of the money, annuities, or other benefits mentioned in this chapter is assignable either in law or in equity or subject to ~~state estate tax, or to~~ execution, levy, attachment, garnishment, or other legal process, except as provided in subdivision 1a or section 518.58, 518.581, or 518.6111.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 19. Minnesota Statutes 2002, section 353.15, subdivision 1, is amended to read:

Subdivision 1. **EXEMPTION; EXCEPTIONS.** No money, annuity, or benefit provided for in this chapter is assignable or subject ~~to any state estate tax, or~~ to

execution, levy, attachment, garnishment, or legal process, except as provided in subdivision 2 or section 518.58, 518.581, or 518.6111.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 20. Minnesota Statutes 2002, section 354.10, subdivision 1, is amended to read:

Subdivision 1. **EXEMPTION; EXCEPTIONS.** The right of a teacher to take advantage of the benefits provided by this chapter, is a personal right only and is not assignable. All money to the credit of a teacher's account in the fund or any money payable to the teacher from the fund belongs to the state of Minnesota until actually paid to the teacher or a beneficiary under this chapter. The association may acknowledge a properly completed power of attorney form. An assignment or attempted assignment of a teacher's interest in the fund, or of the beneficiary's interest in the fund, by a teacher or a beneficiary is void and exempt ~~from taxation under chapter 291 and~~ from garnishment or levy under attachment or execution, except as provided in subdivision 2 or 3, or section 518.58, 518.581, or 518.6111.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 21. Minnesota Statutes 2002, section 354B.30, is amended to read:

354B.30 **PROHIBITION ON LOANS OR PRETERMINATION DISTRIBUTIONS.**

(a) No participant may obtain a loan from the plan or obtain any distribution from the plan at a time before the participant terminates the employment that gave rise to plan coverage.

(b) No amounts to the credit of the plan are assignable either in law or in equity, ~~are subject to state estate tax,~~ or are subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 22. Minnesota Statutes 2002, section 354C.165, is amended to read:

354C.165 **PROHIBITION ON LOANS OR PRETERMINATION DISTRIBUTIONS.**

(a) Except as provided in paragraph (c), no participant may obtain a loan or any distribution from the plan before the participant terminates the employment that gave rise to plan coverage.

(b) No amounts to the credit of the plan are assignable either in law or in equity, ~~are subject to state estate tax,~~ or are subject to execution, levy, attachment,

garnishment, or other legal process, except as provided in section 518.58, 518.581, or 518.6111.

(c) Unless prohibited by or subject to a penalty under federal law, a teacher who is a participant in the supplemental retirement plan may request, in writing, a transfer of all or a portion of the funds accumulated in the person's supplemental plan account to the teachers retirement association to purchase service credit under sections 354.53, 354.533, 354.534, 354.535, 354.536, 354.537, and 354.538 or to the teachers retirement fund association to purchase service credit under sections 354A.097, 354A.098, 354A.099, 354A.101, 354A.102, 354A.103, and 354A.104. Upon receipt of a valid request, the board shall execute the transfer. The transfer must be a fund-to-fund transfer, and in no event shall the participant directly receive any of the funds while still employed by the board. In no event may the board transfer more than the participant's account balance. The board, in cooperation with the executive director of the teachers retirement association, shall develop the forms for requesting a transfer and the procedures for executing the requested transfers.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2002.

Sec. 23. Laws 2001, First Special Session chapter 5, article 9, section 12, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for assignment of refunds filed with the commissioner after December 31, 2001. ~~The time period for filing assignments expires December 31, 2003, but assignments filed on or before that date remain in effect until satisfied or canceled.~~

Sec. 24. **REPEALER.**

(a) Minnesota Statutes 2002, sections 290.0671, subdivision 3; and 290.0675, subdivision 5, are repealed effective for tax years beginning after December 31, 2002.

(b) Minnesota Rules, parts 8007.0300, subpart 3; 8009.7100; 8009.7200; 8009.7300; 8009.7400; and 8092.1000, are repealed effective the day following final enactment.

ARTICLE 4

FEDERAL UPDATE

Section 1. Minnesota Statutes 2002, section 289A.02, subdivision 7, is amended to read:

Subd. 7. **INTERNAL REVENUE CODE.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 15~~ December 31, 2002.

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

Sec. 2. Minnesota Statutes 2002, 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(g) 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;

(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; and

(3) the deduction for dividends paid must also be applied in the amount of any undistributed capital gains which the regulated investment company elects to have treated as provided in section 852(b)(3)(D) 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 provisions of sections 1113(a), 1117, 1206(a), 1313(a), 1402(a), 1403(a), 1443, 1450, 1501(a), 1605, 1611(a), 1612, 1616, 1617, 1704(l), and 1704(m) of the Small Business Job Protection Act, Public Law Number 104-188, the provisions of Public Law Number 104-117, the provisions of sections 313(a) and (b)(1), 602(a), 913(b), 941, 961, 971, 1001(a) and (b), 1002, 1003, 1012, 1013, 1014, 1061, 1062, 1081, 1084(b), 1086, 1087, 1111(a), 1131(b) and (c), 1211(b), 1213, 1530(c)(2), 1601(f)(5) and (h), and 1604(d)(1) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, the provisions of section 6010 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105-206, the provisions of section 4003 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277, and the provisions of section 318 of the Consolidated Appropriation Act of 2001, Public Law Number 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1996, shall be in effect for taxable years beginning after December 31, 1996.

The provisions of sections 202(a) and (b), 221(a), 225, 312, 313, 913(a), 934, 962, 1004, 1005, 1052, 1063, 1084(a) and (c), 1089, 1112, 1171, 1204, 1271(a) and (b), 1305(a), 1306, 1307, 1308, 1309, 1501(b), 1502(b), 1504(a), 1505, 1527, 1528, 1530, 1601(d), (e), (f), and (i) and 1602(a), (b), (c), and (e) of the Taxpayer Relief Act of 1997, Public Law Number 105-34, the provisions of sections 6004, 6005, 6012, 6013, 6015, 6016, 7002, and 7003 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105-206, the provisions of section 3001 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277, the provisions of section 3001 of the Miscellaneous Trade and Technical Corrections Act of 1999, Public Law Number 106-36, and the provisions of section 316 of the Consolidated Appropriation Act of 2001, Public Law Number 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1997, shall be in effect for taxable years beginning after December 31, 1997.

The provisions of sections 5002, 6009, 6011, and 7001 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law Number 105-206, the provisions of section 9010 of the Transportation Equity Act for the 21st Century, Public Law Number 105-178, the provisions of sections 1004, 4002, and 5301 of the Omnibus Consolidation and Emergency Supplemental Appropriations Act, 1999, Public Law Number 105-277, the provision of section 303 of the Ricky Ray Hemophilia Relief Fund Act of 1998, Public Law Number 105-369, the provisions of sections 532, 534, 536, 537, and 538 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law Number 106-170, the provisions of the Installment Tax Correction Act of 2000, Public Law Number 106-573, and the provisions of section 309 of the Consolidated Appropriation Act of 2001, Public Law Number 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1998, shall be in effect for taxable years beginning after December 31, 1998.

The provisions of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, Public Law Number 106-519, and the provision of section 412 of the Job Creation and Worker Assistance Act of 2002, Public Law Number 107-147, shall become effective at the time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1999, shall be in effect for taxable years beginning after December 31, 1999. The provisions of sections 306 and 401 of the Consolidated Appropriation Act of 2001, Public Law Number 106-554, and the provision of section 632(b)(2)(A) of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law Number 107-16, and provisions of sections 101 and 402 of the Job Creation and Worker Assistance Act of 2002, Public Law Number 107-147, shall become effective at the same time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 2000, shall be in effect for taxable years beginning after December 31, 2000. The provisions of sections 659a and 671 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law Number 107-16, the provisions of sections 104, 105, and 111 of the Victims of Terrorism Tax Relief Act of 2001, Public Law Number 107-134, and the provisions of sections 201, 403, 413, and 606 of the Job Creation and Worker Assistance Act of 2002, Public Law Number 107-147, shall become effective at the same time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through March 15, 2002, shall be in effect for taxable years beginning after December 31, 2001.

The provisions of sections 101 and 102 of the Victims of Terrorism Tax Relief Act of 2001, Public Law Number 107-134, shall become effective at the same time it becomes effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 2002, shall be in effect for taxable years beginning after December 31, 2002.

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.

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

Sec. 3. Minnesota Statutes 2002, section 290.01, subdivision 31, is amended to read:

Subd. 31. **INTERNAL REVENUE CODE.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 15~~ December 31, 2002.

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

Sec. 4. Minnesota Statutes 2002, section 290A.03, subdivision 15, is amended to read:

Subd. 15. **INTERNAL REVENUE CODE.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 15~~ December 31, 2002.

EFFECTIVE DATE. This section is effective for refunds payable for rents paid in 2003 and thereafter and property taxes payable in 2004 and thereafter.

ARTICLE 5

DEPARTMENT PROPERTY TAX INITIATIVES

Section 1. Minnesota Statutes 2002, 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 needful 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 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 fees, including the use of any remedy available to nongovernmental creditors, and, from time to time, make, publish, and distribute rules for the administration and enforcement of ~~assessments and fees~~ laws administered by the commissioner and state tax laws. The rules have the force of law;

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

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

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

Sec. 2. Minnesota Statutes 2002, section 270.10, subdivision 1a, is amended to read:

Subd. 1a. **NOTIFICATION TO TAXPAYER.** At the same time that notice of the assessment, determination, or order of the commissioner is given to a taxpayer, the taxpayer must be notified in writing of the right to appeal to the tax court, and if applicable, to the small claims division. Except in the case of mathematical or clerical errors, the notice must contain a description of the basis for, including applicable law and other factors considered in the determination, and a listing of the amounts of tax due, interest, additions to tax, and penalties. Failure to provide all the required

information does not invalidate the notice for purposes of satisfying statutory notice requirements if the notice contains sufficient information to advise the taxpayer that an assessment, order, or other determination has been made. The taxpayer may request further clarification within the time provided for appealing the determination. ~~In any notice of assessment, determination, or order dealing with property valuation or assessment for property tax purposes by the commissioner of revenue or a local unit of government, the taxpayer must be notified in writing that a taxpayer must appeal to the town or city board of equalization and to the county board of equalization before appealing to the small claims division of the tax court, except for those taxpayers whose original assessments are determined by the commissioner of revenue.~~

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

Sec. 3. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 57. **COMPREHENSIVE HEALTH ASSOCIATION.** All property owned by the comprehensive health association is exempt to the extent provided in section 62E.10, subdivision 1.

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

Sec. 4. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 58. **PRIVATE CEMETERIES.** All property owned by private cemeteries is exempt to the extent provided in section 307.09.

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

Sec. 5. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 59. **WESTERN LAKE SUPERIOR SANITARY BOARD.** All property owned, leased, controlled, used, or occupied for public, governmental, and municipal purposes by the Western Lake Superior Sanitary Board is exempt to the extent provided in section 458D.23.

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

Sec. 6. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 60. **UNFINISHED SALE OR RENTAL PROJECTS.** Unfinished sale or rental projects are exempt to the extent provided in section 469.155, subdivision 17.

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

Sec. 7. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 61. **SKYWAYS.** The pedestrian skyway system, underground pedestrian concourse, the people mover system, and publicly owned parking structures are

exempt to the extent provided in section 469.127.

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

Sec. 8. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 62. **MUNICIPAL RECREATION FACILITIES.** All property acquired and used by a city is exempt to the extent provided in section 471.191, subdivision 4.

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

Sec. 9. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

Subd. 63. **WATER AND WASTEWATER TREATMENT FACILITIES.** Related facilities owned by water and wastewater treatment providers who have contracted with a municipality to provide capital intensive public services to the municipality are exempt to the extent provided in section 471A.05.

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

Sec. 10. Minnesota Statutes 2002, section 272.12, is amended to read:

272.12 **CONVEYANCES, TAXES PAID BEFORE RECORDING.**

When:

(a) a deed or other instrument conveying land,

(b) a plat of any town site or addition thereto,

(c) a survey required pursuant to section 508.47,

(d) a condominium plat subject to chapter 515 or 515A or a declaration that contains such a plat, or

(e) a common interest community plat subject to chapter 515B or a declaration that contains such a plat,

is presented to the county auditor for transfer, the auditor shall ascertain from the records if there be taxes delinquent upon the land described therein, or if it has been sold for taxes. An assignment of a sheriff's or referee's certificate of sale, when the certificate of sale describes real estate, and certificates of redemption from mortgage or lien foreclosure sales, when the certificate of redemption encompasses real estate and is issued to a junior creditor, are considered instruments conveying land for the purposes of this section and section 272.121. If there are taxes delinquent, the auditor shall certify to the same; and upon payment of such taxes, or in case no taxes are delinquent, shall transfer the land upon the books of the auditor's office, and note upon the instrument, over official signature, the words, "no delinquent taxes and transfer entered," or, if the land described has been sold or assigned to an actual purchaser for taxes, the words "paid by sale of land described within;" and, unless such statement is made upon such instrument, the county recorder or the registrar of titles shall refuse to

receive or record the same; provided, that sheriff's or referees' certificates of sale on execution or foreclosure of a lien or mortgage, certificates of redemption from mortgage or lien foreclosure sales issued to the redeeming mortgagor or lienee, deeds of distribution made by a personal representative in probate proceedings, decrees and judgments, receivers receipts, patents, and copies of town or statutory city plats, in case the original plat filed in the office of the county recorder has been lost or destroyed, and the instruments releasing, removing and discharging reversionary and forfeiture provisions affecting title to land and instruments releasing, removing or discharging easement rights in land or building or other restrictions, may be recorded without such certificate; and, provided that instruments conveying land and, as appurtenant thereto an easement over adjacent tract or tracts of land, may be recorded without such certificate as to the land covered by such easement; and provided further, that any instrument granting an easement made in favor of any public utility or pipe line for conveying gas, liquids or solids in suspension, in the nature of a right-of-way over, along, across or under a tract of land may be recorded without such certificate as to the land covered by such easement. ~~Any instrument amending or restating the declarations, bylaws, plats, or other enabling~~ Documents governing homeowners associations of condominiums, townhouses, common interest ownership communities, and other planned unit developments may be recorded without the auditor's certificate to the extent provided in section 515B.1-116(f).

A deed of distribution made by a personal representative in a probate proceeding, a decree, or a judgment that conveys land shall be presented to the county auditor, who shall transfer the land upon the books of the auditor's office and note upon the instrument, over official signature, the words, "transfer entered", and the instrument may then be recorded. A decree or judgment that affects title to land but does not convey land may be recorded without presentation to the auditor.

A violation of this section by the county recorder or the registrar of titles shall be a gross misdemeanor, and, in addition to the punishment therefor, the recorder or registrar shall be liable to the grantee of any instrument so recorded for the amount of any damages sustained.

When, as a condition to permitting the recording of deed or other instrument affecting the title to real estate previously forfeited to the state under the provisions of sections 281.16 to 281.25, county officials, after such real estate has been purchased or repurchased, have required the payment of taxes erroneously assumed to have accrued against such real estate after forfeiture and before the date of purchase or repurchase, the sum required to be so paid shall be refunded to the persons entitled thereto out of moneys in the funds in which the sum so paid was placed. Delinquent taxes are those taxes deemed delinquent under section 279.02.

EFFECTIVE DATE. This section is effective for deeds or instruments accepted for recording or registration on or after July 1, 2003.

Sec. 11. Minnesota Statutes 2002, section 273.05, subdivision 1, is amended to read:

Subdivision 1. **APPOINTMENT OF TOWN AND CITY ASSESSORS.** Notwithstanding any other provision of law all town assessors shall be appointed by the

town board, and notwithstanding any charter provisions to the contrary, all city assessors shall be appointed by the city council or other appointing authority as provided by law or charter. ~~Such assessors shall be residents of the state but need not be a resident of the town or city for which they are appointed.~~ They shall be selected and appointed because of their knowledge and training in the field of property taxation. All town and statutory city assessors shall be appointed for indefinite terms. A town or statutory city assessor who is an employee may be dismissed by the appointing authority for cause. The term of the town or city assessors may be terminated at any time by the town board or city council on charges by the commissioner of revenue of inefficiency or neglect of duty. Vacancies in the office of town or city assessor shall be filled within 90 days by appointment of the respective appointing authority indicated above. If the vacancy is not filled within 90 days, the office shall be terminated. When a vacancy in the office of town or city assessor is not filled by appointment, and it is imperative that the office of assessor be filled, the county auditor shall appoint some resident of the county as assessor for such town or city. The county auditor may appoint the county assessor as assessor for such town or city, in which case the town or city shall pay to the county treasurer the amount determined by the county auditor to be due for the services performed and expenses incurred by the county assessor in acting as assessor for such town or city. The term of any town or statutory city assessor in a county electing in accordance with section 273.052 shall be terminated as provided in section 273.055.

The commissioner of revenue may recommend to the state board of assessors the nonrenewal, suspension, or revocation of an assessor's license as provided in sections 270.41 to 270.53.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to every town or city assessor whether that assessor was appointed before, on, or after the effective date.

Sec. 12. Minnesota Statutes 2002, section 273.061, is amended by adding a subdivision to read:

Subd. 1a. **COMPATIBLE OFFICES.** A person appointed as the county assessor also may serve as the county auditor, county treasurer, or county auditor-treasurer if those offices are appointive, provided that the person in the combined appointed office must not serve on the county board of appeal and equalization under section 274.13. In a county in which the functions of the county assessor are combined with those of the county auditor or county auditor-treasurer, the county board may not delegate any authority, power, or responsibility under section 375.192, subdivision 4.

EFFECTIVE DATE. This section is effective January 2, 2004.

Sec. 13. Minnesota Statutes 2002, section 273.061, is amended by adding a subdivision to read:

Subd. 1b. **COMPATIBLE OFFICES IN COUNTIES CHANGING TO APPOINTED AUDITOR.** In a county in which the office of auditor, treasurer, or auditor-treasurer is an elective position, a person appointed as the county assessor also

may serve as the county auditor, county treasurer, or county auditor-treasurer if a proposal to make the affected office appointive has been approved as required by other law and will be effective within five years.

EFFECTIVE DATE. This section is effective January 2, 2004.

Sec. 14. Minnesota Statutes 2002, section 273.061, is amended by adding a subdivision to read:

Subd. 1c. **INCOMPATIBLE OFFICES.** The person appointed as the county assessor must not also be the county attorney, a county board member, an elected county auditor, an elected county treasurer, an elected county auditor-treasurer, a town board supervisor for a town in the same county, or a city mayor or council member for a city in the same county. The person appointed as the city assessor must not also be a city council member or mayor for the same city. A person appointed as the town assessor must not also be a town board supervisor for the same town. Except as provided in subdivision 1b, an assessor who accepts a position that is incompatible with the office of assessor is deemed to have resigned from the assessor position.

EFFECTIVE DATE. This section is effective January 2, 2004.

Sec. 15. Minnesota Statutes 2002, section 273.11, subdivision 1a, is amended to read:

Subd. 1a. **LIMITED MARKET VALUE.** In the case of all property classified as agricultural homestead or nonhomestead, residential homestead or nonhomestead, timber, or noncommercial seasonal residential recreational ~~residential~~, the assessor shall compare the value with the taxable portion of the value determined in the preceding assessment.

For assessment year 2002, the amount of the increase shall not exceed the greater of (1) ten percent of the value in the preceding assessment, or (2) 15 percent of the difference between the current assessment and the preceding assessment.

For assessment year 2003, the amount of the increase shall not exceed the greater of (1) 12 percent of the value in the preceding assessment, or (2) 20 percent of the difference between the current assessment and the preceding assessment.

For assessment year 2004, the amount of the increase shall not exceed the greater of (1) 15 percent of the value in the preceding assessment, or (2) 25 percent of the difference between the current assessment and the preceding assessment.

For assessment year 2005, the amount of the increase shall not exceed the greater of (1) 15 percent of the value in the preceding assessment, or (2) 33 percent of the difference between the current assessment and the preceding assessment.

For assessment year 2006, the amount of the increase shall not exceed the greater of (1) 15 percent of the value in the preceding assessment, or (2) 50 percent of the difference between the current assessment and the preceding assessment.

This limitation shall not apply to increases in value due to improvements. For purposes of this subdivision, the term "assessment" means the value prior to any exclusion under subdivision 16.

The provisions of this subdivision shall be in effect through assessment year 2006 as provided in this subdivision.

For purposes of the assessment/sales ratio study conducted under section 127A.48, and the computation of state aids paid under chapters 122A, 123A, 123B, 124D, 125A, 126C, 127A, and 477A, market values and net tax capacities determined under this subdivision and subdivision 16, shall be used.

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

Sec. 16. Minnesota Statutes 2002, section 273.124, subdivision 1, is amended to read:

Subdivision 1. **GENERAL RULE.** (a) Residential real estate that is occupied and used for the purposes of a homestead by its owner, who must be a Minnesota resident, is a residential homestead.

Agricultural land, as defined in section 273.13, subdivision 23, that is occupied and used as a homestead by its owner, who must be a Minnesota resident, is an agricultural homestead.

Dates for establishment of a homestead and homestead treatment provided to particular types of property are as provided in this section.

Property held by a trustee under a trust is eligible for homestead classification if the requirements under this chapter are satisfied.

The assessor shall require proof, as provided in subdivision 13, of the facts upon which classification as a homestead may be determined. Notwithstanding any other law, the assessor may at any time require a homestead application to be filed in order to verify that any property classified as a homestead continues to be eligible for homestead status. Notwithstanding any other law to the contrary, the department of revenue may, upon request from an assessor, verify whether an individual who is requesting or receiving homestead classification has filed a Minnesota income tax return as a resident for the most recent taxable year for which the information is available.

When there is a name change or a transfer of homestead property, the assessor may reclassify the property in the next assessment unless a homestead application is filed to verify that the property continues to qualify for homestead classification.

(b) For purposes of this section, homestead property shall include property which is used for purposes of the homestead but is separated from the homestead by a road, street, lot, waterway, or other similar intervening property. The term "used for purposes of the homestead" shall include but not be limited to uses for gardens, garages, or other outbuildings commonly associated with a homestead, but shall not include vacant land held primarily for future development. In order to receive homestead treatment for the noncontiguous property, the owner must use the property for the purposes of the homestead, and must apply to the assessor, both by the deadlines given in subdivision 9. After initial qualification for the homestead treatment, additional applications for subsequent years are not required.

(c) Residential real estate that is occupied and used for purposes of a homestead by a relative of the owner is a homestead but only to the extent of the homestead treatment that would be provided if the related owner occupied the property. For purposes of this paragraph and paragraph (g), "relative" means a parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew, or niece. This relationship may be by blood or marriage. Property that has been classified as seasonal residential recreational ~~residential~~ property at any time during which it has been owned by the current owner or spouse of the current owner will not be reclassified as a homestead unless it is occupied as a homestead by the owner; this prohibition also applies to property that, in the absence of this paragraph, would have been classified as seasonal residential recreational ~~residential~~ property at the time when the residence was constructed. Neither the related occupant nor the owner of the property may claim a property tax refund under chapter 290A for a homestead occupied by a relative. In the case of a residence located on agricultural land, only the house, garage, and immediately surrounding one acre of land shall be classified as a homestead under this paragraph, except as provided in paragraph (d).

(d) Agricultural property that is occupied and used for purposes of a homestead by a relative of the owner, is a homestead, only to the extent of the homestead treatment that would be provided if the related owner occupied the property, and only if all of the following criteria are met:

(1) the relative who is occupying the agricultural property is a son, daughter, grandson, granddaughter, father, or mother of the owner of the agricultural property or a son, daughter, grandson, or granddaughter of the spouse of the owner of the agricultural property;

(2) the owner of the agricultural property must be a Minnesota resident;

(3) the owner of the agricultural property must not receive homestead treatment on any other agricultural property in Minnesota; and

(4) the owner of the agricultural property is limited to only one agricultural homestead per family under this paragraph.

Neither the related occupant nor the owner of the property may claim a property tax refund under chapter 290A for a homestead occupied by a relative qualifying under this paragraph. For purposes of this paragraph, "agricultural property" means the house, garage, other farm buildings and structures, and agricultural land.

Application must be made to the assessor by the owner of the agricultural property to receive homestead benefits under this paragraph. The assessor may require the necessary proof that the requirements under this paragraph have been met.

(e) In the case of property owned by a property owner who is married, the assessor must not deny homestead treatment in whole or in part if only one of the spouses occupies the property and the other spouse is absent due to: (1) marriage dissolution proceedings, (2) legal separation, (3) employment or self-employment in another location, or (4) other personal circumstances causing the spouses to live separately, not including an intent to obtain two homestead classifications for property tax purposes.

To qualify under clause (3), the spouse's place of employment or self-employment must be at least 50 miles distant from the other spouse's place of employment, and the homesteads must be at least 50 miles distant from each other. Homestead treatment, in whole or in part, shall not be denied to the owner's spouse who previously occupied the residence with the owner if the absence of the owner is due to one of the exceptions provided in this paragraph.

(f) The assessor must not deny homestead treatment in whole or in part if:

(1) in the case of a property owner who is not married, the owner is absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility property as defined in section 273.13, subdivision 25a, and the property is not otherwise occupied; or

(2) in the case of a property owner who is married, the owner or the owner's spouse or both are absent due to residence in a nursing home, boarding care facility, or an elderly assisted living facility property as defined in section 273.13, subdivision 25a, and the property is not occupied or is occupied only by the owner's spouse.

(g) If an individual is purchasing property with the intent of claiming it as a homestead and is required by the terms of the financing agreement to have a relative shown on the deed as a coowner, the assessor shall allow a full homestead classification. This provision only applies to first-time purchasers, whether married or single, or to a person who had previously been married and is purchasing as a single individual for the first time. The application for homestead benefits must be on a form prescribed by the commissioner and must contain the data necessary for the assessor to determine if full homestead benefits are warranted.

(h) If residential or agricultural real estate is occupied and used for purposes of a homestead by a child of a deceased owner and the property is subject to jurisdiction of probate court, the child shall receive relative homestead classification under paragraph (c) or (d) to the same extent they would be entitled to it if the owner was still living, until the probate is completed. For purposes of this paragraph, "child" includes a relationship by blood or by marriage.

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

Sec. 17. Minnesota Statutes 2002, section 273.13, subdivision 25, is amended to read:

Subd. 25. **CLASS 4.** (a) Class 4a is residential real estate containing four or more units and used or held for use by the owner or by the tenants or lessees of the owner as a residence for rental periods of 30 days or more. Class 4a also includes hospitals licensed under sections 144.50 to 144.56, other than hospitals exempt under section 272.02, and contiguous property used for hospital purposes, without regard to whether the property has been platted or subdivided. The market value of class 4a property has a class rate of 1.8 percent for taxes payable in 2002, 1.5 percent for taxes payable in 2003, and 1.25 percent for taxes payable in 2004 and thereafter, except that class 4a property consisting of a structure for which construction commenced after June 30,

2001, has a class rate of 1.25 percent of market value for taxes payable in 2003 and subsequent years.

(b) Class 4b includes:

(1) residential real estate containing less than four units that does not qualify as class 4bb, other than seasonal residential, ~~and~~ recreational property;

(2) manufactured homes not classified under any other provision;

(3) a dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b) containing two or three units; and

(4) unimproved property that is classified residential as determined under subdivision 33.

The market value of class 4b property has a class rate of 1.5 percent for taxes payable in 2002, and 1.25 percent for taxes payable in 2003 and thereafter.

(c) Class 4bb includes:

(1) nonhomestead residential real estate containing one unit, other than seasonal residential, ~~and~~ recreational property; and

(2) a single family dwelling, garage, and surrounding one acre of property on a nonhomestead farm classified under subdivision 23, paragraph (b).

Class 4bb property has the same class rates as class 1a property under subdivision 22.

Property that has been classified as seasonal ~~recreational~~ residential recreational property at any time during which it has been owned by the current owner or spouse of the current owner does not qualify for class 4bb.

(d) Class 4c property includes:

(1) except as provided in subdivision 22, paragraph (c), real property devoted to temporary and seasonal residential occupancy for recreation purposes, including real property devoted to temporary and seasonal residential occupancy for recreation purposes and not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment. For purposes of this clause, property is devoted to a commercial purpose on a specific day if any portion of the property is used for residential occupancy, and a fee is charged for residential occupancy. In order for a property to be classified as class 4c, seasonal residential recreational ~~residential~~ for commercial purposes, at least 40 percent of the annual gross lodging receipts related to the property must be from business conducted during 90 consecutive days and either (i) at least 60 percent of all paid bookings by lodging guests during the year must be for periods of at least two consecutive nights; or (ii) at least 20 percent of the annual gross receipts must be from charges for rental of fish houses, boats and motors, snowmobiles, downhill or cross-country ski equipment, or charges for marina services, launch services, and guide services, or the sale of bait and fishing tackle. For purposes of this determination, a paid booking of five or more nights shall be counted as two

bookings. Class 4c also includes commercial use real property used exclusively for recreational purposes in conjunction with class 4c property devoted to temporary and seasonal residential occupancy for recreational purposes, up to a total of two acres, provided the property is not devoted to commercial recreational use for more than 250 days in the year preceding the year of assessment and is located within two miles of the class 4c property with which it is used. Class 4c property classified in this clause also includes the remainder of class 1c resorts provided that the entire property including that portion of the property classified as class 1c also meets the requirements for class 4c under this clause; otherwise the entire property is classified as class 3. Owners of real property devoted to temporary and seasonal residential occupancy for recreation purposes and all or a portion of which was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c or 4c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located will be designated class 1c or 4c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located will be designated as class 3a. The owner of property desiring designation as class 1c or 4c property must provide guest registers or other records demonstrating that the units for which class 1c or 4c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, and (4) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes shall not qualify for class 1c or 4c;

(2) qualified property used as a golf course if:

(i) it is open to the public on a daily fee basis. It may charge membership fees or dues, but a membership fee may not be required in order to use the property for golfing, and its green fees for golfing must be comparable to green fees typically charged by municipal courses; and

(ii) it meets the requirements of section 273.112, subdivision 3, paragraph (d).

A structure used as a clubhouse, restaurant, or place of refreshment in conjunction with the golf course is classified as class 3a property;

(3) real property up to a maximum of one acre of land owned by a nonprofit community service oriented organization; provided that the property is not used for a revenue-producing activity for more than six days in the calendar year preceding the year of assessment and the property is not used for residential purposes on either a temporary or permanent basis. For purposes of this clause, a "nonprofit community service oriented organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, fraternal, civic, or educational purposes, and which is exempt from federal income taxation pursuant to section 501(c)(3), (10), or (19) of the Internal Revenue Code of 1986, as amended through December 31, 1990. For purposes of this clause, "revenue-producing

activities" shall include but not be limited to property or that portion of the property that is used as an on-sale intoxicating liquor or 3.2 percent malt liquor establishment licensed under chapter 340A, a restaurant open to the public, bowling alley, a retail store, gambling conducted by organizations licensed under chapter 349, an insurance business, or office or other space leased or rented to a lessee who conducts a for-profit enterprise on the premises. Any portion of the property which is used for revenue-producing activities for more than six days in the calendar year preceding the year of assessment shall be assessed as class 3a. The use of the property for social events open exclusively to members and their guests for periods of less than 24 hours, when an admission is not charged nor any revenues are received by the organization shall not be considered a revenue-producing activity;

(4) post-secondary student housing of not more than one acre of land that is owned by a nonprofit corporation organized under chapter 317A and is used exclusively by a student cooperative, sorority, or fraternity for on-campus housing or housing located within two miles of the border of a college campus;

(5) manufactured home parks as defined in section 327.14, subdivision 3;

(6) real property that is actively and exclusively devoted to indoor fitness, health, social, recreational, and related uses, is owned and operated by a not-for-profit corporation, and is located within the metropolitan area as defined in section 473.121, subdivision 2;

(7) a leased or privately owned noncommercial aircraft storage hangar not exempt under section 272.01, subdivision 2, and the land on which it is located, provided that:

(i) the land is on an airport owned or operated by a city, town, county, metropolitan airports commission, or group thereof; and

(ii) the land lease, or any ordinance or signed agreement restricting the use of the leased premise, prohibits commercial activity performed at the hangar.

If a hangar classified under this clause is sold after June 30, 2000, a bill of sale must be filed by the new owner with the assessor of the county where the property is located within 60 days of the sale; and

(8) residential real estate, a portion of which is used by the owner for homestead purposes, and that is also a place of lodging, if all of the following criteria are met:

(i) rooms are provided for rent to transient guests that generally stay for periods of 14 or fewer days;

(ii) meals are provided to persons who rent rooms, the cost of which is incorporated in the basic room rate;

(iii) meals are not provided to the general public except for special events on fewer than seven days in the calendar year preceding the year of the assessment; and

(iv) the owner is the operator of the property.

The market value subject to the 4c classification under this clause is limited to five rental units. Any rental units on the property in excess of five, must be valued and

assessed as class 3a. The portion of the property used for purposes of a homestead by the owner must be classified as class 1a property under subdivision 22.

Class 4c property has a class rate of 1.5 percent of market value, except that (i) each parcel of seasonal residential recreational property not used for commercial purposes has the same class rates as class 4bb property, (ii) manufactured home parks assessed under clause (5) have the same class rate as class 4b property, (iii) commercial-use seasonal residential recreational property has a class rate of one percent for the first $500,000 of market value, which includes any market value receiving the one percent rate under subdivision 22, and 1.25 percent for the remaining market value, (iv) the market value of property described in clause (4) has a class rate of one percent, (v) the market value of property described in clauses (2) and (6) has a class rate of 1.25 percent, and (vi) that portion of the market value of property in clause (8) qualifying for class 4c property has a class rate of 1.25 percent.

(e) Class 4d property is qualifying low-income rental housing certified to the assessor by the housing finance agency under sections 273.126 and 462A.071. Class 4d includes land in proportion to the total market value of the building that is qualifying low-income rental housing. For all properties qualifying as class 4d, the market value determined by the assessor must be based on the normal approach to value using normal unrestricted rents.

Class 4d property has a class rate of 0.9 percent for taxes payable in 2002, and one percent for taxes payable in 2003 and 1.25 percent for taxes payable in 2004 and thereafter.

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

Sec. 18. Minnesota Statutes 2002, section 273.1398, subdivision 4b, is amended to read:

Subd. 4b. **COURT EXPENDITURES; MAINTENANCE OF EFFORT.** (a) Until the costs of court administration as defined under section 480.183, subdivision 3, in a county have been transferred to the state, each county in a judicial district transferring court administration costs to state funding after July 1, 2001, shall budget for the funding of these costs an amount at least equal to the certified budget amount for calendar year 2001, increased by six percent for each year from 2001 to 2003 and by eight percent from 2004 to the year of the transfer. The county shall budget, fund, and authorize expenditures not less than the amount calculated under this paragraph ~~plus the temporary aid amount under subdivision 4e for maintenance of effort of administrative costs~~.

(b) By July 15, 2001, the court shall certify to each county in the judicial district its cost of court administration as defined under section 480.183, subdivision 3, based on 2001 budgets. In making that determination, the court shall exclude the budget costs of the county for the following categories:

(1) rent;

(2) examiner of titles;

(3) civil court appointed attorneys for civil matters;

(4) hospitalization costs; and

(5) cost of maintaining vital statistics.

The amount of funding provided by a county for courts that is increased by the maintenance of effort requirement may not be used by a county to pay the costs described in clauses (1) to (5).

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

Sec. 19. Minnesota Statutes 2002, section 273.1398, subdivision 4d, is amended to read:

Subd. 4d. **AID OFFSET FOR OUT-OF-HOME PLACEMENT COSTS.** For aid payable in 2004, each county's aid under subdivision 2 shall be permanently reduced by an amount equal to the county's 2004 reimbursement for nonfederal expenditures for out-of-home placements, as provided in section 245.775, provided that payments will be made under section 477A.0123 in calendar year 2004. The counties shall provide all information requested by the commissioner of human services necessary to allow the commissioner to certify the previous three years' average nonfederal costs to the commissioner of revenue by July ~~15, 2004~~ 1, 2003. The aid reduction under this subdivision must not exceed the difference between (1) the amount of aid calculated for the county for calendar year 2004 under subdivision 2, including any addition under section 477A.07, and (2) the amount of any aid reductions for the state takeover of courts contained in Laws 2001, First Special Session chapter 5, article 5.

EFFECTIVE DATE. This section is effective for aids payable in 2004 and thereafter.

Sec. 20. Minnesota Statutes 2002, section 273.372, is amended to read:

273.372 **PROCEEDINGS AND APPEALS; UTILITY OR RAILROAD VALUATIONS.**

An appeal by a utility or railroad company concerning the exemption, valuation, or classification ~~on~~ of property for which the commissioner of revenue has provided the city or county assessor with ~~commissioner's orders~~ valuations by order, or for which the commissioner has recommended values to the city or county assessor, must be brought against the commissioner in tax court or in district court of the county where the property is located, and not against the county or taxing district where the property is located. If the appeal to ~~a~~ court is ~~of~~ from an order of the commissioner, it must be brought under chapter 271. If the appeal is from the exemption, valuation, classification, or tax that results from implementation of the commissioner's order or recommendation, it must be brought under chapter 278, and the ~~procedures~~ provisions in that chapter apply, except that service shall be on the commissioner only and not on the county officials specified in section 278.01, subdivision 1. This provision applies to the property ~~contained under~~ described in sections 273.33, 273.35, 273.36, and 273.37, but only if the appealed values have remained unchanged from those provided to the

city or county by the commissioner. If the exemption, valuation, or classification being appealed has been changed by the city or county, then the action must be brought under chapter 278 in the county where the property is located and proper service must be made upon the county officials as specified in section 278.01, subdivision 1.

Upon filing of any appeal by a utility company or railroad against the commissioner, the commissioner shall give notice by first class mail to each county which would be affected by the appeal.

Companies that submit the reports under section 270.82 or 273.371 by the date specified in that section, or by the date specified by the commissioner in an extension, may appeal administratively to the commissioner under the procedures in section 270.11, subdivision 6, prior to bringing an action in tax court or in district court, however, instituting an administrative appeal with the commissioner does not change or modify the deadline in section 271.06 for appealing an order of the commissioner in tax court or the deadline in section 278.01 for ~~bringing an action~~ filing a property tax claim or objection in tax court or district court.

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

Sec. 21. Minnesota Statutes 2002, section 273.42, subdivision 2, is amended to read:

Subd. 2. Owners of land that is an agricultural or nonagricultural homestead, nonhomestead agricultural land, rental residential property, and both commercial and noncommercial seasonal residential recreational property, as those terms are defined in section 273.13 listed on records of the county auditor or county treasurer over which runs a high voltage transmission line ~~as defined in section 116C.52, subdivision 3~~ with a capacity of 200 kilovolts or more, except a high voltage transmission line the construction of which was commenced prior to July 1, 1974, shall receive a property tax credit in an amount determined by multiplying a fraction, the numerator of which is the length of high voltage transmission line which runs over that parcel and the denominator of which is the total length of that particular line running over all property within the city or township by ten percent of the transmission line tax revenue derived from the tax on that portion of the line within the city or township pursuant to section 273.36. In the case of property owners in unorganized townships, the property tax credit shall be determined by multiplying a fraction, the numerator of which is the length of the qualifying high voltage transmission line which runs over the parcel and the denominator of which is the total length of the qualifying high voltage transmission line running over all property within all the unorganized townships within the county, by the total utility property tax credit fund amount available within the county for that year pursuant to subdivision 1. Where a right-of-way width is shared by more than one property owner, the numerator shall be adjusted by multiplying the length of line on the parcel by the proportion of the total width on the parcel owned by that property owner. The amount of credit for which the property qualifies shall not exceed 20 percent of the total gross tax on the parcel prior to deduction of the state paid agricultural credit and the state paid homestead credit, provided that, if the property containing the right-of-way is included in a parcel which exceeds 40 acres, the total gross tax on the

parcel shall be multiplied by a fraction, the numerator of which is the sum of the number of acres in each quarter-quarter section or portion thereof which contains a right-of-way and the denominator of which is the total number of acres in the parcel set forth on the tax statement, and the maximum credit shall be 20 percent of the product of that computation, prior to deduction of those credits. The auditor of the county in which the affected parcel is located shall calculate the amount of the credit due for each parcel and transmit that information to the county treasurer. The county auditor, in computing the credit received pursuant to section 273.135, shall reduce the gross tax by the amount of the credit received pursuant to this section, unless the amount of the credit would be less than $10.

If, after the county auditor has computed the credit to those qualifying property owners in unorganized townships, there is money remaining in the utility property tax credit fund, then that excess amount in the fund shall be returned to the general school fund of the county.

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

Sec. 22. Minnesota Statutes 2002, section 274.01, subdivision 1, is amended to read:

Subdivision 1. **ORDINARY BOARD; MEETINGS, DEADLINES, GRIEVANCES.** (a) The town board of a town, or the council or other governing body of a city, is the board of appeal and equalization except (1) in cities whose charters provide for a board of equalization or (2) in any city or town that has transferred its local board of review power and duties to the county board as provided in subdivision 3. The county assessor shall fix a day and time when the board or the board of equalization shall meet in the assessment districts of the county. Notwithstanding any law or city charter to the contrary, a city board of equalization shall be referred to as a board of appeal and equalization. On or before February 15 of each year the assessor shall give written notice of the time to the city or town clerk. Notwithstanding the provisions of any charter to the contrary, the meetings must be held between April 1 and May 31 each year. The clerk shall give published and posted notice of the meeting at least ten days before the date of the meeting.

The board shall meet at the office of the clerk to review the assessment and classification of property in the town or city. No changes in valuation or classification which are intended to correct errors in judgment by the county assessor may be made by the county assessor after the board has adjourned in those cities or towns that hold a local board of review; however, corrections of errors that are merely clerical in nature or changes that extend homestead treatment to property are permitted after adjournment until the tax extension date for that assessment year. The changes must be fully documented and maintained in the assessor's office and must be available for review by any person. A copy of the changes made during this period in those cities or towns that hold a local board of review must be sent to the county board no later than December 31 of the assessment year.

(b) The board shall determine whether the taxable property in the town or city has been properly placed on the list and properly valued by the assessor. If real or personal

property has been omitted, the board shall place it on the list with its market value, and correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property, is entered on the assessment list at its market value. No assessment of the property of any person may be raised unless the person has been duly notified of the intent of the board to do so. On application of any person feeling aggrieved, the board shall review the assessment or classification, or both, and correct it as appears just. The board may not make an individual market value adjustment or classification change that would benefit the property in cases where the owner or other person having control over the property will not permit the assessor to inspect the property and the interior of any buildings or structures.

(c) A local board may reduce assessments upon petition of the taxpayer but the total reductions must not reduce the aggregate assessment made by the county assessor by more than one percent. If the total reductions would lower the aggregate assessments made by the county assessor by more than one percent, none of the adjustments may be made. The assessor shall correct any clerical errors or double assessments discovered by the board without regard to the one percent limitation.

(d) A local board does not have authority to grant an exemption or to order property removed from the tax rolls.

(e) A majority of the members may act at the meeting, and adjourn from day to day until they finish hearing the cases presented. The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but must not vote. The county assessor, or an assistant delegated by the county assessor shall attend the meetings. The board shall list separately, on a form appended to the assessment book, all omitted property added to the list by the board and all items of property increased or decreased, with the market value of each item of property, added or changed by the board, placed opposite the item. The county assessor shall enter all changes made by the board in the assessment book.

~~(e)~~ (f) Except as provided in subdivision 3, if a person fails to appear in person, by counsel, or by written communication before the board after being duly notified of the board's intent to raise the assessment of the property, or if a person feeling aggrieved by an assessment or classification fails to apply for a review of the assessment or classification, the person may not appear before the county board of appeal and equalization for a review of the assessment or classification. This paragraph does not apply if an assessment was made after the local board meeting, as provided in section 273.01, or if the person can establish not having received notice of market value at least five days before the local board meeting.

~~(f)~~ (g) The local board must complete its work and adjourn within 20 days from the time of convening stated in the notice of the clerk, unless a longer period is approved by the commissioner of revenue. No action taken after that date is valid. All complaints about an assessment or classification made after the meeting of the board must be heard and determined by the county board of equalization. A nonresident may, at any time, before the meeting of the board file written objections to an assessment or classification with the county assessor. The objections must be presented to the board

at its meeting by the county assessor for its consideration.

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

Sec. 23. Minnesota Statutes 2002, section 274.13, subdivision 1, is amended to read:

Subdivision 1. **MEMBERS; MEETINGS; RULES FOR EQUALIZING ASSESSMENTS.** The county commissioners, or a majority of them, with the county auditor, or, if the auditor cannot be present, the deputy county auditor, or, if there is no deputy, the court administrator of the district court, shall form a board for the equalization of the assessment of the property of the county, including the property of all cities whose charters provide for a board of equalization. This board shall be referred to as the county board of appeal and equalization. The board shall meet annually, on the date specified in section 274.14, at the office of the auditor. Each member shall take an oath to fairly and impartially perform duties as a member. The board shall examine and compare the returns of the assessment of property of the towns or districts, and equalize them so that each tract or lot of real property and each article or class of personal property is entered on the assessment list at its market value, subject to the following rules:

(1) The board shall raise the valuation of each tract or lot of real property which in its opinion is returned below its market value to the sum believed to be its market value. The board must first give notice of intention to raise the valuation to the person in whose name it is assessed, if the person is a resident of the county. The notice must fix a time and place for a hearing.

(2) The board shall reduce the valuation of each tract or lot which in its opinion is returned above its market value to the sum believed to be its market value.

(3) The board shall raise the valuation of each class of personal property which in its opinion is returned below its market value to the sum believed to be its market value. It shall raise the aggregate value of the personal property of individuals, firms, or corporations, when it believes that the aggregate valuation, as returned, is less than the market value of the taxable personal property possessed by the individuals, firms, or corporations, to the sum it believes to be the market value. The board must first give notice to the persons of intention to do so. The notice must set a time and place for a hearing.

(4) The board shall reduce the valuation of each class of personal property that is returned above its market value to the sum it believes to be its market value. Upon complaint of a party aggrieved, the board shall reduce the aggregate valuation of the individual's personal property, or of any class of personal property for which the individual is assessed, which in its opinion has been assessed at too large a sum, to the sum it believes was the market value of the individual's personal property of that class.

(5) The board must not reduce the aggregate value of all the property of its county, as submitted to the county board of equalization, with the additions made by the auditor under this chapter, by more than one percent of its whole valuation. The board may raise the aggregate valuation of real property, and of each class of personal

property, of the county, or of any town or district of the county, when it believes it is below the market value of the property, or class of property, to the aggregate amount it believes to be its market value.

(6) The board shall change the classification of any property which in its opinion is not properly classified.

(7) The board does not have the authority to grant an exemption or to order property removed from the tax rolls.

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

Sec. 24. Minnesota Statutes 2002, section 275.025, subdivision 1, is amended to read:

Subdivision 1. **LEVY AMOUNT.** The state general levy is levied against commercial-industrial property and seasonal residential recreational property, as defined in this section. The state general levy base amount is $592,000,000 for taxes payable in 2002. For taxes payable in subsequent years, the levy base amount is increased each year by multiplying the levy base amount for the prior year by the sum of one plus the rate of increase, if any, in the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysts of the United States Department of Commerce for the 12-month period ending March 31 of the year prior to the year the taxes are payable. The tax under this section is not treated as a local tax rate under section 469.177 and is not the levy of a governmental unit under chapters 276A and 473F. Beginning in fiscal year 2004, and in each year thereafter, the commissioner of finance shall deposit in an education reserve account, which account is hereby established, the increased amount of the state general levy received for deposit in the general fund for that year over the amount of the state general levy received for deposit in the general fund in fiscal year 2003. The amounts in the education reserve account do not lapse or cancel each year, but remain until appropriated by law for education aid or higher education funding.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter, except that the change from "seasonal recreational property" to "seasonal residential recreational property" is effective the day following final enactment.

Sec. 25. Minnesota Statutes 2002, section 275.025, subdivision 3, is amended to read:

Subd. 3. **SEASONAL RESIDENTIAL RECREATIONAL TAX CAPACITY.** For the purposes of this section, "seasonal residential recreational tax capacity" means the tax capacity of all class 4c(1) property under section 273.13, subdivision 25, except that the first $76,000 of market value of each noncommercial class 4c(1) property has a tax capacity for this purpose equal to 40 percent of its tax capacity under section 273.13.

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

Sec. 26. Minnesota Statutes 2002, section 275.025, subdivision 4, is amended to read:

Subd. 4. **APPORTIONMENT AND LEVY OF STATE GENERAL TAX.** The state general tax must be distributed among the counties by applying a uniform rate to each county's commercial-industrial tax capacity and its seasonal residential recreational tax capacity. Within each county, the tax must be levied by applying a uniform rate against commercial-industrial tax capacity and seasonal residential recreational tax capacity. ~~By November~~ On or before October 1 each year, the commissioner of revenue shall certify ~~the~~ a preliminary state general levy rate to each county auditor that must be used to prepare the notices of proposed property taxes for taxes payable in the following year. By January 1 of each year, the commissioner shall certify the final state general levy rate to each county auditor that shall be used in spreading taxes.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter, except that the change from "seasonal recreational tax capacity" to "seasonal residential recreational tax capacity" is effective the day following final enactment.

Sec. 27. Minnesota Statutes 2002, section 276.10, is amended to read:

276.10 **APPORTIONMENT AND DISTRIBUTION OF FUNDS.**

On the settlement day determined in section 276.09 for each year, the county auditor and county treasurer shall distribute all undistributed funds in the treasury. The funds must be apportioned as provided by law, and credited to the ~~state,~~ town, city, school district, special district and each county fund. Within 20 days after the distribution is completed, the county auditor shall report to the state auditor in the form prescribed by the state auditor. The county auditor shall issue a warrant for the payment of money in the county treasury to the credit of the ~~state,~~ town, city, school district, or special districts on application of the persons entitled to receive the payment. The county auditor may apply the local tax rate from the year before the year of distribution when apportioning and distributing delinquent tax proceeds, if the composition of the previous year's local tax rate between taxing districts is not significantly different from the local tax rate that existed for the year of the delinquency.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 28. Minnesota Statutes 2002, section 276.11, subdivision 1, is amended to read:

Subdivision 1. **GENERALLY.** As soon as practical after the settlement day determined in section 276.09, the county treasurer shall pay to ~~the state treasurer or~~ the treasurer of a town, city, school district, or special district, on the warrant of the county auditor, all receipts of taxes levied by the taxing district and deliver up all orders and other evidences of indebtedness of the taxing district, taking triplicate receipts for them. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its receipt to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall keep the receipt in the

clerk's office. Upon written request of the taxing district, to the extent practicable, the county treasurer shall make partial payments of amounts collected periodically in advance of the next settlement and distribution. A statement prepared by the county treasurer must accompany each payment. It must state the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties on the tax. Upon written request of a taxing district, except school districts, the county treasurer shall pay at least 70 percent of the estimated collection within 30 days after the settlement date determined in section 276.09. Within seven business days after the due date, or 28 calendar days after the postmark date on the envelopes containing real or personal property tax statements, whichever is latest, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district, unless the school district elects to receive 50 percent of the estimated collections arising from taxes levied by and belonging to the school district after making a proportionate reduction to reflect any loss in collections as the result of any delay in mailing tax statements. In that case, 50 percent of those adjusted, estimated collections shall be paid by the county treasurer to the treasurer of the school district within seven business days of the due date. The remaining 50 percent of the estimated collections must be paid to the treasurer of the school district within the next seven business days of the later of the dates in the preceding sentence, unless the school district elects to receive the remainder of its estimated collections after a proportionate reduction has been made to reflect any loss in collections as the result of any delay in mailing tax statements. In that case, the remaining 50 percent of those adjusted, estimated collections shall be paid by the county treasurer to the treasurer of the school district within 14 days of the due date. The treasurer shall pay the balance of the amounts collected ~~to the state before June 30, or~~ to a municipal corporation or other body within 60 days after the settlement date determined in section 276.09. After 45 days interest at an annual rate of eight percent accrues and must be paid to the taxing district. Interest must be paid upon appropriation from the general revenue fund of the county. If not paid, it may be recovered by the taxing district, in a civil action.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 29. **[276.112] STATE PROPERTY TAXES; COUNTY TREASURER.**

On or before January 25 each year, for the period ending December 31 of the prior year, and on or before June 29 each year, for the period ending on the most recent settlement day determined in section 276.09, and on or before December 2 each year, for the period ending November 20, the county treasurer must make full settlement with the county auditor according to sections 276.09, 276.10, and 276.111 for all receipts of state property taxes levied under section 275.025, and must transmit those receipts to the commissioner of revenue by electronic means.

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

Sec. 30. Minnesota Statutes 2002, section 277.20, subdivision 2, is amended to read:

Subd. 2. **FILING OF LIEN FOR ENFORCEABILITY.** The lien imposed by subdivision 1 is not enforceable against any purchaser, mortgagee, pledgee, holder of a Uniform Commercial Code security interest, mechanic's lienor, or judgment lien creditor until a notice of lien has been filed by the county treasurer in the office of the county recorder of the county in which the property is situated, or, in the case of personal property ~~belonging to an individual who is not a resident of this state, or that is a corporation, partnership, or other organization~~, in the office of the secretary of state. Priority of a lien created under Laws 1991, chapter 291, article 15, shall be determined in accordance with the provisions of section 507.34. Liens filed in the office of the county recorder shall be filed with the state tax liens filed pursuant to section 270.69, and the index shall indicate the name of the county for which the lien was filed. If the land is registered, the notice of lien shall be filed in the office of the registrar of titles of the county in which the property is registered. Notwithstanding any other law to the contrary, the county treasurer is exempt from the payment of fees when the lien is offered for filing or recording; the fee for filing or recording the lien must be paid at the time the release of lien is offered for filing or recording. Notwithstanding any law to the contrary, the fee for filing or recording the lien or the release of lien is $15.

EFFECTIVE DATE. This section is effective for liens filed on or after the day following final enactment.

Sec. 31. Minnesota Statutes 2002, section 279.06, subdivision 1, is amended to read:

Subdivision 1. **LIST AND NOTICE.** Within five days after the filing of such list, the court administrator shall return a copy thereof to the county auditor, with a notice prepared and signed by the court administrator, and attached thereto, which may be substantially in the following form:

State of Minnesota)
) ss.
County of .....)

District Court
..... Judicial District.

The state of Minnesota, to all persons, companies, or corporations who have or claim any estate, right, title, or interest in, claim to, or lien upon, any of the several parcels of land described in the list hereto attached:

The list of taxes and penalties on real property for the county of ..... remaining delinquent on the first Monday in January, ..., has been filed in the office of the court administrator of the district court of said county, of which that hereto attached is a copy. Therefore, you, and each of you, are hereby required to file in the office of said court administrator, on or before the 20th day after the publication of this notice and list, your answer, in writing, setting forth any objection or defense you may have to the taxes, or any part thereof, upon any parcel of land described in the list, in, to, or on which you have or claim any estate, right, title, interest, claim, or lien, and, in default thereof, judgment will be entered against such

parcel of land for the taxes on such list appearing against it, and for all penalties, interest, and costs. Based upon said judgment, the land shall be sold to the state of Minnesota on the second Monday in May, ... The period of redemption for all lands sold to the state at a tax judgment sale shall be three years from the date of sale to the state of Minnesota if the land is within an incorporated area unless it is:

(a) nonagricultural homesteaded land as defined in section 273.13, subdivision 22;

(b) homesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (a);

(c) seasonal residential recreational land as defined in section 273.13, subdivisions 22, paragraph (c), and 25, paragraph ~~(c)~~ (d), clause ~~(5)~~ (1), in which event the period of redemption is five years from the date of sale to the state of Minnesota;

(d) abandoned property and pursuant to section 281.173 a court order has been entered shortening the redemption period to five weeks; or

(e) vacant property as described under section 281.174, subdivision 2, and for which a court order is entered shortening the redemption period under section 281.174.

The period of redemption for all other lands sold to the state at a tax judgment sale shall be five years from the date of sale.

Inquiries as to the proceedings set forth above can be made to the county auditor of ..... county whose address is ..... .

(Signed) .....,
Court Administrator of the District Court of the County
of .....

(Here insert list.)

The list referred to in the notice shall be substantially in the following form:

List of real property for the county of ....., on which taxes remain delinquent on the first Monday in January, ...:

Town of (Fairfield),

Township (40), Range (20),

Names (and

Current Filed

Addresses) for

the Taxpayers

and Fee Owners

and in Addition

Those Parties

Who Have Filed Their Addresses Pursuant to section 276.041	Subdivision of Section	Section	Tax Parcel Number	Total Tax and Penalty
				$ cts.
John Jones (825 Fremont Fairfield, MN 55000)	S.E. 1/4 of S.W. 1/4	10	23101	2.20
Bruce Smith (2059 Hand Fairfield, MN 55000) and Fairfield State Bank (100 Main Street Fairfield, MN 55000)	That part of N.E. 1/4 of S.W. 1/4 desc. as follows: Beg. at the S.E. corner of said N.E. 1/4 of S.W. 1/4; thence N. along the E. line of said N.E. 1/4 of S.W. 1/4 a distance of 600 ft.; thence W. parallel with the S. line of said N.E. 1/4 of S.W. 1/4 a distance of 600 ft.; thence S. parallel with said E. line a distance of 600 ft. to S. line of said N.E. 1/4 of S.W. 1/4; thence E. along said S. line a distance of 600 ft. to the point of beg.	21	33211	3.15

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

As to platted property, the form of heading shall conform to circumstances and be substantially in the following form:

City of (Smithtown)
Brown's Addition, or Subdivision

Names (and Current Filed Addresses) for the Taxpayers and Fee Owners and in Addition Those Parties Who have Filed Their Addresses Pursuant to section 276.041	Lot	Block	Tax Parcel Number	Total Tax and Penalty $ cts.
John Jones (825 Fremont Fairfield, MN 55000)	15	9	58243	2.20
Bruce Smith (2059 Hand Fairfield, MN 55000) and Fairfield State Bank (100 Main Street Fairfield, MN 55000)	16	9	58244	3.15

The names, descriptions, and figures employed in parentheses in the above forms are merely for purposes of illustration.

The name of the town, township, range or city, and addition or subdivision, as the case may be, shall be repeated at the head of each column of the printed lists as brought forward from the preceding column.

Errors in the list shall not be deemed to be a material defect to affect the validity of the judgment and sale.

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

Sec. 32. Minnesota Statutes 2002, section 281.17, is amended to read:

281.17 **PERIOD FOR REDEMPTION.**

Except for properties for which the period of redemption has been limited under sections 281.173 and 281.174, the following periods for redemption apply.

The period of redemption for all lands sold to the state at a tax judgment sale shall be three years from the date of sale to the state of Minnesota if the land is within an incorporated area unless it is: (a) nonagricultural homesteaded land as defined in section 273.13, subdivision 22; (b) homesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (a); or (c) seasonal residential recreational land as defined in section 273.13, subdivision 22, paragraph (c), or 25, paragraph (d), clause (1), for which the period of redemption is five years from the date of sale to the state of Minnesota.

The period of redemption for homesteaded lands as defined in section 273.13, subdivision 22, located in a targeted neighborhood as defined in Laws 1987, chapter 386, article 6, section 4, and sold to the state at a tax judgment sale is three years from the date of sale. The period of redemption for all lands located in a targeted neighborhood as defined in Laws 1987, chapter 386, article 6, section 4, except (1) homesteaded lands as defined in section 273.13, subdivision 22, and (2) for periods of redemption beginning after June 30, 1991, but before July 1, 1996, lands located in the Loring Park targeted neighborhood on which a notice of lis pendens has been served, and sold to the state at a tax judgment sale is one year from the date of sale.

The period of redemption for all real property constituting a mixed municipal solid waste disposal facility that is a qualified facility under section 115B.39, subdivision 1, is one year from the date of the sale to the state of Minnesota.

The period of redemption for all other lands sold to the state at a tax judgment sale shall be five years from the date of sale, except that the period of redemption for nonhomesteaded agricultural land as defined in section 273.13, subdivision 23, paragraph (b), shall be two years from the date of sale if at that time that property is owned by a person who owns one or more parcels of property on which taxes are delinquent, and the delinquent taxes are more than 25 percent of the prior year's school district levy.

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

Sec. 33. Minnesota Statutes 2002, section 282.01, subdivision 7a, is amended to read:

Subd. 7a. **CITY SALES; ALTERNATE PROCEDURES.** Land located in a home rule charter or statutory city, or in a town which cannot be improved because of noncompliance with local ordinances regarding minimum area, shape, frontage or access may be sold by the county auditor pursuant to this subdivision if the auditor determines that a nonpublic sale will encourage the approval of sale of the land by the city or town and promote its return to the tax rolls. If the physical characteristics of the land indicate that its highest and best use will be achieved by combining it with an adjoining parcel and the city or town has not adopted a local ordinance governing minimum area, shape, frontage, or access, the land may also be sold pursuant to this subdivision. If the property consists of an undivided interest in land or land and improvements, the property may also be sold to the other owners under this subdivision. The sale of land pursuant to this subdivision shall be subject to any conditions imposed by the county board pursuant to section 282.03. The governing body of the city or town may recommend to the county board conditions to be imposed on the sale. The county auditor may restrict the sale to owners of lands adjoining the land to be sold. The county auditor shall conduct the sale by sealed bid or may select another means of sale. The land shall be sold to the highest bidder but in no event shall the land be sold for less than its appraised value. All owners of land adjoining the land to be sold shall be given a written notice at least 30 days prior to the sale.

This subdivision shall be liberally construed to encourage the sale and utilization of tax-forfeited land, to eliminate nuisances and dangerous conditions and to increase compliance with land use ordinances.

EFFECTIVE DATE. This section is effective for sales occurring on or after the day following final enactment.

Sec. 34. Minnesota Statutes 2002, section 282.08, is amended to read:

282.08 **APPORTIONMENT OF PROCEEDS TO TAXING DISTRICTS.**

The net proceeds from the sale or rental of any parcel of forfeited land, or from the sale of products from the forfeited land, must be apportioned by the county auditor to the taxing districts interested in the land, as follows:

(1) the amounts necessary to pay the state general tax levy against the parcel for taxes payable in the year for which the tax judgment was entered, and for each subsequent payable year up to and including the year of forfeiture, must be apportioned to the state;

(2) the portion required to pay any amounts included in the appraised value under section 282.01, subdivision 3, as representing increased value due to any public improvement made after forfeiture of the parcel to the state, but not exceeding the amount certified by the clerk of the municipality must be apportioned to the municipal subdivision entitled to it;

~~(2)~~ (3) the portion required to pay any amount included in the appraised value under section 282.019, subdivision 5, representing increased value due to response actions taken after forfeiture of the parcel to the state, but not exceeding the amount of expenses certified by the pollution control agency or the commissioner of agriculture, must be apportioned to the agency or the commissioner of agriculture and deposited in the fund from which the expenses were paid;

~~(3)~~ (4) the portion of the remainder required to discharge any special assessment chargeable against the parcel for drainage or other purpose whether due or deferred at the time of forfeiture, must be apportioned to the municipal subdivision entitled to it; and

~~(4)~~ (5) any balance must be apportioned as follows:

(i) The county board may annually by resolution set aside no more than 30 percent of the receipts remaining to be used for timber development on tax-forfeited land and dedicated memorial forests, to be expended under the supervision of the county board. It must be expended only on projects approved by the commissioner of natural resources.

(ii) The county board may annually by resolution set aside no more than 20 percent of the receipts remaining to be used for the acquisition and maintenance of county parks or recreational areas as defined in sections 398.31 to 398.36, to be expended under the supervision of the county board.

(iii) Any balance remaining must be apportioned as follows: county, 40 percent; town or city, 20 percent; and school district, 40 percent, provided, however, that in unorganized territory that portion which would have accrued to the township must be administered by the county board of commissioners.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 35. Minnesota Statutes 2002, section 290C.02, subdivision 3, is amended to read:

Subd. 3. **CLAIMANT.** "Claimant" means a person, as that term is defined in section 290.01, subdivision 2, who owns forest land in Minnesota and files an application authorized by the Sustainable Forest Incentive Act. For purposes of section 290C.11, claimant also includes any person bound by the covenant required in section 290C.04. No more than one claimant is entitled to a payment under this chapter with respect to any tract, parcel, or piece of land enrolled under this chapter that has been assigned the same parcel identification number. When enrolled forest land is owned by two or more persons, the owners must determine between them which person may claim the payments provided under sections 290C.01 to 290C.11.

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

Sec. 36. Minnesota Statutes 2002, section 290C.02, subdivision 7, is amended to read:

Subd. 7. **FOREST MANAGEMENT PLAN.** "Forest management plan" means a written document providing a framework for site-specific healthy, productive, and sustainable forest resources. A forest management plan must include at least the following: (i) owner-specific forest management goals for the ~~property~~ land; (ii) a reliable field inventory of the individual forest cover types, their age, and density; (iii) a description of the soil type and quality; (iv) an aerial photo and/or map of the vegetation and other natural features of the ~~property~~ land clearly indicating the boundaries of the ~~property~~ land and of the forest land; (v) the proposed future conditions of the ~~property~~ land; (vi) prescriptions to meet proposed future conditions of the ~~property~~ land; (vii) a recommended timetable for implementing the prescribed activities; and (viii) a legal description of the ~~parcels~~ land encompassing the parcels included in the plan. All management activities prescribed in a plan must be in accordance with the recommended timber harvesting and forest management guidelines. The commissioner of natural resources shall provide a framework for plan content and updating and revising plans.

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

Sec. 37. Minnesota Statutes 2002, section 290C.03, is amended to read:

290C.03 **ELIGIBILITY REQUIREMENTS.**

(a) ~~Property~~ Land may be enrolled in the sustainable forest incentive program under this chapter if all of the following conditions are met:

(1) ~~property~~ the land consists of at least 20 contiguous acres and at least 50 percent of the land must meet the definition of forest land in section 88.01, subdivision 7, during the enrollment;

(2) a forest management plan for the ~~property~~ land must be prepared by an approved plan writer and implemented during the period in which the land is enrolled;

(3) timber harvesting and forest management guidelines must be used in conjunction with any timber harvesting or forest management activities conducted on the land during the period in which the land is enrolled;

(4) the ~~property~~ land must be enrolled for a minimum of eight years;

(5) there are no delinquent property taxes on the ~~property~~ land; and

(6) claimants enrolling more than 1,920 acres in the sustainable forest incentive program must allow year-round, nonmotorized access to fish and wildlife resources on enrolled land except within one-fourth mile of a permanent dwelling or during periods of high fire hazard as determined by the commissioner of natural resources.

(b) Claimants required to allow access under paragraph (a), clause (6), do not by that action:

(1) extend any assurance that the land is safe for any purpose;

(2) confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed; or

(3) assume responsibility for or incur liability for any injury to the person or property caused by an act or omission of the person.

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

Sec. 38. Minnesota Statutes 2002, section 290C.07, is amended to read:

290C.07 **CALCULATION OF INCENTIVE PAYMENT.**

An approved claimant under the sustainable forest incentive program is eligible to receive an annual payment. The payment shall equal the greater of:

(1) the difference between the property tax that would be paid on the ~~property~~ land using the previous year's statewide average total township tax rate and the class rate for class 2b timberland under section 273.13, subdivision 23, paragraph (b), if the ~~property~~ land were valued at (i) the average statewide timberland market value per acre calculated under section 290C.06, and (ii) the average statewide timberland current use value per acre calculated under section 290C.02, subdivision 5;

(2) two-thirds of the property tax amount determined by using the previous year's statewide average total township tax rate, the estimated market value per acre as calculated in section 290C.06, and the class rate for 2b timberland under section 273.13, subdivision 23, paragraph (b); or

(3) $1.50 per acre for each acre enrolled in the sustainable forest incentive program.

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

Sec. 39. Minnesota Statutes 2002, section 290C.09, is amended to read:

290C.09 **REMOVAL FOR PROPERTY TAX DELINQUENCY.**

The commissioner shall immediately remove any ~~property~~ land enrolled in the sustainable forest incentive program for which taxes are determined to be delinquent as provided in chapter 279 and shall notify the claimant of such action. Lands terminated from the sustainable forest incentive program under this section are not entitled to any payments provided in this chapter and are subject to removal penalties prescribed in section 290C.11. The claimant has 60 days from the receipt of notice from the commissioner under this section to pay the delinquent taxes. If the delinquent taxes are paid within this 60-day period, the lands shall be reinstated in the program as if they had not been withdrawn and without the payment of a penalty.

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

Sec. 40. Minnesota Statutes 2002, section 290C.10, is amended to read:

290C.10 **WITHDRAWAL PROCEDURES.**

An approved claimant under the sustainable forest incentive program for a minimum of four years may notify the commissioner of the intent to terminate enrollment. Within 90 days of receipt of notice to terminate enrollment, the commissioner shall inform the claimant in writing, acknowledging receipt of this notice and

indicating the effective date of termination from the sustainable forest incentive program. Termination of enrollment in the sustainable forest incentive program occurs on January 1 of the fifth calendar year that begins after receipt by the commissioner of the termination notice. After the commissioner issues an effective date of termination, a claimant wishing to continue the ~~property's~~ land's enrollment in the sustainable forest incentive program beyond the termination date must apply for enrollment as prescribed in section 290C.04. A claimant who withdraws a parcel of land from this program may not reenroll the parcel for a period of three years. Within 90 days after the termination date, the commissioner shall execute and acknowledge a document releasing the land from the covenant required under this chapter. The document must be mailed to the claimant and is entitled to be recorded. The commissioner may allow early withdrawal from the Sustainable Forest Incentive Act without penalty in cases of condemnation for a public purpose notwithstanding the provisions of this section.

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

Sec. 41. Minnesota Statutes 2002, section 290C.11, is amended to read:

290C.11 **PENALTIES FOR REMOVAL.**

(a) If the commissioner determines that ~~property~~ land enrolled in the sustainable forest incentive program is in violation of the conditions for enrollment as specified in section 290C.03, the commissioner shall notify the claimant of the intent to remove all enrolled land from the sustainable forest incentive program. The claimant has 60 days to appeal this determination. The appeal must be made in writing to the commissioner, who shall, within 60 days, notify the claimant as to the outcome of the appeal. Within 60 days after the commissioner denies an appeal, or within 120 days after the commissioner received a written appeal if the commissioner has not made a determination in that time, the owner may appeal to tax court under chapter 271 as if the appeal is from an order of the commissioner.

(b) If the commissioner determines the ~~property~~ land is to be removed from the sustainable forest incentive program, the claimant is liable for payment to the commissioner in the amount equal to the payments received under this chapter for the previous four-year period, plus interest. The claimant has 90 days to satisfy the payment for removal of land from the sustainable forest incentive program under this section. If the penalty is not paid within the 90-day period under this paragraph, the commissioner shall certify the amount to the county auditor for collection as a part of the general ad valorem real property taxes on the land in the following taxes payable year.

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

Sec. 42. **[290C.12] DEATH OF CLAIMANT.**

Within one year after the death of the claimant, the claimant's heir, devisee, or estate must either:

(1) notify the commissioner of election to terminate enrollment in the sustainable forest incentive program; or

(2) make an application under this chapter to continue enrollment of the land in the program.

Upon notification under clause (1), the commissioner shall terminate the enrollment and issue a document releasing the land from the covenant as provided in section 290C.04, paragraph (c). Penalties under section 290C.11 shall not apply. If the application under clause (2) is approved, the land is enrolled in the program without a break. If the commissioner does not receive notification within one year after the date of death, enrollment in the program shall be terminated and penalties under section 290C.11 shall not apply.

EFFECTIVE DATE. This section is effective the day following final enactment, except in the case of claimants dying prior to the day following final enactment, heirs, devisees, or estates may make the election either six months after the effective date of this provision or one year after the death of the claimant, whichever is later.

Sec. 43. Minnesota Statutes 2002, section 469.1792, subdivision 3, is amended to read:

Subd. 3. **ACTIONS AUTHORIZED.** (a) An authority with a district qualifying under this section may take either or both of the following actions for any or all of its preexisting districts:

(1) the authority may elect that the original local tax rate under section 469.177, subdivision 1a, does not apply to the district; and

(2) the authority may elect the fiscal disparities contribution will be computed under section 469.177, subdivision 3, paragraph (a), regardless of the election that was made for the district.

(b) The authority may take action under this subdivision only after the municipality approves the action, by resolution, after notice and public hearing in the manner provided under section 469.175, subdivision 2. To be effective for taxes payable in the following year, the resolution must be adopted and the county auditor must be notified of the adoption on or before July 1.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 44. Minnesota Statutes 2002, section 473F.07, subdivision 4, is amended to read:

Subd. 4. **DISTRIBUTION NET TAX CAPACITY.** The administrative auditor shall determine the proportion which the index of each municipality bears to the sum of the indices of all municipalities and shall then multiply this proportion in the case of each municipality, by the areawide net tax capacity~~, provided that if the distribution net tax capacity for a municipality is less than 95 percent of the municipality's previous year distribution net tax capacity, and more than ten percent of the municipality's fiscal capacity consists of manufactured home property, the municipality's distribution net tax capacity will be increased to 95 percent of the previous year net tax capacity and~~

~~the distribution net tax capacity of other municipalities in the area will be proportionately reduced.~~

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and subsequent years.

Sec. 45. Minnesota Statutes 2002, section 515B.1-116, is amended to read:

515B.1-116 **RECORDING.**

(a) A declaration, bylaws, any amendment to a declaration or bylaws, and any other instrument affecting a common interest community shall be entitled to be recorded. In those counties which have a tract index, the county recorder shall enter the declaration in the tract index for each unit affected. The registrar of titles shall file the declaration in accordance with section 508.351 or 508A.351.

(b) The recording officer shall upon request promptly assign a number (CIC number) to a common interest community to be formed or to a common interest community resulting from the merger of two or more common interest communities.

(c) Documents recorded pursuant to this chapter shall in the case of registered land be filed, and references to the recording of documents shall mean filed in the case of registered land.

(d) Subject to any specific requirements of this chapter, if a recorded document relating to a common interest community purports to require a certain vote or signatures approving any restatement or amendment of the document by a certain number or percentage of unit owners or secured parties, and if the amendment or restatement is to be recorded pursuant to this chapter, an affidavit of the president or secretary of the association stating that the required vote or signatures have been obtained shall be attached to the document to be recorded and shall constitute prima facie evidence of the representations contained therein.

(e) If a common interest community is located on registered land, the recording fee for any document affecting two or more units shall be the then-current fee for registering the document on the certificates of title for the first ten affected certificates and one-third of the then-current fee for each additional affected certificate. This provision shall not apply to recording fees for deeds of conveyance, with the exception of deeds given pursuant to sections 515B.2-119 and 515B.3-112.

(f) Except as permitted under this subsection, a recording officer shall not file or record a declaration creating a new common interest community, unless the county treasurer has certified that the property taxes payable in the current year for the real estate included in the proposed common interest community have been paid. This certification is in addition to the certification for delinquent taxes required by section 272.12. In the case of preexisting common interest communities, the recording officer shall accept, file, and record the following instruments, without requiring a certification as to the current or delinquent taxes on any of the units in the common interest community: (i) a declaration subjecting the common interest community to this chapter; (ii) a declaration changing the form of a common interest community pursuant

to section 515B.2-123; or (iii) an amendment to or restatement of the declaration, bylaws, or CIC plat. In order for ~~the instruments~~ an instrument to be accepted and recorded under the preceding sentence, the ~~assessor must certify or otherwise inform the recording officer that, for taxes payable in the current year, the assessor has allocated taxable values to each unit or has separately assessed each unit~~ instrument must not create or change unit or common area boundaries.

EFFECTIVE DATE. This section is effective for deeds or instruments accepted for recording or registration on or after July 1, 2003.

Sec. 46. Laws 2001, First Special Session chapter 5, article 3, section 61, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective August 1, 2001, for deeds issued on or after August 1, 2001. This section is effective August 1, 2006, for deeds issued before August 1, 2001.

Sec. 47. Laws 2001, First Special Session chapter 5, article 3, section 63, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective August 1, 2001, for deeds issued on or after August 1, 2001. This section is effective August 1, 2006, for deeds issued before August 1, 2001.

Sec. 48. Laws 2002, chapter 377, article 6, section 4, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective ~~for aids payable in 2004~~ May 16, 2002, and thereafter.

Sec. 49. **PRE-1940 HOUSING PERCENTAGE.**

For the purposes of determining local government aid payment amounts for aids payable in 2003, the "pre-1940 housing percentage" factor shall be based upon the 1990 federal census, notwithstanding Minnesota Statutes 2002, section 477A.011, subdivision 30.

EFFECTIVE DATE. This section is effective for aids payable in 2003 only.

Sec. 50. **REPEALER.**

(a) Minnesota Statutes 2002, section 274.04, is repealed.

(b) Minnesota Statutes 2002, section 477A.065, is repealed effective for aid payable in 2004 and thereafter.

(c) Minnesota Rules, parts 8106.0100, subparts 11, 15, and 16; and 8106.0200, are repealed effective the day following final enactment.

ARTICLE 6

DEPARTMENT SALES AND USE TAX INITIATIVES

Section 1. Minnesota Statutes 2002, section 289A.50, subdivision 2a, is amended to read:

Subd. 2a. **REFUND OF SALES TAX TO PURCHASERS.** (a) If a vendor has collected from a purchaser a tax on a transaction that is not subject to the tax imposed by chapter 297A, the purchaser may apply directly to the commissioner for a refund under this section if:

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

(2) either

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

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

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

EFFECTIVE DATE. This section is effective for claims filed on or after the day following final enactment.

Sec. 2. Minnesota Statutes 2002, section 289A.60, subdivision 15, is amended to read:

Subd. 15. **ACCELERATED PAYMENT OF JUNE SALES TAX LIABILITY; PENALTY FOR UNDERPAYMENT.** If a vendor is required by law to submit an estimation of June sales tax liabilities and ~~62~~ 75 percent payment by a certain date, the vendor shall pay a penalty equal to ten percent of the amount of actual June liability required to be paid in June less the amount remitted in June. The penalty must not be imposed, however, if the amount remitted in June equals the lesser of ~~62~~ 75 percent of the preceding May's liability or ~~62~~ 75 percent of the average monthly liability for the previous calendar year.

EFFECTIVE DATE. This section is effective for payments due after December 31, 2002.

Sec. 3. Minnesota Statutes 2002, section 289A.60, is amended by adding a subdivision to read:

Subd. 25. **PENALTY FOR FAILURE TO PROPERLY COMPLETE SALES TAX RETURN.** A person who fails to report local sales tax on a sales tax return or who fails to report local sales tax on separate tax lines on the sales tax return is subject to a penalty of five percent of the amount of tax not properly reported on the return.

A person who files a consolidated tax return but fails to report location information is subject to a $500 penalty for each return not containing location information. In addition, the commissioner may revoke the privilege for a taxpayer to file consolidated returns and may require the taxpayer to separately register each location and to file a tax return for each location.

EFFECTIVE DATE. This section is effective for returns filed after June 30, 2003.

Sec. 4. Minnesota Statutes 2002, section 297A.61, subdivision 3, is amended to read:

Subd. 3. **SALE AND PURCHASE.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision.

(b) Sale and purchase include:

(1) any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, for a consideration in money or by exchange or barter; and

(2) the leasing of or the granting of a license to use or consume, for a consideration in money or by exchange or barter, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing.

(d) Sale and purchase include the preparing for a consideration of food. Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

(1) prepared food sold by the retailer;

(2) soft drinks;

(3) candy; and

(4) all food sold through vending machines.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

(f) A sale and a purchase includes the transfer for a consideration of computer software.

(g) A sale and a purchase includes the furnishing for a consideration of the following services:

(1) the privilege of admission to places of amusement, recreational areas, or athletic events, and the making available of amusement devices, tanning facilities,

reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp and the granting of any similar license to use real property other than the renting or leasing of it for a continuous period of 30 days or more;

(3) nonresidential parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(4) the granting of membership in a club, association, or other organization if:

(i) the club, association, or other organization makes available for the use of its members sports and athletic facilities, without regard to whether a separate charge is assessed for use of the facilities; and

(ii) use of the sports and athletic facility is not made available to the general public on the same basis as it is made available to members.

Granting of membership means both onetime initiation fees and periodic membership dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and squash courts; basketball and volleyball facilities; running tracks; exercise equipment; swimming pools; and other similar athletic or sports facilities;

(5) delivery of aggregate materials and concrete block by a third party if the delivery would be subject to the sales tax if provided by the seller of the aggregate material or concrete block; and

(6) services as provided in this clause:

(i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;

(ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;

(iii) building and residential cleaning, maintenance, and disinfecting and exterminating services;

(iv) detective, security, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota department of corrections;

(v) pet grooming services;

(vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal; and tree trimming for

public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;

(vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and

(viii) the furnishing of lodging, board, and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services listed in clause (6), items (i) to (vi) and (viii) and the provision of these taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable. Services performed by a partnership or association for another partnership or association are not taxable if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of ~~this section~~ the preceding sentence, "affiliated group of corporations" includes those entities that would be classified as members of an affiliated group under United States Code, title 26, section 1504, and that are eligible to file a consolidated tax return for federal income tax purposes.

(h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.

(i) A sale and a purchase includes the furnishing for a consideration of telecommunications services, including cable television services and direct satellite services. Telecommunications services are taxed to the extent allowed under federal law if those services:

(1) either (i) originate and terminate in this state; or (ii) originate in this state and terminate outside the state and the service is charged to a ~~telephone number~~ telecommunications customer located in this state or to the account of any transmission instrument in this state; or (iii) originate outside this state and terminate in this state and the service is charged to a ~~telephone number~~ telecommunications customer located in this state or to the account of any transmission instrument in this state; or

(2) are rendered by providing a private communications service for which the customer has one or more locations within Minnesota connected to the service and the service is charged to a ~~telephone number~~ telecommunications customer located in this state or to the account of any transmission instrument in this state.

All charges for mobile telecommunications services, as defined in United States Code, title 4, section 124, are deemed to be provided by the customer's home service provider and sourced to the customer's place of primary use and are subject to tax based upon the customer's place of primary use in accordance with the Mobile Telecommunications Sourcing Act, United States Code, title 4, sections 116 to 126. All

other definitions and provisions of the Mobile Telecommunications Sourcing Act as provided in United States Code, title 4, are hereby adopted.

(j) A sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed.

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

Sec. 5. Minnesota Statutes 2002, section 297A.61, subdivision 12, is amended to read:

Subd. 12. **FARM MACHINERY.** (a) "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in ~~the~~ agricultural production ~~for sale, but not including the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, trees and shrubs, plants, forage, grains, and bees and apiary products.~~

~~(b) Farm machinery includes~~ including, but not limited to:

(1) machinery for the preparation, seeding, or cultivation of soil for growing agricultural crops ~~and sod, for the harvesting and threshing of agricultural products, or for the harvesting or mowing of sod~~;

(2) barn cleaners, milking systems, grain dryers, feeding systems including stationary feed bunks, and similar installations, whether or not the equipment is installed by the seller and becomes part of the real property; and

(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, 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;~~

~~(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;~~

~~(7) aquaculture production equipment as defined in subdivision 13; and~~

~~(8) equipment used for maple syrup harvesting.~~

~~(c)~~ (b) Farm machinery does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, grain bins, fencing material ~~except fencing material covered by paragraph (b), clause (5)~~, communication equipment, and other farm supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles or snow blowers; ~~or~~

(5) lawn mowers except those used in the production of sod for sale, or garden-type tractors or garden tillers; or

(6) machinery, equipment, implements, accessories, and contrivances used directly in the production of horses not raised for slaughter, fur-bearing animals, or research animals.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2003.

Sec. 6. Minnesota Statutes 2002, section 297A.61, subdivision 34, is amended to read:

Subd. 34. **FOOD SOLD THROUGH VENDING MACHINES.** "Food sold through vending machines" means food dispensed from a machine or other ~~mechanical~~ device that accepts payment including honor payments.

EFFECTIVE DATE. This section is effective for sales and purchases made on or after the day following final enactment.

Sec. 7. Minnesota Statutes 2002, section 297A.61, is amended by adding a subdivision to read:

Subd. 36. **AGRICULTURAL PRODUCTION.** "Agricultural production" includes, but is not limited to, horticulture, silviculture, floriculture, maple syrup harvesting, and the raising of pets, livestock as defined in section 17A.03, subdivision 5, poultry, dairy and poultry products, bees and apiary products, the raising and harvesting of agricultural crops, sod, fur-bearing animals, research animals, and horses.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2003.

Sec. 8. Minnesota Statutes 2002, section 297A.665, is amended to read:

297A.665 **PRESUMPTION OF TAX; BURDEN OF PROOF.**

(a) For the purpose of the proper administration of this chapter and to prevent evasion of the tax, until the contrary is established, it is presumed that:

(1) all gross receipts are subject to the tax; and

(2) all retail sales for delivery in Minnesota are for storage, use, or other consumption in Minnesota.

(b) The burden of proving that a sale is not a taxable retail sale is on the seller. However, the seller may take from the purchaser at the time of the sale ~~an~~ a fully completed exemption certificate ~~claiming that the property purchased is for resale or that the sale is otherwise exempt from the tax imposed by this chapter~~ which conclusively relieves the seller from collecting and remitting the tax. This relief from liability does not apply to a seller who fraudulently fails to collect the tax or solicits

purchasers to participate in the unlawful claim of an exemption. If a seller claiming that certain sales are exempt~~,~~ ~~who~~ ~~does~~ is not ~~possess~~ in possession of the required exemption certificates~~,~~ ~~must~~ ~~acquire~~ ~~the~~ ~~certificates~~ within 60 days after receiving written notice from the commissioner that the certificates are required, deductions claimed by the seller that required delivery of the certificates must be disallowed. If the certificates are ~~not~~ ~~obtained~~ delivered to the commissioner within the 60-day period, the ~~sales are considered taxable sales under this chapter.~~ commissioner may verify the reason or basis for the exemption claimed in the certificates before allowing any deductions. A deduction must not be granted on the basis of certificates delivered to the commissioner after the 60-day period.

(c) A purchaser of tangible personal property or any items listed in section 297A.63 that are shipped or brought to Minnesota by the purchaser has the burden of proving that the property was not purchased from a retailer for storage, use, or consumption in Minnesota.

EFFECTIVE DATE. This section is effective for exemption certificates received for sales occurring after June 30, 2003.

Sec. 9. Minnesota Statutes 2002, section 297A.67, subdivision 2, is amended to read:

Subd. 2. **FOOD AND FOOD INGREDIENTS.** Food and food ingredients are exempt. For purposes of this subdivision, "food" and "food ingredients" mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients exempt under this subdivision do not include candy, soft drinks, food sold through vending machines, and prepared foods. Food and food ingredients do not include alcoholic beverages, dietary supplements, and tobacco. For purposes of this subdivision, "alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume. For purposes of this subdivision, "tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. For purposes of this subdivision, "dietary supplements" means any product, other than tobacco, intended to supplement the diet that:

(1) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; and

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (i) to (v);

(2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(3) is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to Code of Federal Regulations, title 21, section 101.36.

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

Sec. 10. Minnesota Statutes 2002, section 297A.68, subdivision 5, is amended to read:

Subd. 5. **CAPITAL EQUIPMENT.** (a) Capital equipment is exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

"Capital equipment" means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating, mining, or refining. Capital equipment also includes machinery and equipment used to electronically transmit results retrieved by a customer of an online computerized data retrieval system.

(b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies used to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment;

(7) materials used to construct and install special purpose buildings used in the production process; and

(8) ready-mixed concrete ~~trucks~~ equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis and leases of ready-mixed concrete trucks.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials, except for materials included in paragraph (b), clauses (6) and (7);

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property; or

(7) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Integrated production process" means a process or series of operations through which tangible personal property is manufactured, fabricated, mined, or refined. For purposes of this clause, (i) manufacturing begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed; (ii) fabricating begins with the removal from storage or inventory of the property to be assembled, processed, altered, or modified and ends with the creation or production of the new or changed product; (iii) mining begins with the removal of overburden from the site of the ores, minerals, stone, peat deposit, or surface materials and ends when the last process before stockpiling is completed; and (iv) refining begins with the removal from inventory or storage of a natural resource and ends with the conversion of the item to its completed form.

(4) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.

~~(4)~~ (5) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

~~(5)~~ (6) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

~~(6)~~ (7) "Mining" means the extraction of minerals, ores, stone, or peat.

~~(7)~~ (8) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

~~(8)~~ (9) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

~~(9)~~ (10) "Refining" means the process of converting a natural resource to ~~a~~ an intermediate or finished product, including the treatment of water to be sold at retail.

EFFECTIVE DATE. This section is effective for sales and purchases made after December 31, 2003.

Sec. 11. Minnesota Statutes 2002, section 297A.68, is amended by adding a subdivision to read:

Subd. 39. **PREEXISTING BIDS OR CONTRACTS.** (a) The sale of tangible personal property or services is exempt from tax for a period of six months from the effective date of the law change that results in the imposition of the tax under this chapter if:

(1) the act imposing the tax does not have transitional effective date language for existing construction contracts and construction bids; and

(2) the requirements of paragraph (b) are met.

(b) A sale is tax exempt under paragraph (a) if it meets the requirements of either clause (1) or (2):

(1) For a construction contract:

(i) the goods or services sold must be used for the performance of a bona fide written lump sum or fixed price construction contract;

(ii) the contract must be entered into before the date the goods or services become subject to the sales tax;

(iii) the contract must not provide for allocation of future taxes; and

(iv) for each qualifying contract the contractor must give the seller documentation of the contract on which an exemption is to be claimed.

(2) For a bid:

(i) the goods or services sold must be used pursuant to an obligation of a bid or bids;

(ii) the bid or bids must be submitted and accepted before the date the goods or services became subject to the sales tax;

(iii) the bid or bids must not be able to be withdrawn, modified, or changed without forfeiting a bond; and

(iv) for each qualifying bid, the contractor must give the seller documentation of the bid on which an exemption is to be claimed.

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

Sec. 12. Minnesota Statutes 2002, section 297A.69, subdivision 2, is amended to read:

Subd. 2. **MATERIALS CONSUMED IN AGRICULTURAL PRODUCTION.** ~~(a)~~ Materials stored, used, or consumed in agricultural production of personal property intended to be sold ultimately at retail are exempt, whether or not the item becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

(1) feeds, seeds, trees, fertilizers, and herbicides, including when purchased for use by farmers in a federal or state farm or conservation program;

(2) materials sold to a veterinarian to be used or consumed in the care, medication, and treatment of agricultural production animals and horses;

(3) chemicals, including chemicals used for cleaning food processing machinery and equipment;

(4) materials, including chemicals, fuels, and electricity purchased by persons engaged in agricultural production to treat waste generated as a result of the production process;

(5) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of the average climate control or lighting for the production area, and (ii) it is necessary to produce that particular product;

(6) petroleum products and lubricants;

(7) packaging materials, including returnable containers used in packaging food and beverage products; and

(8) accessory tools and equipment that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product.

Machinery, equipment, implements, tools, accessories, appliances, contrivances, and furniture and fixtures, except those listed in this clause are not included within this exemption.

~~(b) For purposes of this subdivision, "agricultural production" includes, but is not limited to, horticulture, floriculture, maple syrup harvesting, and the raising of pets, fur-bearing animals, research animals, horses, farmed cervidae as defined in section~~

~~17.451, subdivision 2, llamas as defined in section 17.455, subdivision 2, and ratitae as defined in section 17.453, subdivision 3.~~

EFFECTIVE DATE. This section is effective for sales and purchases made after December 31, 2003.

Sec. 13. Minnesota Statutes 2002, section 297A.69, subdivision 3, is amended to read:

Subd. 3. ~~**FARM MACHINERY**~~ **REPAIR AND REPLACEMENT PARTS.** Repair and replacement parts, except tires, used for maintenance or repair of farm machinery, logging equipment, and aquaculture production equipment are exempt, if the part replaces a ~~farm~~ machinery part assigned a specific or generic part number by the manufacturer of the ~~farm~~ machinery.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2003.

Sec. 14. Minnesota Statutes 2002, section 297A.69, subdivision 4, is amended to read:

Subd. 4. ~~**FARM**~~ **MACHINERY, EQUIPMENT, AND FENCING.** The following machinery, equipment, and fencing is exempt:

(1) farm machinery ~~is exempt.~~;

(2) logging equipment, including chain saws used for commercial logging;

(3) fencing used for the containment of farmed cervidae, as defined in section 17.451, subdivision 2;

(4) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, aquacultural production equipment, or logging equipment, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products; and

(5) aquaculture production equipment.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2003.

Sec. 15. Minnesota Statutes 2002, section 297B.025, subdivision 1, is amended to read:

Subdivision 1. **NONCOLLECTOR VEHICLE.** Purchase or use of a passenger automobile as defined in section 168.011, subdivision 7, shall be taxed pursuant to section 297B.02, subdivision 2, if the passenger automobile ~~is~~ (1) is in the tenth or subsequent year of vehicle life, and (2) ~~is not an above-market automobile as designated by the registrar of motor vehicles~~ does not have a resale value of $3,000 or more, as determined using nationally recognized sources of information on automobile resale values, as designated by the registrar of motor vehicles.

~~The registrar of motor vehicles shall prepare, and distribute to all deputy motor vehicle registrars by July 15, 1985, a listing by make, model, and year of above-market automobiles. Except as provided by subdivision 2, the registrar must include in the list all automobiles with a resale value of $3,000 or more, as determined using nationally recognized sources of information on automobile resale values. The registrar shall revise the list by February 1 of each year. The initial list and all subsequent revisions must include only those automobiles which are in the tenth or subsequent year of vehicle life.~~

EFFECTIVE DATE. This section is effective for vehicles purchased after June 30, 2003.

Sec. 16. Minnesota Statutes 2002, section 297B.025, subdivision 2, is amended to read:

Subd. 2. **COLLECTOR VEHICLE.** A passenger automobile that is registered under section 168.10, subdivision 1a, 1b, 1c, 1d, or 1h, or a fire truck registered under section 168.10, subdivision 1c, shall be taxed under section 297B.02, subdivision 3~~, and the registrar shall not designate as an above-market automobile a passenger automobile or a fire truck registered under those subdivisions~~. If the vehicle is subsequently registered in another class not under section 168.10, subdivision 1a, 1b, 1c, 1d, or 1h, within one year of the date of registration under those subdivisions, it shall be subject to the full excise tax imposed under subdivision 1.

EFFECTIVE DATE. This section is effective for vehicles purchased after December 31, 2003.

Sec. 17. Minnesota Statutes 2002, section 297B.035, subdivision 1, is amended to read:

Subdivision 1. **ORDINARY COURSE OF BUSINESS.** Except as provided in this section, motor vehicles purchased for resale in the ordinary course of business ~~or used~~ by any motor vehicle dealer, as defined in section 168.011, subdivision 21, who is licensed under section 168.27, subdivision 2 or 3, which bear dealer plates as authorized by section 168.27, subdivision 16, shall be exempt from the provisions of this chapter.

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

Sec. 18. **REPEALER.**

(a) Minnesota Statutes 2002, section 297A.72, subdivision 1, is repealed effective for exemption certificates received for sales occurring after June 30, 2003.

(b) Minnesota Statutes 2002, section 297A.97, is repealed effective for sales and purchases occurring after December 31, 2003.

(c) Minnesota Rules, parts 8130.0800, subparts 5 and 12; 8130.1300; 8130.1600, subpart 5; 8130.1700, subparts 3 and 4; 8130.4800, subpart 2; 8130.7500, subpart 5; 8130.8000; and 8130.8300, are repealed effective the day following final enactment.

ARTICLE 7

DEPARTMENT SPECIAL TAXES INITIATIVES

Section 1. Minnesota Statutes 2002, section 115B.24, subdivision 8, is amended to read:

Subd. 8. **PENALTIES; ENFORCEMENT.** The audit, penalty and enforcement provisions applicable to corporate franchise taxes imposed under chapter 290 apply to the taxes imposed under section 115B.22 and those provisions shall be administered by the commissioner.

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

Sec. 2. Minnesota Statutes 2002, section 295.50, subdivision 9b, is amended to read:

Subd. 9b. **PATIENT SERVICES.** (a) "Patient services" means inpatient and outpatient services and other goods and services provided by hospitals, surgical centers, or health care providers. They include the following health care goods and services provided to a patient or consumer:

(1) bed and board;

(2) nursing services and other related services;

(3) use of hospitals, surgical centers, or health care provider facilities;

(4) medical social services;

(5) drugs, biologicals, supplies, appliances, and equipment;

(6) other diagnostic or therapeutic items or services;

(7) medical or surgical services;

(8) items and services furnished to ambulatory patients not requiring emergency care;

(9) emergency services; and

(10) covered services listed in section 256B.0625 and in Minnesota Rules, parts 9505.0170 to 9505.0475.

(b) "Patient services" does not include:

(1) services provided to nursing homes licensed under chapter 144A; ~~and~~

(2) examinations for purposes of utilization reviews, insurance claims or eligibility, litigation, and employment, including reviews of medical records for those purposes;

(3) services provided by community residential mental health facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690;

(4) services provided by community support programs and family community support programs approved under Minnesota Rules, parts 9535.1700 to 9535.1760;

(5) services provided by community mental health centers as defined in section 245.62, subdivision 2;

(6) services provided by assisted living programs and congregate housing programs; and

(7) hospice care services.

EFFECTIVE DATE. This section is effective for gross revenues received after December 31, 2002.

Sec. 3. Minnesota Statutes 2002, section 295.53, subdivision 1, is amended to read:

Subdivision 1. **EXEMPTIONS.** (a) The following payments are excluded from the gross revenues subject to the hospital, surgical center, or health care provider taxes under sections 295.50 to ~~295.57~~ 295.59:

(1) payments received for services provided under the Medicare program, including payments received from the government, and organizations governed by sections 1833 and 1876 of title XVIII of the federal Social Security Act, United States Code, title 42, section 1395, and enrollee deductibles, coinsurance, and copayments, whether paid by the Medicare enrollee or by a Medicare supplemental coverage as defined in section 62A.011, subdivision 3, clause (10). Payments for services not covered by Medicare are taxable;

(2) medical assistance payments including payments received directly from the government or from a prepaid plan;

(3) payments received for home health care services;

(4) payments received from hospitals or surgical centers for goods and services on which liability for tax is imposed under section 295.52 or the source of funds for the payment is exempt under clause (1), (2), (7), (8), (10), (13), or ~~(20)~~ (17);

(5) payments received from health care providers for goods and services on which liability for tax is imposed under this chapter or the source of funds for the payment is exempt under clause (1), (2), (7), (8), (10), (13), or ~~(20)~~ (17);

(6) amounts paid for legend drugs, other than nutritional products, to a wholesale drug distributor who is subject to tax under section 295.52, subdivision 3, reduced by reimbursements received for legend drugs otherwise exempt under this chapter;

(7) payments received under the general assistance medical care program including payments received directly from the government or from a prepaid plan;

(8) payments received for providing services under the MinnesotaCare program including payments received directly from the government or from a prepaid plan and enrollee deductibles, coinsurance, and copayments. For purposes of this clause,

coinsurance means the portion of payment that the enrollee is required to pay for the covered service;

(9) payments received by a health care provider or the wholly owned subsidiary of a health care provider for care provided outside Minnesota;

(10) payments received from the chemical dependency fund under chapter 254B;

(11) payments received in the nature of charitable donations that are not designated for providing patient services to a specific individual or group;

(12) payments received for providing patient services incurred through a formal program of health care research conducted in conformity with federal regulations governing research on human subjects. Payments received from patients or from other persons paying on behalf of the patients are subject to tax;

(13) payments received from any governmental agency for services benefiting the public, not including payments made by the government in its capacity as an employer or insurer;

~~(14) payments received for services provided by community residential mental health facilities licensed under Minnesota Rules, parts 9520.0500 to 9520.0690, community support programs and family community support programs approved under Minnesota Rules, parts 9535.1700 to 9535.1760, and community mental health centers as defined in section 245.62, subdivision 2;~~

~~(15)~~ (14) government payments received by a regional treatment center;

~~(16) payments received for hospice care services;~~

~~(17)~~ (15) payments received by a health care provider for hearing aids and related equipment or prescription eyewear delivered outside of Minnesota;

~~(18)~~ (16) payments received by an educational institution from student tuition, student activity fees, health care service fees, government appropriations, donations, or grants. Fee for service payments and payments for extended coverage are taxable; and

~~(19) payments received for services provided by: assisted living programs and congregate housing programs; and~~

~~(20)~~ (17) payments received under the federal Employees Health Benefits Act, United States Code, title 5, section 8909(f), as amended by the Omnibus Reconciliation Act of 1990.

(b) Payments received by wholesale drug distributors for legend drugs sold directly to veterinarians or veterinary bulk purchasing organizations are excluded from the gross revenues subject to the wholesale drug distributor tax under sections 295.50 to 295.59.

EFFECTIVE DATE. This section is effective for gross revenues received after December 31, 2002.

Sec. 4. Minnesota Statutes 2002, section 297F.01, subdivision 21a, is amended to read:

Subd. 21a. **UNLICENSED SELLER.** "Unlicensed seller" means anyone who is not licensed under section 297F.03 ~~or 461.12~~ to sell the particular product to the purchaser or possessor of the product.

EFFECTIVE DATE. This section is effective July 1, 2003.

Sec. 5. Minnesota Statutes 2002, section 297F.01, subdivision 23, is amended to read:

Subd. 23. **WHOLESALE SALES PRICE.** "Wholesale sales price" means the ~~established~~ price stated on the price list in effect at the time of sale for which a manufacturer or person sells a tobacco product to a distributor, exclusive of any discount, promotional offer, or other reduction. For purposes of this subdivision, "price list" means the manufacturer's price at which tobacco products are made available for sale to all distributors on an ongoing basis.

EFFECTIVE DATE. This section is effective July 1, 2003.

Sec. 6. Minnesota Statutes 2002, section 297F.06, subdivision 4, is amended to read:

Subd. 4. **TOBACCO PRODUCTS USE TAX.** The tobacco products use tax does not apply to the possession, use, or storage of tobacco products ~~in quantities of:~~ that have an aggregate cost in any calendar month to the consumer of $100 or less.

~~(1) not more than 50 cigars;~~

~~(2) not more than ten ounces snuff or snuff powder;~~

~~(3) not more than one pound smoking or chewing tobacco or any other tobacco product in the possession of any one consumer.~~

EFFECTIVE DATE. This section is effective July 1, 2003.

Sec. 7. Minnesota Statutes 2002, section 297F.20, subdivision 1, is amended to read:

Subdivision 1. **PENALTIES FOR FAILURE TO FILE OR PAY.** (a) A person or consumer required to file a return, report, or other document with the commissioner who fails to do so is guilty of a misdemeanor.

(b) A person or consumer required to pay or to collect and remit a tax under this chapter, who fails to do so when required, is guilty of a misdemeanor.

EFFECTIVE DATE. This section is effective for acts committed on or after July 1, 2003.

Sec. 8. Minnesota Statutes 2002, section 297F.20, subdivision 2, is amended to read:

Subd. 2. **PENALTIES FOR KNOWING FAILURE TO FILE OR PAY.** (a) A person or consumer required to file a return, report, or other document with the

commissioner, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

(b) A person or consumer required to pay or to collect and remit a tax under this chapter, who knowingly, rather than accidentally, inadvertently, or negligently, fails to file it when required, is guilty of a gross misdemeanor.

EFFECTIVE DATE. This section is effective for acts committed on or after July 1, 2003.

Sec. 9. Minnesota Statutes 2002, section 297F.20, subdivision 3, is amended to read:

Subd. 3. **FALSE OR FRAUDULENT RETURNS; PENALTIES.** (a) A person or consumer who files with the commissioner a return, report, or other document, or who maintains or provides invoices subject to review by the commissioner under this chapter, known by the person or consumer to be fraudulent or false concerning a material matter, is guilty of a felony.

(b) A person or consumer who knowingly aids or assists in, or advises in the preparation or presentation of a return, report, invoice, or other document that is fraudulent or false concerning a material matter, whether or not the falsity or fraud is committed with the knowledge or consent of the person or consumer authorized or required to present the return, report, invoice, or other document, is guilty of a felony.

EFFECTIVE DATE. This section is effective for acts committed on or after July 1, 2003.

Sec. 10. Minnesota Statutes 2002, section 297F.20, subdivision 6, is amended to read:

Subd. 6. **UNSTAMPED CIGARETTES; UNTAXED TOBACCO PRODUCTS.** (a) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports ~~more than 200 but~~ fewer than 5,000 unstamped cigarettes, or up to ~~$100~~ $350 worth of untaxed tobacco products is guilty of a misdemeanor.

(b) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports 5,000 or more, but fewer than 20,001 unstamped cigarettes, or ~~up to $500~~ more than $350 but less than $1,400 worth of untaxed tobacco products is guilty of a gross misdemeanor.

(c) A person, other than a licensed distributor or a consumer, who possesses, receives, or transports more than 20,000 unstamped cigarettes, or ~~$500~~ $1,400 or more worth of untaxed tobacco products is guilty of a felony.

(d) For purposes of this subdivision, an individual in possession of more than 4,999 unstamped cigarettes, or more than $350 worth of untaxed tobacco products, is presumed not to be a consumer.

EFFECTIVE DATE. This section is effective for acts committed on or after July 1, 2003.

Sec. 11. Minnesota Statutes 2002, section 297F.20, subdivision 9, is amended to read:

Subd. 9. **PURCHASES FROM UNLICENSED SELLERS.** (a) No retailer or subjobber shall purchase cigarettes or tobacco products from any person who is not licensed under section 297F.03 as a licensed distributor or subjobber.

(b) A retailer~~,~~ or subjobber~~, or consumer~~ who purchases from an unlicensed seller ~~more than 200 but~~ fewer than 5,000 cigarettes or up to ~~$100~~ $350 worth of tobacco products is guilty of a misdemeanor.

~~(b)~~ (c) A retailer~~,~~ or subjobber~~, or consumer~~ who purchases from an unlicensed seller 5,000 or more, but fewer than 20,001 cigarettes or ~~up to $500~~ more than $350 but less than $1,400 worth of ~~untaxed~~ tobacco products is guilty of a gross misdemeanor.

~~(c)~~ (d) A retailer~~,~~ or subjobber~~, or consumer~~ who purchases from an unlicensed seller more than 20,000 cigarettes or ~~$500~~ $1,400 or more worth of tobacco products is guilty of a felony.

EFFECTIVE DATE. This section is effective for acts committed on or after July 1, 2003.

Sec. 12. Minnesota Statutes 2002, section 297I.01, subdivision 9, is amended to read:

Subd. 9. **GROSS PREMIUMS.** "Gross premiums" means total premiums paid by policyholders and applicants of policies, whether received in the form of money or other valuable consideration, on property, persons, lives, interests and other risks located, resident, or to be performed in this state, but excluding consideration and premiums for reinsurance assumed from other insurance companies. The term "gross premiums" includes the total consideration paid to bail bond agents for bail bonds. For title insurance companies, "gross premiums" means the charge for title insurance made by a title insurance company or its agents according to the company's rate filing approved by the commissioner of commerce without a deduction for commissions paid to or retained by the agent. Gross premiums of a title insurance company does not include any other charge or fee for abstracting, searching, or examining the title, or escrow, closing, or other related services. The term "gross premiums" includes any workers' compensation special compensation fund premium surcharge pursuant to section 176.129.

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

Sec. 13. Minnesota Statutes 2002, section 297I.20, is amended to read:

297I.20 ~~**GUARANTY ASSOCIATION ASSESSMENT OFFSET**~~ **OFFSETS AGAINST PREMIUM TAXES.**

Subdivision 1. **GUARANTY ASSOCIATION ASSESSMENT OFFSETS.** (a) An insurance company may offset against its premium tax liability to this state any amount paid for assessments made for insolvencies which occur after July 31, 1994,

under sections 60C.01 to 60C.22; and any amount paid for assessments made after July 31, 1994, under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or under sections 61B.18 to 61B.32 as follows:

(1) Each such assessment shall give rise to an amount of offset equal to 20 percent of the amount of the assessment for each of the five calendar years following the year in which the assessment was paid.

(2) The amount of offset initially determined for each taxable year is the sum of the amounts determined under clause (1) for that taxable year.

(b)(1) Each year the commissioner shall compare total guaranty association assessments levied over the preceding five calendar years to the sum of all premium tax and corporate franchise tax revenues collected from insurance companies, without reduction for any guaranty association assessment offset in the preceding calendar year, referred to in this subdivision as "preceding year insurance tax revenues."

(2) If total guaranty association assessments levied over the preceding five years exceed the preceding year insurance tax revenues, insurance companies must be allowed only a proportionate part of the premium tax offset calculated under paragraph (a) for the current calendar year.

(3) The proportionate part of the premium tax offset allowed in the current calendar year is determined by multiplying the amount calculated under paragraph (a) by a fraction. The numerator of the fraction equals the preceding year insurance tax revenues, and its denominator equals total guaranty association assessments levied over the preceding five-year period.

(4) The proportionate part of the premium tax offset that is not allowed must be carried forward to subsequent tax years and added to the amount of premium tax offset calculated under paragraph (a) prior to application of the limitation imposed by this paragraph.

(5) Any amount carried forward from prior years must be allowed before allowance of the offset for the current year calculated under paragraph (a).

(6) The premium tax offset limitation must be calculated separately for (i) insurance companies subject to assessment under sections 60C.01 to 60C.22, and (ii) insurance companies subject to assessment under Minnesota Statutes 1992, sections 61B.01 to 61B.16, or 61B.18 to 61B.32.

(7) When the premium tax offset is limited by this provision, the commissioner shall notify affected insurance companies on a timely basis for purposes of completing premium and corporate franchise tax returns.

(8) The guaranty associations created under sections 60C.01 to 60C.22, Minnesota Statutes 1992, sections 61B.01 to 61B.16, and 61B.18 to 61B.32, shall provide the commissioner with the necessary information on guaranty association assessments.

(c)(1) If the offset determined by the application of paragraphs (a) and (b) exceeds the insurance company's premium tax liability under this section prior to allowance of

the credit for premium taxes, then the insurance company may carry forward the excess, referred to in this subdivision as the "carryforward credit" to subsequent taxable years.

(2) The carryforward credit is allowed as an offset against premium tax liability for the first succeeding year to the extent that the premium tax liability for that year exceeds the amount of the allowable offset for the year determined under paragraphs (a) and (b).

(3) The carryforward credit must be reduced, but not below zero, by the amount of the carryforward credit allowed as an offset against the premium tax under this paragraph. The remainder, if any, of the carryforward credit must be carried forward to succeeding taxable years until the entire carryforward credit has been credited against the insurance company's liability for premium tax under this chapter if applicable for that taxable year.

(d) When an insurer has offset against taxes its payment of an assessment of the Minnesota life and health guaranty association, and the association pays the insurer a refund with respect to the assessment under Minnesota Statutes 1992, section 61B.07, subdivision 6, or 61B.24, subdivision 6, then the refund reduces the insurer's carryforward credit under paragraph (c). If the refund exceeds the amount of the carryforward credit, the excess amount must be repaid to the state by the insurers to the extent of the offset in the manner the commissioner requires.

Subd. 2. **JOINT UNDERWRITING ASSOCIATION OFFSET.** An assessment made pursuant to section 62I.06, subdivision 6, shall be deductible by the member from past or future premium taxes due the state.

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

Sec. 14. **REVISOR'S INSTRUCTION.**

In the next edition of Minnesota Rules, the revisor shall delete any references to the sections repealed in section 15, paragraph (a).

Sec. 15. **REPEALER.**

(a) Minnesota Statutes 2002, sections 294.01; 294.02; 294.021; 294.03; 294.06; 294.07; 294.08; 294.09; 294.10; 294.11; and 294.12, are repealed effective the day following final enactment.

(b) Minnesota Rules, parts 8125.1000; 8125.1300, subpart 1; and 8125.1400, are repealed effective the day following final enactment.

ARTICLE 8

DEPARTMENT COLLECTIONS AND COMPLIANCE INITIATIVES

Section 1. **[270.278] PENALTY FOR FILING CERTAIN DOCUMENTS AGAINST DEPARTMENT OF REVENUE EMPLOYEES.**

Subdivision 1. **DEFINITIONS.** (a) "Recording office" means a county recorder, registrar of titles, or secretary of state in this state or another state.

(b) "Filing party" means the person or persons requesting or causing another person to request that the recording office accept documents or instruments for recording or filing.

Subd. 2. **INVALID DOCUMENTS NAMING THE COMMISSIONER OR DEPARTMENT OF REVENUE EMPLOYEES.** Filing a document, including a nonconsensual common law lien under section 514.99, that purports to create a claim against the commissioner of revenue or an employee of the department of revenue based on performance or nonperformance of duties by the commissioner or employee is invalid unless accompanied by a specific order from a court of competent jurisdiction authorizing the filing of the document or unless a specific statute authorizes the filing of the document.

Subd. 3. **CIVIL PENALTY.** If a filing party causes a document described in subdivision 2 to be recorded in a recording office, the commissioner may assess a penalty against the filing party of $1,000 per document filed, payable to the general fund. An order assessing a penalty under this section is reviewable administratively under section 289A.65 and is appealable to tax court under chapter 271. The penalty is collected and paid in the same manner as income tax. The penalty is in addition to any other remedy available to the commissioner of revenue or to an employee of the department of revenue against whom the document has been filed.

EFFECTIVE DATE. This section is effective for documents filed on or after July 1, 2003.

Sec. 2. Minnesota Statutes 2002, section 270.69, is amended by adding a subdivision to read:

Subd. 16. **ATTACHMENT TO PROCEEDS OF PROPERTY.** Any lien imposed under this section attaches to the proceeds of property with the same priority that the lien has with respect to the property itself. "Proceeds of property" means proceeds from the sale, lease, license, exchange, or other disposition of the property, including insurance proceeds arising from the loss or destruction of the property.

EFFECTIVE DATE. This section is effective for all liens, whether imposed prior to, on, or after the day following final enactment.

Sec. 3. Minnesota Statutes 2002, section 270.701, subdivision 2, is amended to read:

Subd. 2. **NOTICE OF SALE.** The commissioner shall as soon as practicable after the seizure of the property give notice of sale of the property to the owner, in the manner of service prescribed in subdivision 1. In the case of personal property, the notice shall be served at least 10 days prior to the sale. In the case of real property, the notice shall be served at least four weeks prior to the sale. The commissioner shall also cause public notice of each sale to be made. In the case of personal property, notice shall be posted at least 10 days prior to the sale at the county courthouse for the county where the seizure is made, and in not less than two other public places. For purposes of this requirement, the Internet is a public place for posting the information. In the case of real property, six weeks' published notice shall be given prior to the sale, in a newspaper published or generally circulated in the county. The notice of sale provided in this subdivision shall specify the property to be sold, and the time, place, manner and conditions of the sale. Whenever levy is made without regard to the 30-day period provided in section 270.70, subdivision 2, public notice of sale of the property seized shall not be made within the 30-day period unless section 270.702 (relating to sale of perishable goods) is applicable.

EFFECTIVE DATE. This section is effective for notices of sales posted on or after the day following final enactment.

Sec. 4. Minnesota Statutes 2002, section 270.701, is amended by adding a subdivision to read:

Subd. 7. **SALE OF SEIZED SECURITIES.** (a) At the time of levy on securities, the commissioner shall provide notice to the taxpayer that the securities may be sold after ten days from the date of seizure.

(b) If the commissioner levies upon nonexempt publicly traded securities and the value of the securities is less than or equal to the total obligation for which the levy is done, after ten days the person who possesses or controls the securities shall liquidate the securities in a commercially reasonable manner. After liquidation, the person shall transfer the proceeds to the commissioner, less any applicable commissions or fees, or both, which are charged in the normal course of business.

(c) If the commissioner levies upon nonexempt publicly traded securities and the value of the securities exceeds the total amount of the levy, the owner of the securities may, within seven days after receipt of the department's notice of levy given pursuant to subdivision 1, instruct the person who possesses or controls the securities which securities are to be sold to satisfy the obligation. If the owner does not provide instructions for liquidation, the person who possesses or controls the securities shall liquidate the securities in an amount sufficient to pay the obligation, plus any applicable commissions or fees, or both, which are charged in the normal course of business, beginning with the nonexempt securities purchased most recently. After liquidation, the person who possesses or controls the securities shall transfer to the commissioner the amount of money needed to satisfy the levy.

EFFECTIVE DATE. This section is effective for sales of securities seized on or after the day following final enactment.

Sec. 5. Minnesota Statutes 2002, section 270.72, subdivision 2, is amended to read:

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

(a) "Taxes" ~~are~~ mean all taxes payable to the commissioner including penalties and interest due on the taxes.

(b) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.

(c) "Applicant" means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership. "Applicant" also means an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent taxes, either for the entity for which the license is at issue or for another entity for which the liability was incurred, or personally as a licensee. In the case of a license transfer, "applicant" also means both the transferor and the transferee of the license. "Applicant" also means any holder of a license.

(d) "License" ~~includes~~ means any permit, registration, certification, or other form of approval authorized by statute or rule to be issued by the state or a political subdivision of the state as a condition of doing business or conducting a trade, profession, or occupation in Minnesota, specifically including, but not limited to, a contract for space rental at the Minnesota state fair and authorization to operate concessions or rides at county and local fairs, festivals, or events.

(e) "Licensing authority" includes the Minnesota state fair board and county and local boards or governing bodies.

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

Sec. 6. Minnesota Statutes 2002, section 270A.03, subdivision 2, is amended to read:

Subd. 2. **CLAIMANT AGENCY.** "Claimant agency" means any state agency, as defined by section 14.02, subdivision 2, the regents of the University of Minnesota, any district court of the state, any county, any statutory or home rule charter city presenting a claim for a municipal hospital or a public library or a municipal ambulance service, a hospital district, a private nonprofit hospital that leases its building from the county in which it is located, any public agency responsible for child support enforcement, any public agency responsible for the collection of court-ordered restitution, and any public agency established by general or special law that is responsible for the administration of a low-income housing program, and the Minnesota collection enterprise as defined in section 16D.02, subdivision 8, for the purpose of collecting the costs imposed under section 16D.11.

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

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

Sec. 7. Minnesota Statutes 2002, section 289A.31, subdivision 3, is amended to read:

Subd. 3. **TRANSFEREES AND FIDUCIARIES.** The amounts of the following liabilities are, except as otherwise provided in section 289A.38, subdivision 13, assessed, collected, and paid in the same manner and subject to the same provisions and limitations as a deficiency in a tax imposed by chapter 290, including any provisions of law for the collection of taxes:

(1) the liability, at law or in equity, of a transferee of property of a taxpayer for tax or overpayment of a refund, including interest, additional amounts, and additions to the tax or overpayment provided by law, imposed upon the taxpayer by chapter 290 or provided for in chapter 290A; and

(2) the liability of a fiduciary under subdivision 4 for the payment of tax from the estate of the taxpayer. The liability may reflect the amount of tax shown on the return or any deficiency in tax.

EFFECTIVE DATE. This section is effective for refunds paid on or after the day following final enactment.

Sec. 8. Minnesota Statutes 2002, section 289A.31, subdivision 4, is amended to read:

Subd. 4. **TAX AS A PERSONAL DEBT OF A FIDUCIARY.** ~~The~~ A tax imposed by chapter 290 and an overpayment of a refund provided for in chapter 290A, 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 the personal representative of the estate of a decedent and 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.

EFFECTIVE DATE. This section is effective for taxes imposed and property tax refunds claimed on or after the day following final enactment.

Sec. 9. Minnesota Statutes 2002, section 289A.36, subdivision 7, is amended to read:

Subd. 7. **APPLICATION TO COURT FOR ENFORCEMENT OF SUBPOENA.** (a) Disobedience of subpoenas issued under this section shall be punished 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.

(b) Disobedience of a subpoena issued under subdivision 9 shall be punished by the district court for Ramsey county in the same manner as contempt of the district court. In addition to contempt remedies, the court may issue any order the court deems reasonably necessary to enforce compliance with the subpoena.

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

Sec. 10. Minnesota Statutes 2002, section 289A.36, is amended by adding a subdivision to read:

Subd. 9. **ACCESS TO RECORDS IN CONNECTION WITH EXAMINATION OF BUSINESSES LOCATED OUTSIDE THE STATE.** (a) In order to determine whether a business located outside the state of Minnesota is required to file a return under this chapter, the commissioner may examine the relevant records and files of the business.

(b) To the full extent permitted by the Minnesota and United States constitutions, the commissioner may compel production of those relevant records and files by subpoena. The subpoena may be served on the secretary of state along with the address to which service of the subpoena is to be sent and a fee of $50. The secretary of state shall forward a copy of the subpoena to the business using the procedures for service of process in section 5.25, subdivision 6.

(c) The commissioner shall pay the reasonable cost of producing records subject to subpoena under this subdivision if:

(1) the subpoenaed party cannot produce the records without undue burden; and

(2) the examination made pursuant to paragraph (a) shows that the subpoenaed party is not required to file a return under this chapter.

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

Sec. 11. Minnesota Statutes 2002, section 289A.36, is amended by adding a subdivision to read:

Subd. 10. **PENALTY.** In addition to sanctions imposed under subdivision 7, a penalty of $250 per day is imposed on any business that is in violation of a court order to comply with a subpoena that is seeking information necessary for the commissioner to be able to determine whether the business is required to file a return or pay a tax. The maximum penalty is $25,000. Upon the request of the commissioner, the court shall determine the amount of the penalty and enter it as a judgment in favor of the commissioner. The penalty is not payable until the judgment is entered.

EFFECTIVE DATE. This section is effective for violations of court orders to enforce subpoenas issued on or after the day following final enactment.

Sec. 12. Minnesota Statutes 2002, section 297A.85, is amended to read:

297A.85 **CANCELLATION OF PERMITS.**

The commissioner may cancel a permit if one of the following conditions occurs:

(1) the permit holder has not filed a sales or use tax return for at least one year;

(2) the permit holder has not reported any sales or use tax liability on the permit holder's returns for at least two years; ~~or~~

(3) the permit holder requests cancellation of the permit; or

(4) the permit is subject to cancellation pursuant to section 297A.86, subdivision 2, paragraph (a).

EFFECTIVE DATE. This section is effective for cancellations of permits done on or after the day following final enactment.

Sec. 13. **REPEALER.**

Minnesota Statutes 2002, section 270.691, subdivision 8, is repealed effective the day following final enactment.

ARTICLE 9

CENTRAL LAKES REGION SANITARY DISTRICT

Section 1. **DEFINITIONS.**

Subdivision 1. **APPLICATION.** The terms defined in this section shall have the meaning given them unless otherwise provided or indicated by the context.

Subd. 2. **ACQUISITION AND BETTERMENT.** "Acquisition" and "betterment" shall have the meanings given them in Minnesota Statutes, section 475.51.

Subd. 3. **AGENCY.** "Agency" means the Minnesota pollution control agency created and established by Minnesota Statutes, chapter 116.

Subd. 4. **AGRICULTURAL PROPERTY.** "Agricultural property" means land as is classified agricultural land within the meaning of Minnesota Statutes, section 273.13, subdivision 23.

Subd. 5. **CURRENT COSTS OF ACQUISITION, BETTERMENT, AND DEBT SERVICE.** "Current costs of acquisition, betterment, and debt service" means interest and principal estimated to be due during the budget year on bonds issued to finance the acquisition and betterment and all other costs of acquisition and betterment estimated to be paid during the budget year from funds other than bond proceeds and federal or state grants.

Subd. 6. **DISTRICT DISPOSAL SYSTEM.** "District disposal system" means any and all of the interceptors or treatment works owned, constructed, or operated by the board unless designated by the board as local sanitary sewer facilities.

Subd. 7. **CENTRAL LAKES REGION SANITARY DISTRICT AND DISTRICT.** "Central Lakes Region Sanitary District" and "district" mean the area over which the sanitary sewer board has jurisdiction, including those parts of the Douglas county townships of Carlos, Brandon, La Grand, Leaf Valley, Miltona, and Moe, as more particularly described by metes and bounds in the comprehensive plan adopted under section 4.

Subd. 8. **INTERCEPTOR.** "Interceptor" means any sewer and necessary appurtenances to it, including but not limited to, mains, pumping stations, and sewage flow regulating and measuring stations, that is designed for or used to conduct sewage originating in more than one local government unit, or that is designed or used to conduct all or substantially all the sewage originating in a single local government unit from a point of collection in that unit to an interceptor or treatment works outside that unit, or that is determined by the board to be a major collector of sewage used or designed to serve a substantial area in the district.

Subd. 9. **LOCAL GOVERNMENT UNIT OR GOVERNMENT UNIT.** "Local government unit" or "government unit" means any municipal or public corporation or governmental or political subdivision or agency located in whole or in part in the district, authorized by law to provide for the collection and disposal of sewage.

Subd. 10. **LOCAL SANITARY SEWER FACILITIES.** "Local sanitary sewer facilities" means all or any part of any disposal system in the district other than the district disposal system.

Subd. 11. **MUNICIPALITY.** "Municipality" means any statutory or home rule charter city or town located in whole or in part in the district.

Subd. 12. **PERSON.** "Person" means any individual, partnership, corporation, limited liability company, cooperative, or other organization or entity, public or private.

Subd. 13. **POLLUTION AND SEWER SYSTEM.** "Pollution" and "sewer system" have the meanings given them in Minnesota Statutes, section 115.01.

Subd. 14. **SANITARY SEWER BOARD OR BOARD.** "Sanitary sewer board" or "board" means the sanitary sewer board established for the Central Lakes Region Sanitary District as provided in section 2.

Subd. 15. **SEWAGE.** "Sewage" means all liquid or water-carried waste products from whatever sources derived, together with the groundwater infiltration and surface water that may be present.

Subd. 16. **TOTAL COSTS OF ACQUISITION AND BETTERMENT AND COSTS OF ACQUISITION AND BETTERMENT.** "Total costs of acquisition and betterment" and "costs of acquisition and betterment" mean all acquisition and betterment expenses that are permitted to be financed out of bond proceeds issued in accordance with section 12, subdivision 4, whether or not the expenses are in fact financed out of the bond proceeds.

Subd. 17. **TREATMENT WORKS AND DISPOSAL SYSTEM.** "Treatment works" and "disposal system" have the meanings given them in Minnesota Statutes, section 115.01.

Sec. 2. **SANITARY SEWER BOARD.**

Subdivision 1. **ESTABLISHMENT.** A sanitary sewer board with jurisdiction in the Central Lakes Region Sanitary District is established as a public corporation and political subdivision of the state with perpetual succession and all the rights, powers,

privileges, immunities, and duties that may be validly granted to or imposed upon a municipal corporation, as provided in this article.

Subd. 2. **MEMBERS AND SELECTION.** The number of board members and method by which they are selected is as follows: The governing body of any municipality located in whole or part within the district must each separately select one member. Upon the board's ordering of a project to construct a sanitary sewer, the governing body of any municipality must appoint one additional member for each full 800 special assessments included in the ordered project to be levied against property located in the municipality. The term of each member is subject to the approval of the voting members of the city council or town board.

Subd. 3. **TIME LIMIT; ALTERNATIVE APPOINTMENT.** The initial board members must be selected as provided in subdivision 2 within 60 days after this article is effective. A successor must be selected at any time within 60 days before the expiration of the predecessor's term in the same manner as the predecessor was selected. Any vacancy on the board must be filled within 60 days after it occurs. If a selection is not made as provided within the time prescribed, the chief judge of the seventh judicial district of the Minnesota district court, on application by any interested person, shall appoint an eligible person to the board.

Subd. 4. **VACANCIES.** If the office of any board member becomes vacant, the vacancy shall be filled for the unexpired term in the manner as provided for selection of the member who vacated the office. The office shall be deemed vacant under the conditions specified in Minnesota Statutes, section 351.02.

Subd. 5. **TERMS OF OFFICE.** The terms of all board members shall be for one, two, three, or four calendar years to be determined in accordance with subdivision 2 by the governing body selecting such member. Terms shall expire on January 1 of a calendar year, except that each member shall serve until a successor has been duly selected and qualified.

Subd. 6. **REMOVAL.** A board member may be removed by the unanimous vote of the appointing governing body with or without cause.

Subd. 7. **QUALIFICATIONS.** Each board member may, but need not be a resident of the district and may, but need not be an elected public official.

Subd. 8. **CERTIFICATES OF SELECTION; OATH OF OFFICE.** A certificate of selection to a seat of every board member, stating the seat's term, must be made by the respective municipal clerk. The certificate, with the approval attached by other authority, if required, must be filed with the secretary of state. A copy must be furnished to the board member and the secretary of the board. Each member must qualify by taking and subscribing to the oath of office prescribed by the Minnesota Constitution, article V, section 6. The oath, duly certified by the official administering the same, must be filed with the secretary of state and the secretary of the board.

Subd. 9. **COMPENSATION OF BOARD MEMBERS.** Each board member may be paid a per diem compensation to attend meetings and for other services in an amount as may be specifically authorized by the board from time to time. Per diem

compensation must not exceed $4,000 for any member in any one year. All members of the board may be reimbursed for all reasonable expenses incurred in the performance of their duties as determined by the board.

Sec. 3. **GENERAL PROVISION FOR ORGANIZATION AND OPERATION OF BOARD.**

Subdivision 1. **OFFICERS MEETINGS; SEAL.** A majority of the members is a quorum at all meetings of the board, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members. The board must meet regularly at the time and place as the board by resolution designates. Special meetings may be held at any time upon call of the chair or any two members, upon written notice sent by mail to each member at least three days before the meeting, or upon the notice as the board by resolution may provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Except as otherwise provided in this article, any action within the authority of the board may be taken by the affirmative vote of a majority of the board at a regular or adjourned regular meeting or at a duly held special meeting, but in any case only if a quorum is present. All meetings of the board must be open to the public as provided in Minnesota Statutes, chapter 13D.

Subd. 2. **CHAIR.** The board must elect a chair from its membership. The term of the chair expires on January 1 of each year. The chair presides at all meetings of the board, if present, and must perform all other duties and functions usually incumbent upon the officer, and all administrative functions assigned to the chair by the board. The board must elect a vice-chair from its membership to act for the chair during a temporary absence or disability.

Subd. 3. **SECRETARY AND TREASURER.** The board must select one or more persons who may, but need not be a member of the board, to act as its secretary and treasurer. The secretary and treasurer hold office at the pleasure of the board, subject to the terms of any contract of employment that the board may enter into with the secretary or treasurer. The secretary must record the minutes of all meetings of the board, and is custodian of all books and records of the board except those the board entrusts to the custody of a designated employee. The board may appoint a deputy to perform any and all functions of either the secretary or the treasurer. A secretary or treasurer or a deputy of either who is not a member of the board shall not have any right to vote.

Subd. 4. **GENERAL MANAGER.** The board may appoint a general manager who shall be selected solely upon the basis of training, experience, and other qualifications. The general manager serves at the pleasure of the board and at a compensation to be determined by the board. The general manager need not be a resident of the district and may also be selected by the board to serve as either secretary or treasurer, or both, of the board. The general manager must attend all meetings of the board but must not vote. The general manager must:

(1) see that all resolutions, rules, regulations, or orders of the board are enforced;

(2) appoint and remove, upon the basis of merit and fitness, all subordinate officers and regular employees of the board except the secretary and the treasurer and their deputies;

(3) present to the board plans, studies, and other reports prepared for board purposes and recommend to the board for adoption such measures as the general manager considers necessary to enforce or carry out the powers and duties of the board, or for the efficient administration of the affairs of the board;

(4) keep the board fully advised as to its financial condition, and prepare and submit to the board, and to the governing bodies of the local government units, the board's annual budget and other financial information the board requests;

(5) recommend to the board for adoption rules recommended as necessary for the efficient operation of a district disposal system and all local sanitary sewer facilities over which the board may assume responsibility as provided in section 17; and

(6) perform other duties as may be prescribed by the board.

Subd. 5. **PUBLIC EMPLOYEES.** The general manager and all persons employed by the general manager and public employees, and have all the rights and duties conferred on public employees under the Minnesota Public Employment Labor Relations Act. The compensation and conditions of employment of the employees is not governed by any rule applicable to state employees in the classified service or by Minnesota Statutes, chapter 15A, except as specifically authorized by law.

Subd. 6. **PROCEDURES.** The board must adopt resolutions or bylaws establishing procedures for board action, personnel administration, record keeping, investment policy, approving claims, authorizing or making disbursements, safekeeping funds, and audit of all financial operations of the board.

Subd. 7. **SURETY BONDS AND INSURANCE.** The board may procure surety bonds for its officers and employees in such amounts as are considered necessary to assure proper performance of their duties and proper accounting for funds in their custody. It may buy insurance against risks to property and liability of the board and its officers, agents, and employees for personal injuries or death and property damage and destruction in the amounts as it considers necessary or desirable, with the force and effect stated in Minnesota Statutes, chapter 466.

Sec. 4. **COMPREHENSIVE PLAN.**

Subdivision 1. **BOARD PLAN AND PROGRAM.** The board shall adopt a comprehensive plan for the collection, treatment, and disposal of sewage in the district for designated periods that the board considers proper and reasonable. The board must prepare and adopt subsequent comprehensive plans for the collection, treatment, and disposal of sewage in the district for each succeeding designated period as the board considers proper and reasonable. The plan must take into account the preservation and best and most economic use of water and other natural resources in the area; the preservation, use, and potential for use of lands adjoining waters of the state to be used for the disposal of sewage; and the impact such a disposal system will have on present

and future land use in the affected area. The plans shall include the following:

(1) the exact legal description of the boundaries of the district;

(2) the general location of needed interceptors and treatment works;

(3) a description of the area that is to be served by the various interceptors and treatment works;

(4) a long-range capital improvements program; and

(5) such other details as the board deems appropriate.

In developing the plans, the board shall consult with persons designated by the governing bodies of any municipal or public corporation or governmental or political subdivision or agency within or without the district to represent such entities and shall consider the data, resources, and input offered to the board by such entities and any planning agency acting on behalf of one or more such entities. Each plan, when adopted, must be followed in the district and may be revised as often as the board considers necessary.

Subd. 2. **REPORT TO DOUGLAS COUNTY.** Upon adoption of any comprehensive plan that establishes or reestablishes the boundaries of the district, the board must supply the appropriate Douglas county offices with the boundaries of the district.

Subd. 3. **COMPREHENSIVE PLANS; HEARING.** Before adopting any later comprehensive plan, the board must hold a public hearing on the proposed plan at the time and place in the district it determines. The hearing may be continued from time to time. Not less than 45 days before the hearing, the board must publish notice of it in a newspaper or newspapers having general circulation in the district stating the date, time, and place of the hearing, and the place where the proposed plan may be examined by any interested person. At the hearing, all interested persons must be permitted to present their views on the plan.

Subd. 4. **MUNICIPAL PLANS AND PROGRAMS; COORDINATION WITH BOARD'S RESPONSIBILITIES.** Before undertaking the construction of new sewers or other disposal facilities or the substantial alteration or improvement of any existing sewers or other disposal facilities, each local government unit may, and must if the construction or alteration of any sewage disposal facilities is contemplated by the government unit, adopt a comprehensive plan and program for the collection, treatment, and disposal of sewage for which the local government unit is responsible, coordinated with the board's comprehensive plan, and may revise the plan as often as deemed necessary. Each local plan or revision must be submitted to the board for review and is subject to the approval of the board as to those features of the plan affecting the board's responsibilities as determined by the board. Any features disapproved by the board must be modified in accordance with the board's recommendations. No construction project involving those features may be undertaken by the local government unit unless its governing body first finds the project to be in accordance with the government unit's comprehensive plan and program as approved by the board. Before approval by the board of the comprehensive plan and program of

any local government unit in the district, no construction project may be undertaken by the government unit unless approval of the project is first gotten from the board as to those features of the project affecting the board's responsibilities as determined by the board.

Sec. 5. **SEWER SERVICE FUNCTION.**

Subdivision 1. **DUTY OF BOARD; ACQUISITION OF EXISTING FACILITIES; NEW FACILITIES.** At any time after the board has become organized, it must assume ownership of all existing interceptors and treatment works that are needed to implement the board's comprehensive plan for the collection, treatment, and disposal of sewage in the district, in the manner and subject to the conditions prescribed in subdivision 2, and must design, acquire, construct, better, equip, operate, and maintain all additional interceptors and treatment works that will be needed for this purpose. The board must assume ownership of all treatment works owned by a local government unit if any part of those treatment works are so needed.

Subd. 2. **METHOD OF ACQUISITION; EXISTING DEBT.** The board may require any local government unit to transfer to the board all of its right, title, and interest in any interceptors or treatment works and all necessary appurtenances to them owned by the local government unit that will be needed for the purpose stated in subdivision 1. Appropriate instruments of conveyance for all the property must be executed and delivered to the board by the proper officers of each local government unit concerned. The board, upon assuming ownership of any of the interceptors or treatment works, is obligated to pay to the local government unit amounts sufficient to pay, when due, all remaining principal of and interest on bonds issued by the local government unit for the acquisition or betterment of the interceptors or treatment works. The board must also assume the same obligation with respect to any other existing disposal system owned by a local government unit that the board determines to have been replaced or rendered useless by the district disposal system. The amounts to be paid under this subdivision may be offset against any amount to be paid to the board by the local government unit as provided in section 8. The board is not obligated to pay the local government unit anything in addition to the assumption of debt provided for in this subdivision.

Subd. 3. **EXISTING JOINT POWERS BOARD.** Effective December 31, 2004, or an earlier date as determined by the board, the corporate existence of the joint powers board created by agreement among local government units under Minnesota Statutes, section 471.59, to provide the financing, acquisition, construction, improvement, extension, operation, and maintenance of facilities for the collection, treatment, and disposal of sewage is terminated. All persons regularly employed by the joint powers board on that date become employees of the board, and may at their option become members of the retirement system applicable to persons employed directly by the board or may continue as members of a public retirement association under any other law, to which they belonged before that date, and retain all pension rights that they may have the other law and all other rights to which they are entitled by contract or law. The board must make the employer's contributions to pension funds of its

employees. The employees must perform duties as may be prescribed by the board. On December 31, 2004, or the earlier date, all funds of the joint powers board and all later collections of taxes, special assessments, or service charges, or any other sums due the joint powers board, or levied or imposed by or for the joint powers board, must be transferred to or made payable to the sanitary sewer board and the county auditor must remit the sums to the board. The local government units otherwise entitled to the cash, taxes, assessments, or service charges must be credited with the amounts, and the credits must be offset against any amounts to be paid by them to the board as provided in section 8. On December 31, 2004, or the earlier chosen date, the board shall succeed to and become vested with all right, title, and interest in and to any property, real or personal, owned or operated by the joint powers board. Before that date, the proper officers of the joint powers board must execute and deliver to the sanitary sewer board all deeds, conveyances, bills of sale, and other documents or instruments required to vest in the board good and marketable title to all the real or personal property, but this article operates as the transfer and conveyance to the board of the real or personal property, if not transferred, as may be required under the law or under the circumstances. On December 31, 2004, or the earlier chosen date, the board is obligated to pay or assume all outstanding bonds or other debt and all contracts or obligations incurred by the joint powers board, and all bonds, obligations, or debts of the joint powers board outstanding on the date this article is effective, are validated.

Subd. 4. **CONTRACTS BETWEEN LOCAL GOVERNMENT UNITS.** The board may terminate, upon 60 days' mailed notice to the contracting parties, any existing contract between or among local government units requiring payments by a local government unit to any other local government unit for the use of a disposal system, or as reimbursement of capital costs of a disposal system, all or part of which are needed to implement the board's comprehensive plan. All contracts between or among local government units for use of a disposal system entered into after the date on which this article becomes effective must be submitted to the board for approval as to those features affecting the board's responsibilities as determined by the board and are not effective until the approval is given.

Sec. 6. **SEWAGE COLLECTION AND DISPOSAL; POWERS.**

Subdivision 1. **POWERS.** In addition to all other powers conferred upon the board in this article, the board has the powers specified in this section.

Subd. 2. **DISCHARGE OF TREATED SEWAGE.** The board may discharge the effluent from any treatment works operated by it into any waters of the state, subject to approval of the agency if required and in accordance with any effluent or water quality standards lawfully adopted by the agency, any interstate agency, or any federal agency having jurisdiction.

Subd. 3. **USE OF DISTRICT SYSTEM.** The board may require any person or local government unit to provide for the discharge of any sewage, directly or indirectly, into the district disposal system, or to connect any disposal system or a part of it with the district disposal system wherever reasonable opportunity is provided; may regulate the manner in which the connections are made; may require any person or local

government unit discharging sewage into the disposal system to provide preliminary treatment for it; may prohibit the discharge into the district disposal system of any substance it determines will or may be harmful to the system or any persons operating it; may prohibit any extraneous flow into the system; and may require any local government unit to discontinue the acquisition, betterment, or operation of any facility for the unit's disposal system wherever and so far as adequate service is or will be provided by the district disposal system.

Sec. 7. **BUDGET.**

Except as otherwise specifically provided in this article, the board is subject to Minnesota Statutes, section 275.065. The board shall prepare and adopt, on or before September 15 of each year, a budget showing for the following calendar year or other fiscal year determined by the board, sometimes referred to in this article as the budget year, estimated receipts of money from all sources, including but not limited to, payments by each local government unit, federal or state grants, taxes on property, and funds on hand at the beginning of the year, and estimated expenditures for:

(1) costs of operation, administration, and maintenance of the district disposal system;

(2) cost acquisition and betterment of the district disposal system; and

(3) debt service, including principal and interest, on general obligation bonds and certificates issued under section 12, obligations and debts assumed under section 5, subdivisions 2 and 3, and any money judgments entered by a court of competent jurisdiction. Expenditures within these general categories, and others that the board may from time to time determine, must be itemized in the detail the board prescribes. The board and its officers, agents, and employees must not spend money for any purpose other than debt service without having set forth the expense in the budget, nor may they spend in excess of the amount in the budget, and an excess expenditure or one for an unauthorized purpose is enforceable except as the obligation of the person incurring it; but the board may amend the budget at any time by transferring from one budgetary purpose to another any sums, except money for debt service and bond proceeds, or by increasing expenditures in any amount by which cash receipts during the budget year actually exceed the total amounts designated in the original budget. The creation of any obligation pursuant to section 12 or the receipts of any federal or state grant is a sufficient budget designation of the proceeds for the purpose for which it is authorized, and of the tax or other revenue pledged to pay the obligation and interest on it, whether or not specifically included in any annual budget.

Sec. 8. **ALLOCATION OF COSTS.**

Subdivision 1. **DEFINITION OF CURRENT COSTS.** The estimated cost of administration, operation, maintenance, and debt service of the district disposal system to be paid by the board in each fiscal year and the estimated costs of acquisition and betterment of the system that are to be paid during the year from funds other than state or federal grants and bond proceeds and all other previously unallocated payments made by the board under this article in the fiscal year are referred to as current costs.

Subd. 2. **COLLECTION OF CURRENT COSTS.** Current costs shall be collected as described in paragraphs (a) and (b).

(a) Current costs may be allocated to local government units in the district on an equitable basis as the board may from time to time determine by resolution to be fair and reasonable and in the best interests of the district. In making the allocation, the board may provide for the deferment of payment of all or part of current costs, the reallocation of deferred costs, and the reimbursement of reallocated deferred costs on an equitable basis as the board may from time to time determine by resolution to be fair and reasonable and in the best interests of the district. The adoption or revision of a method of allocation, deferment, reallocation, or reimbursement used by the board shall be made by the affirmative vote of at least two-thirds of the members of the board.

(b) Upon approval of at least two-thirds of the members of the board, the board may provide for direct collection of current costs by monthly or other periodic billing of sewer users.

Sec. 9. **GOVERNMENT UNITS; PAYMENTS TO BOARD.**

Subdivision 1. **OBLIGATIONS OF GOVERNMENT UNITS TO THE BOARD.** Each government unit must pay to the board all sums charged to it as provided in section 8, at the times and in the manner determined by the board. The governing body of each government unit must take all action necessary to provide the funds required for the payments and to make the payments when due.

Subd. 2. **AMOUNTS DUE BOARD; WHEN PAYABLE.** Charges payable to the board by local government units may be made payable at the times during each year as the board determines, after it has taken into account the dates on which taxes, assessments, revenue collections, and other funds become available to the government unit required to pay such charges.

Subd. 3. **GENERAL POWERS OF GOVERNMENT UNITS; LOCAL TAX LEVIES.** To accomplish any duty imposed on it by the board, the governing body of every government unit may, in addition to the powers granted in this article and in any other law or charter, exercise the powers granted any municipality by Minnesota Statutes, chapters 117, 412, 429, and 475, and sections 115.46, 444.075, and 471.59, with respect to the area of the government unit located in the district. In addition, the governing body of every government unit located in whole or in part within the district may levy taxes upon all taxable property in that part of the government unit located in this district for all or a part of the amount payable to the board. If the levy is for only part of the amount payable to the board, the governing body of the government unit may levy additional taxes on the entire net tax capacity of all taxable property of the government unit for all or a part of the balance remaining payable. The taxes levied under this subdivision must be assessed and extended as a tax upon the taxable property by the county auditor for the next calendar year, free from any limit of rate or amount imposed by law or charter. The tax must be collected and remitted in the same manner as other general taxes of the government unit.

Subd. 4. **ALTERNATE LEVY.** Instead of levying taxes on all taxable property under subdivision 3, the governing body of the government unit may elect to levy taxes upon the net tax capacity of all taxable property, except agricultural property, and upon only 25 percent of the net tax capacity of all agricultural property, in that part of the government unit located in the district for all or a part of the amount payable to the board. If the levy is for only part of the amount payable to the board, the governing body may levy additional taxes on the entire net tax capacity of all the property, including agricultural property, for all or a part of the balance. The taxes must be assessed and extended as a tax upon the taxable property by the county auditor for the next calendar year, free from any limit of rate or amount imposed by law or charter, and must be collected and remitted in the same manner as other general taxes of the government unit. In computing the tax capacity under this subdivision, the county auditor must include only 25 percent of the net tax capacity of all taxable agricultural property and 100 percent of the net tax capacity of all other taxable property in that part of the government unit located within the district and, in spreading the levy, the auditor must apply the tax rate upon the same percentages of agricultural and nonagricultural taxable property. If the government unit elects to levy taxes under this subdivision and any of the taxable agricultural property is reclassified so as to no longer qualify as agricultural property, it is subject to additional taxes. The additional taxes must be in an amount which, together with any additional taxes previously levied and the estimated collection of additional taxes subsequently levied on any other reclassified property, is determined by the governing body of the government unit to be at least sufficient to reimburse each other government unit for any excess current costs reallocated to it as a result of the board deferring any current cost under section 8 on account of the difference between the amount of the current costs initially allocated to each government unit based on the total net tax capacity of all taxable property in the district and the amount of the current costs reallocated to each government unit based on 25 percent of the net tax capacity of agricultural property and 100 percent of the net tax capacity of all other taxable property in the district. Any reimbursement must be made on terms which the board determines to be just and reasonable. These additional taxes may be levied in any greater amount as the governing body of the government unit determines to be appropriate, but the total amount of the additional taxes must not exceed the difference between:

(1) the total amount of taxes that would have been levied upon the reclassified property to help pay current costs charged in each year to the government unit by the board if that part of the costs, if any, initially allocated by the board solely on the basis of 100 percent of the net tax capacity of all taxable property in the district and then reallocated on the basis of inclusion of only 25 percent of the net tax capacity of agricultural property in the district was not reallocated and if the amount of taxes levied by the government unit each year under this subdivision to pay current costs had been based on the initial allocation and had been imposed upon 100 percent of the net tax capacity of all taxable property, including agricultural property, in that part of the government unit located in the district; and

(2) the amount of taxes levied each year under this subdivision upon reclassified property, plus interest on the cumulative amount of the difference accruing each year at the approximate average annual rate borne by bonds issued by the board and outstanding at the beginning of the year or, if no bonds are then outstanding, at a rate of interest which may be determined by the board, but not exceeding the maximum rate of interest that may then be paid on bonds issued by the board. The additional taxes are a lien upon the reclassified property assessed in the same manner and for the same duration as all other ad valorem taxes levied upon the property. The additional taxes must be extended against the reclassified property on the tax list for the current year and must be collected and remitted in the same manner as other general taxes of the government unit. No penalties or additional interest may be levied on the additional taxes if timely paid.

Subd. 5. **DEBT LIMIT.** Any ad valorem taxes levied under subdivision 3, by the governing body of a government unit to pay any sums charged to it by the board pursuant to this article are not subject to, or counted toward, any limit imposed by law on the levy of taxes upon taxable property within any governmental unit.

Subd. 6. **DEFICIENCY TAX LEVIES.** If the local government unit fails to make a payment to the board when due, the board may certify to the Douglas county auditor the amount required for payment, with interest at not more than the maximum rate per year authorized at that time on assessments under Minnesota Statutes, section 429.061, subdivision 2. The auditor must levy and extend the amount as a tax upon all taxable property in that part of the government unit located in the district, for the next calendar year, free from any limits imposed by law or charter. The tax must be collected in the same manner as other general taxes of the government unit, and the proceeds, when collected, shall be paid by the county treasurer to the treasurer of the board and credited to the government unit for which the tax was levied.

Sec. 10. **PUBLIC HEARING AND SPECIAL ASSESSMENTS.**

Subdivision 1. **PUBLIC HEARING REQUIREMENT ON SPECIFIC PROJECT.** Before the board orders any project involving the acquisition or betterment of any interceptor or treatment works, all or a part of the cost of which will be allocated to local government units under section 8 as current costs, the board must hold a public hearing on the proposed project following two publications in a newspaper or newspapers having general circulation in the district, stating the time and place of the hearing, the general nature and location of the project, the estimated total cost of acquisition and betterment, that portion of costs estimated to be paid out of federal and state grants, and that portion of costs estimated to be allocated to each local government unit affected. The two publications must be a week apart and the hearing must be at least three days after the last publication. Not less than 45 days before the hearing, notice must also be mailed to each clerk of all local government units in the district, but failure to give mailed notice of any defects in the notice does not invalidate the proceedings. The project may include all or part of one or more interceptors or treatment works. A hearing is not required with respect to a project, no part of the costs

of which are to be allocated to local government units as the current cost of acquisition, betterment, and debt service.

Subd. 2. **NOTICE TO BENEFITED PROPERTY OWNERS.** If the governing body of a local government unit in the district proposes to assess against benefited property within units, all or any part of the allocable costs of the project as provided in subdivision 5, the governing body must, not less than ten days before the hearing provided for in subdivision 1 mail a notice of the hearing to the owner of each parcel within the area proposed to be specially assessed and must also give one week's published notice of the hearing. The notice of hearing must contain the same information provided in the notice published by the board under subdivision 1, and in addition, a description of the area proposed to be assessed by the local government unit. To give mailed notice, owners must be those shown to be on the records of the county auditor or, in a county where tax statements are mailed by the county treasurer, on the records of the county treasurer; but other appropriate records may be used for this purpose. However, for properties that are tax exempt or subject to taxation on a gross earnings basis and are not listed on the records of the county auditor or the county treasurer, the owners may be ascertained by any practicable means and mailed notice must be given to them. Failure to give mailed notice or any defects in the notice does not invalidate the proceedings of the board or the local governing body.

Subd. 3. **BOARD PROCEEDINGS PERTAINING TO HEARING.** Before adoption of the resolution calling for the hearing, the board shall get from the district engineer, or other competent person of the board's selection, a preliminary report advising whether the proposed project is feasible, necessary, and cost-effective, and whether it should best be made as proposed or in connection with another project, and the estimated costs of the project as recommended. No error or omission in the report invalidates the proceeding. The board may also take steps before the hearing that will, in its judgment, provide helpful information in determining the desirability and feasibility of the project including, but not limited to, preparation of plans and specifications and advertisement for bids. The hearing may be adjourned from time to time and a resolution ordering the project may be adopted at any time within six months after the date of hearing. In ordering the project, the board may reduce but not increase the extent of the project as stated in the notice of hearing, unless another hearing is held, and must find that the project as ordered is in accordance with the comprehensive plan and program adopted by the board under section 4.

Subd. 4. **EMERGENCY ACTION.** If the board by resolution adopted by the affirmative vote of not less than two-thirds of its members determines that an emergency exists requiring the immediate purchase of materials or supplies or the making of emergency repairs, it may order the purchase of the supplies and materials and the making of the repairs before any hearing required under this section. But the board must set as early a date as practicable for that hearing at the time it declares the emergency. All other provisions of this section must be followed in giving notice of and conducting a hearing. This subdivision does not prevent the board or its agents from purchasing maintenance supplies or incurring maintenance costs without regard to the requirements of this section.

Subd. 5. **POWER OF GOVERNMENT UNIT TO SPECIALLY ASSESS.** A local government unit may specially assess all or part of the costs of acquisition and betterment of any project ordered by the board under this section. A special assessment must be levied in accordance with Minnesota Statutes, sections 429.051 to 429.081, except as otherwise provided in this subdivision. No other provisions of Minnesota Statutes, chapter 429, apply. For purposes of levying special assessments, the hearing on the project required in subdivision 1 must serve as the hearing on the making of the original improvement provided for by Minnesota Statutes, section 429.051. The area assessed may be less than but must not exceed the area proposed to be assessed as stated in the notice of hearing on the project provided for in subdivision 2. To determine the allocable cost of the project to the local government units, the government unit may adopt one of the procedures in paragraph (a) or (b).

(a) At any time after a contract is let for the project, the local government unit may get from the board a current written estimate, on the basis of historical and reasonably projected data, of that part of the total cost of acquisition and betterment of the project or of some part of the project that will be allocated to the local government unit and the number of years over which such costs will be allocated as current costs of acquisition, betterment, and debt service under section 8. The board is not bound by this estimate for allocating the costs of the project to local government units.

(b) The governing body may get from the board a written statement showing, for the prior period that the governing body designates, that part of the costs previously allocated to the local government unit as current costs of acquisition, betterment, and debt service only, of all or any part of the project designated by the governing body. In addition to the allocable costs, the local government unit may include in the total expense, as a basis for levying assessments, all other expenses incurred directly by the local government unit in connection with the project. Special assessments levied by the government unit with respect to previously allocated costs ascertained under this paragraph are payable in equal annual installments extending over a period not exceeding by more than one year the number of years that the costs have been allocated to the local government unit or the estimated useful life of the project, or part of the project, whichever number of years is the lesser. No limit is placed on the number of times the governing body of a local government unit may assess the previously allocated costs not previously assessed by the government unit. The power to specially assess provided for in this section is in addition and supplemental to all other powers of local government units to levy special assessments.

Sec. 11. **INITIAL COSTS.**

Subdivision 1. **CONTRIBUTIONS OR ADVANCES FROM LOCAL GOVERNMENT UNITS.** The board may, at the time it considers necessary and proper, request from a local government unit necessary money to defray the costs of any obligations assumed under section 5 and the costs of administration, operation, and maintenance. Before making a request, the board must, by formal resolution, determine the necessity for the money, setting forth the purposes for which the money is needed and the estimated amount for each purpose. Upon receiving a request, the governing

body of each local government unit may provide for payment of the amount requested as it considers fair and reasonable. The money may be paid out of general revenue funds or any other available funds of any local government unit and its governing body thereof may levy taxes to provide funds, free from any existing limit imposed by law or charter. Money may be provided by government units with or without interest, but if interest is charged it must not exceed five percent per year. The board must credit the local government unit for the payments in allocating current costs under section 8, on the terms and at the times as are agreed to with the local government unit.

Subd. 2. **LIMITED TAX LEVY.** The board may levy ad valorem taxes on all taxable property in the district to defray any of the costs described in subdivision 1, provided the costs have not been defrayed by contribution under subdivision 1. Before certifying a levy to the county auditor, the board must determine the need for the money to be derived from the levy by formal resolution setting forth the purposes for which the tax money will be used and the amount proposed to be used for each purpose. In allocating current costs under section 8, the board must credit the government units for taxes collected under the levy made under this subdivision on the terms and at the time the board considers fair and reasonable and on terms consistent with section 8, subdivision 2.

Sec. 12. **BONDS CERTIFICATES AND OTHER OBLIGATIONS.**

Subdivision 1. **BUDGET ANTICIPATION CERTIFICATES OF INDEBTEDNESS.** (a) Before adopting its annual budget and in anticipation of the collection of tax and other revenues estimated and set forth by the board in the budget, the board may by resolution, authorize the issuance, negotiation, and sale in accordance with subdivision 5 in such form and manner and upon such terms as it may determine of its negotiable general obligation certificates of indebtedness in aggregate principal amounts not exceeding 50 percent of the total amount of such tax collections and other revenues and maturing not later than three months after the close of the budget year in which issued. Revenues listed in clauses (1) to (3) must not be anticipated for this purpose:

(1) taxes already anticipated by the issuance of certificates under subdivision 2;

(2) deficiency taxes levied pursuant to this subdivision; and

(3) taxes levied for the payment of certificates issued pursuant to subdivision 3.

(b) The proceeds of the sale of the certificates must be used only for the purposes for which tax collections and other revenues are to be expended under the budget.

(c) All tax collections and other revenues included in the budget for the budget year, after the expenditures of tax collections and other revenues in accordance with the budget, must be irrevocably pledged and appropriated to a special fund to pay the principal and interest on the certificates when due.

(d) If for any reason the tax collections and other revenues are insufficient to pay the certificates and interest when due, the board must levy a tax in the amount of the

deficiency on all taxable property in the district and must appropriate this amount when received to the special fund.

Subd. 2. **TAX LEVY ANTICIPATION CERTIFICATES OF INDEBTEDNESS.** After a tax is levied by the board under section 11, subdivision 2, and certified to the county auditors in anticipation of the collection of the tax, if the tax has not been anticipated by the issuance of certificates under subdivision 1, the board may, by resolution, authorize the issuance, negotiation, and sale in accordance with subdivision 5 in the form and manner and on the terms and conditions as it determines its negotiable general obligation tax levy anticipation certificates of indebtedness in aggregate principal amounts not exceeding 50 percent of the uncollected tax for which no penalty for nonpayment or delinquency has been attached. The certificates must mature not later than April 1 in the year after the year in which the tax is collectible. The proceeds of the tax in anticipation of which the certificates were issued and other funds that may become available must be applied to the extent necessary to repay the certificates.

Subd. 3. **EMERGENCY CERTIFICATES OF INDEBTEDNESS.** If in any budget year the receipts of tax and other revenues for some unforeseen cause become insufficient to pay the board's current expenses, or if any calamity or other public emergency subjects it to the necessity of making extraordinary expenditures, the board may by resolution authorize the issuance, negotiation, and sale in accordance with subdivision 5 in the form and manner and on the terms and conditions as it may determine of its negotiable general obligation certificates of indebtedness in an amount sufficient to meet the deficiency, and the board must levy on all taxable property in the district a tax sufficient to pay the certificates and interest and shall appropriate all collections of the tax to a special fund created for the payment of the certificates and interest.

Subd. 4. **GENERAL OBLIGATION BONDS.** The board may by resolution authorize the issuance of general obligation bonds maturing serially in one or more annual or semiannual installments for the acquisition or betterment of any part of the district disposal system, including but not limited to, the payment of interest during construction and for a reasonable period thereafter, or for the refunding of outstanding bonds, certificates of indebtedness, or judgments. The board must pledge its full faith and credit and taxing power for the payment of the bonds and shall provide for the issuance and sale and for the security of the bonds in the manner provided in Minnesota Statutes, chapter 475, and must have the same powers and duties as a municipality issuing bonds under that law. An election is not required to authorize the issuance of bonds and the debt limit of Minnesota Statutes, chapter 475, do not apply to the bonds. The board may also pledge for the payment of the bonds and deduct from the amount of any tax levy required under Minnesota Statutes, section 475.61, subdivision 1, any sums receivable under section 9 or any state and federal grants anticipated by the board and may covenant to refund the bonds if and when and to the extent that for any reason the revenues, together with other funds properly available and appropriated for the purpose, are not sufficient to pay all principal and interest due or about to become due; if the revenues have not been anticipated by the issuance of certificates under

subdivision 1. All bonds that have been or shall hereafter be issued and sold in conformity with the provisions of this subdivision, and otherwise in conformity with law, are hereby authorized, legalized, and validated.

Subd. 5. **MANNER OF SALE AND ISSUANCE OF CERTIFICATES.** Certificates issued under subdivisions 1, 2, and 3 may be issued and sold by negotiation, without public sale, and may be sold at a price equal to the percentage of their par value, plus accrued interest, and bearing interest at the rate or rates as may be determined by the board. No election is required to authorize the issuance of certificates. Certificates must bear the same rate of interest after maturity as before and the full faith and credit and taxing power of the board must be pledged to the payment of the certificates.

Sec. 13. **TAX LEVIES.**

The board may levy taxes to pay the bonds or other obligations assumed by the district under section 5 and for debt service of the district disposal system authorized in section 12 upon all taxable property within the district without limit of rate or amount and without affecting the amount or rate of taxes that may be levied by the board for other purposes or by any local government unit in the district. No other provision of law relating to debt limit shall restrict or in any way limit the power of the board to issue the bonds and certificates authorized in section 12. The board may also levy taxes as provided in sections 9 and 11. The county auditor must annually assess and extend upon the tax rolls the part of the taxes levied by the board in each year that is certified to the auditor by the board. The county treasurer must collect and make settlement of the taxes with the treasurer of the board.

Sec. 14. **DEPOSITORIES.**

The board must from time to time designate one or more national or state banks or trust companies authorized to do a banking business as official depositories for money of the board, and must require the treasurer to deposit all or a part of the money in those institutions. The designation must be in writing and must set forth all the terms and conditions on which the deposits are made, and must be signed by the chair and treasurer, and made a part of the minutes of the board. A designated bank or trust company must qualify as a depository by furnishing a corporate surety bond or collateral in the amount required by Minnesota Statutes, section 118A.03. But, no bond or collateral is required to secure any deposit insofar as it is insured under federal law.

Sec. 15. **MONEY; ACCOUNTS AND INVESTMENTS.**

Subdivision 1. **RECEIPT AND APPLICATION.** All money received by the board must be deposited or invested by the treasurer and disposed of as the board directs in accordance with its budget. But any money that has been pledged or dedicated by the board to the payment of obligations or interest on them or expenses incident to them, or for any other specific purpose authorized by law, must be paid by the treasurer into the fund to which they have been pledged.

Subd. 2. **FUNDS AND ACCOUNTS.** The board's treasurer must establish funds and accounts as necessary or convenient to handle the receipts and disbursements of the board in an orderly fashion.

Subd. 3. **DEPOSIT AND INVESTMENT.** The money on hand in the board's funds and accounts may be deposited in the official depositories of the board or invested as provided in this subdivision. The amount not currently needed or required by law to be kept in cash on deposit may be invested in obligations authorized by law for the investment of municipal sinking funds. The money may also be held under certificates of deposit issued by any official depository of the board. All investments by the board must conform to an investment policy adopted by the board as amended from time to time.

Subd. 4. **BOND PROCEEDS.** The use of proceeds of all bonds issued by the board for the acquisition and betterment of the district disposal system, and the use, other than investment, of all money on hand in any sinking fund or funds of the board must be governed by Minnesota Statutes, chapter 475, this article, and the resolutions authorizing the issuance of the bonds. The bond proceeds, when received, must be transferred to the treasurer of the board for safekeeping, investment, and payment of the costs for which they were issued.

Subd. 5. **AUDIT.** The board must provide for and pay the cost of an independent annual audit of its official books and records by the state auditor or a certified public accountant.

Sec. 16. **GENERAL POWERS OF BOARD.**

Subdivision 1. **ALL NECESSARY OR CONVENIENT POWERS.** The board has powers necessary or convenient to discharge the duties imposed upon it by law. The powers include those specified in this article, but the express grant or enumeration of powers does not limit the generality or scope of the grant of power in this subdivision.

Subd. 2. **LAWSUITS.** The board may sue or be sued.

Subd. 3. **CONTRACTS.** The board may enter into any contract necessary or proper for the exercise of its powers or the accomplishment of its purposes.

Subd. 4. **RULES.** The board may adopt rules relating to the board's responsibilities and may provide penalties not exceeding the maximum penalty specified for a misdemeanor, and the cost of prosecution may be added to the penalties imposed. Any rule prescribing a penalty for violation must be published at least once in a newspaper having general circulation in the district. A violation may be prosecuted before any court in the district having jurisdiction of misdemeanor, and every court has jurisdiction of violations. A peace officer of any municipality in the district may make arrests for violations committed anywhere in the district in the manner and with the effect as for violations of municipal ordinances or for statutory misdemeanors. All fines collected must be deposited in the treasury of the board, or may be allocated between the board and the municipality in which the prosecution occurs on terms agreed to by the board and the municipality.

Subd. 5. **GIFTS; GRANTS.** The board may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, or any person for any of its purposes, may enter into any agreement required to get the gift, grant, loan, or other property; and may hold, use, and dispose of money or property in accordance with the terms of the gift, grant, loan or agreement. With respect to any loans or grants of funds or real or personal property or other assistance from any state or federal government or any agency or instrumentality of the government, the board may contract to do and perform all acts and things required as a condition or consideration under state or federal law or rule or regulation, whether or not included among the powers expressly granted to the board in this article.

Subd. 6. **JOINT POWERS.** The board may act under Minnesota Statutes, section 471.59, or any other appropriate law providing for joint or cooperative action between government units.

Subd. 7. **RESEARCH; HEARINGS; INVESTIGATIONS; ADVISE.** The board may conduct research studies and programs, collect and analyze data, prepare reports, maps, charts, and tables, and conduct all necessary hearings and investigations in connection with the design, construction, and operation of the district disposal system, and may advise and assist other government units on system planning matters within the scope of its powers, duties, and objectives, and may provide at the request of any governmental unit other technical and administrative assistance as the board considers appropriate for the government unit to carry out the powers and duties vested in the government unit under this article or imposed on or by the board.

Subd. 8. **EMPLOYEES; CONTRACTORS; INSURANCE.** The board may employ on the terms it considers advisable, persons or firms performing engineering, legal, or other services of a professional nature; require any employee to get and file with it an individual bond or fidelity insurance policy; and procure insurance in the amounts it considers necessary against liability of the board or its officers or both, for personal injury or death and property damage or destruction, with the force and effect stated in Minnesota Statutes, chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property as it considers necessary.

Subd. 9. **PROPERTY.** The board may acquire by purchase, lease, condemnation, gift, or grant, real or personal property including positive and negative easements and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain, and operate any interceptor, treatment works, or water facility determined to be necessary or convenient for the collection and disposal of sewage in the district. Any local government unit and the commissioners of transportation and natural resources may convey to or permit the use of these facilities owned or controlled by the board, subject to the rights of the holders of any bonds issued with respect to them with or without compensation and without an election or approval by any other government unit or agency. All powers conferred by this subdivision may be exercised both within or outside the district as may be necessary for the exercise by the board of its powers or the accomplishment of its purposes. The board may hold, lease, convey, or otherwise dispose of such property for its purposes, upon the terms and in the manner it deems

advisable. Unless otherwise provided, the right to acquire lands and property rights by condemnation must be exercised in accordance with Minnesota Statutes, chapter 117, and must apply to any property or interest in property owned by any local government unit. Property devoted to an actual public use at the time, or held to be devoted to such use within a reasonable time, must not be so acquired unless a court of competent jurisdiction determines that the use proposed by the board is paramount. In case of property in actual public use, the board may take possession of any property of which condemnation proceedings have begun at any time after the issuance of a court order appointing commissioners for its condemnation.

Subd. 10. **RIGHTS-OF-WAY.** The board may construct or maintain its systems or facilities in, along, on, under, over, or through public waters, streets, bridges, viaducts, and other public right-of-way without first getting a franchise from any county or local government unit having jurisdiction over them. The facilities must be constructed and maintained in accordance with the ordinances and resolutions of the county or government unit relating to construction, installation, and maintenance of similar facilities on public properties and must not unnecessarily obstruct the public use of the rights-of-way.

Subd. 11. **DISPOSAL OF PROPERTY.** The board may sell, lease, or otherwise dispose of any real or personal property acquired by it that is no longer required to accomplish its purposes. The property may be sold in the manner provided by Minnesota Statutes, section 469.065, insofar as practical. The board may give notice of sale it considers appropriate. When the board determines that any property or any part of the district disposal system that has been acquired from a local government unit without compensation is no longer required, but is required as a local facility by the government unit from which is was acquired, the board may by resolution transfer it to the government unit.

Subd. 12. **JOINT OPERATIONS.** The board may contract with the United States or an agency of it, any state or agency of it, or any regional public planning body in the state with jurisdiction over any part of the district, or any other municipal or public corporation, or governmental subdivision in any state, for the joint use of any facility owned by the board or the entity, for the operation by the entity of any system or facility of the board, or for the performance on the board's behalf of any service including, but not limited to, planning, on the terms that may be agreed to by the contracting parties. Unless designated by the board as a local sanitary sewer facility, any treatment works or interceptor jointly used, or operated on behalf of the board, as provided in this subdivision, must be considered to be operated by the board to include the facilities in the district disposal system.

Sec. 17. **LOCAL FACILITIES.**

Subdivision 1. **SANITARY SEWER FACILITIES.** Except as otherwise provided in this article, local government units must retain responsibility for the planning, design, acquisition, betterment, operation, administration, and maintenance of all local sanitary sewer facilities as provided by law.

Subd. 2. **ASSUMPTION OF RESPONSIBILITY OVER LOCAL SANITARY SEWER FACILITIES.** The board must upon request of any government unit assume, either alone or jointly with the local government unit, all or any part of the responsibility of the local government unit described in subdivision 1. Except as provided in subdivision 4 and to exercise the responsibility, the board has all the powers and duties elsewhere conferred in this article with the same force and effect as if the local sanitary sewer facilities were a part of the district disposal system.

Subd. 3. **WATER AND STREET FACILITIES.** The board may, on request of any governmental unit, enter into an agreement under which the board may assume, either alone or jointly with such unit, the responsibility to get and construct water and street facilities in conjunction with any project for the acquisition or betterment of the district disposal system or any project undertaken by the board under subdivision 2. Except as provided in subdivision 4, and to exercise any responsibilities under this subdivision, the board has all the powers and duties elsewhere conferred in this article with the same force and effect as if the water or street facilities were a part of the district disposal system.

Subd. 4. **ALLOCATION OF CURRENT COSTS.** All current costs attributable to responsibilities assumed by the board over local sanitary sewer facilities and water and street facilities as provided in this section must be allocated solely to the local unit for or with whom the responsibilities are assumed on the terms and over a period as the board determines to be equitable and in the best interest of the district. If two or more government units form a region in accordance with this section all or part of the current costs attributable to the region must, at the request of its joint board, be allocated to the region and provided in the agreement establishing the region.

Subd. 5. **PART OF DISTRICT SYSTEM.** This section or any other part of this article does not prevent the board from including, where appropriate, treatment works or interceptors, previously designated or treated as local sanitary sewer facilities, as a part of the district disposal system.

Sec. 18. **SERVICE CONTRACTS WITH GOVERNMENTS OUTSIDE DISTRICT.**

The board may contract with the United States or any agency of it, any state or any agency of it, or any municipal or public corporation, governmental subdivision or agency, or political subdivision in any state, outside the jurisdiction of the board, for furnishing to the entities any services which the board may furnish to local government units in the district under this article including, but not limited to, planning for and the acquisition, betterment, operation, administration, and maintenance of any or all interceptors, treatment works, and local sanitary sewer facilities; if the board may further include as one of the terms of the contract that the entity also pay to the board an amount as may be agreed upon as a reasonable estimate of the proportionate share properly allocable to the entity of costs of acquisition, betterment, and debt service previously allocated to local government units in the district. When the payments are made by the entities to the board, they must be applied in reduction of the total amount of costs allocated after that to each local government unit in the district, on the

equitable basis the board considers to be in the best interest of the district. Any municipality in the state may enter into the contract and perform all acts and things required as a condition or consideration for it consistent with the purpose of this article, whether or not included among the powers otherwise granted to the municipality by law or charter.

Sec. 19. **CONSTRUCTION, MATERIALS, SUPPLIES, EQUIPMENT; CONTRACTS.**

Subdivision 1. **PLANS AND SPECIFICATIONS.** When the board orders a project involving the acquisition or betterment of a part of the district disposal system, it must cause plans and specifications of this project to be made, or if previously made, to be modified, if necessary, and to be approved by the agency if required, and after any required approval by the agency, one or more contracts for work and materials called for by the plans and specification may be awarded as provided in this section.

Subd. 2. **UNIFORM MUNICIPAL CONTRACTING LAW.** All contracts for work to be done or for purchases of materials, supplies, or equipment must be done in accordance with Minnesota Statutes, section 471.345.

Sec. 20. **ANNEXATION, WITHDRAWAL OF TERRITORY.**

Subdivision 1. **ANNEXATION.** Any municipality in Douglas county, upon resolution adopted by a four-fifths vote of its governing body, may petition the board for annexation to the district of the area then comprising the municipality or any part of it and, if accepted by the board, the area must be considered annexed to the district and subject to the jurisdiction of the board under the terms and provisions of this article. The territory so annexed is subject to taxation and assessment under this article and is subject to taxation by the board like other property in the district for the payment of principal and interest thereafter becoming due on general obligations of the board, whether authorized or issued before or after the annexation. The board may condition approval of the annexation upon the contribution, by or on behalf of the municipality petitioning for annexation, to the board of an amount as may be agreed upon as being a reasonable estimate of the proportionate share, properly allocable to the municipality, of cost or acquisition, betterment, and debt service previously allocated to local government units in the district, on the terms as may be agreed upon and in place of or in addition to further conditions as the board deems in the best interests of the district. Notwithstanding any other provisions of this article to the contrary, the conditions established for annexation may include the requirement that the annexed municipality pay for, contract for, and oversee the construction of local sanitary sewer facilities and interceptor sewers. To pay the contribution or satisfy any other condition established by the board, the municipality petitioning annexation may exercise the powers conferred in section 9. When the contributions are made by the municipality to the board, they must be applied to reduce the total amount of costs thereafter allocated to each local government unit in the district, on the equitable basis as the board considers to be in the best interests of the district, applying so far as practicable and appropriate the criteria set forth in section 8, subdivision 2. On annexation of the territory, the secretary of the board must certify to the auditor and treasurer of the

county in which the municipality is located the fact of the annexation and a legal description of the territory annexed.

Subd. 2. **WITHDRAWALS.** A municipality may withdraw from the district by resolution of its governing body. The municipality must notify the board of the district of the withdrawal by providing a copy of the resolution at least two years in advance of the proposed withdrawal. Unless the district and the withdrawing member agree otherwise by action of their governing bodies, the taxable property of the withdrawing member is subject to its required property tax levies under this article for two taxes payable years following the notification of the withdrawal and the withdrawing member retains any rights, obligations, and liabilities obtained or incurred during its participation.

Sec. 21. **PROPERTY EXEMPT FROM TAXATION.**

Any properties, real or personal, owned, leased, controlled, used, or occupied by the sanitary sewer board for any purpose under this article are declared to be acquired, owned, leased, controlled, used, and occupied for public, governmental, and municipal purposes, and are exempt from taxation by the state or any political subdivision of the state; but the properties are subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of any of the properties in any manner different from their use as part of the disposal system at the time may be considered in determining the special benefit received by the properties. All of the assessments are subject to final approval by the board, whose determination of the benefits is conclusive upon the political subdivision levying the assessment.

Sec. 22. **RELATION TO EXISTING LAWS.**

This article prevails over any law or charter inconsistent with it. The powers conferred on the board under this article do not diminish or supersede the powers conferred on the agency by Minnesota Statutes, chapters 115 and 116.

Sec. 23. **APPLICATION; EFFECTIVE DATE; LOCAL APPROVAL; OPT IN OR OUT.**

Subdivision 1. **APPLICATION.** This article applies to the townships of Brandon, Carlos, LaGrand, Leaf Valley, Miltona, and Moe, all in Douglas county.

Subd. 2. **EFFECTIVE DATE; LOCAL APPROVAL.** This article is effective the day after a fourth township of the six listed in subdivision 1 has timely completed compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3. For any other township listed in subdivision 1, the article is effective the day after timely completing compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3. A township listed in subdivision 1 that fails to timely complete compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3, may petition for annexation to the district at a later time, as provided in this article.

ARTICLE 10

TAX INCREMENT FINANCING

Section 1. Minnesota Statutes 2002, section 469.174, subdivision 3, is amended to read:

Subd. 3. **BONDS.** (a) "Bonds" means any bonds~~, including refunding bonds, notes, interim certificates, debentures, interfund loans or advances,~~ or other obligations issued:

(1) by an authority under section 469.178; or ~~which were issued~~

(2) in aid of a project under any other law, except revenue bonds issued pursuant to sections 469.152 to 469.165, prior to August 1, 1979.

(b) Bonds or other obligations include:

(1) refunding bonds;

(2) notes;

(3) interim certificates;

(4) debentures; and

(5) interfund loans or advances qualifying under section 469.178, subdivision 7.

EFFECTIVE DATE. This section is effective at the same time as provided by Laws 2001, First Special Session chapter 5, article 15, section 3.

Sec. 2. Minnesota Statutes 2002, section 469.174, subdivision 6, is amended to read:

Subd. 6. **MUNICIPALITY.** "Municipality" means ~~any~~ the city, however organized, ~~and with respect to~~ in which the district is located, with the following exceptions:

(1) for a project undertaken pursuant to sections 469.152 to 469.165, "municipality" has the meaning given in sections 469.152 to 469.165~~, and with respect to~~; and

(2) for a project undertaken pursuant to sections 469.142 to 469.151, or a county or multicounty project undertaken pursuant to sections 469.004 to 469.008, "municipality" ~~also includes any~~ means the county in which the district is located.

EFFECTIVE DATE. This section is effective for districts for which the request for certification was made after July 31, 1979.

Sec. 3. Minnesota Statutes 2002, section 469.174, subdivision 10, is amended to read:

Subd. 10. **REDEVELOPMENT DISTRICT.** (a) "Redevelopment district" means a type of tax increment financing district consisting of a project, or portions of a project, within which the authority finds by resolution that one or more of the

following conditions, reasonably distributed throughout the district, exists:

(1) parcels consisting of 70 percent of the area of the district are occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures and more than 50 percent of the buildings, not including outbuildings, are structurally substandard to a degree requiring substantial renovation or clearance; or

(2) the property consists of vacant, unused, underused, inappropriately used, or infrequently used railyards, rail storage facilities, or excessive or vacated railroad rights-of-way; or

(3) tank facilities, or property whose immediately previous use was for tank facilities, as defined in section 115C.02, subdivision 15, if the tank facilities:

(i) have or had a capacity of more than 1,000,000 gallons;

(ii) are located adjacent to rail facilities; and

(iii) have been removed or are unused, underused, inappropriately used, or infrequently used.

(b) For purposes of this subdivision, "structurally substandard" shall mean containing defects in structural elements or a combination of deficiencies in essential utilities and facilities, light and ventilation, fire protection including adequate egress, layout and condition of interior partitions, or similar factors, which defects or deficiencies are of sufficient total significance to justify substantial renovation or clearance.

(c) A building is not structurally substandard if it is in compliance with the building code applicable to new buildings or could be modified to satisfy the building code at a cost of less than 15 percent of the cost of constructing a new structure of the same square footage and type on the site. The municipality may find that a building is not disqualified as structurally substandard under the preceding sentence on the basis of reasonably available evidence, such as the size, type, and age of the building, the average cost of plumbing, electrical, or structural repairs, or other similar reliable evidence. The municipality may not make such a determination without an interior inspection of the property, but need not have an independent, expert appraisal prepared of the cost of repair and rehabilitation of the building. An interior inspection of the property is not required, if the municipality finds that (1) the municipality or authority is unable to gain access to the property after using its best efforts to obtain permission from the party that owns or controls the property; and (2) the evidence otherwise supports a reasonable conclusion that the building is structurally substandard. Items of evidence that support such a conclusion include recent fire or police inspections, on-site property tax appraisals or housing inspections, exterior evidence of deterioration, or other similar reliable evidence. Written documentation of the findings and reasons why an interior inspection was not conducted must be made and retained under section 469.175, subdivision 3, clause (1). Failure of a building to be disqualified under the provisions of this paragraph is a necessary, but not a sufficient, condition to determining that the building is substandard.

(d) A parcel is deemed to be occupied by a structurally substandard building for purposes of the finding under paragraph (a) if all of the following conditions are met:

(1) the parcel was occupied by a substandard building within three years of the filing of the request for certification of the parcel as part of the district with the county auditor;

(2) the substandard building was demolished or removed by the authority or the demolition or removal was financed by the authority or was done by a developer under a development agreement with the authority;

(3) the authority found by resolution before the demolition or removal that the parcel was occupied by a structurally substandard building and that after demolition and clearance the authority intended to include the parcel within a district; and

(4) upon filing the request for certification of the tax capacity of the parcel as part of a district, the authority notifies the county auditor that the original tax capacity of the parcel must be adjusted as provided by section 469.177, subdivision 1, paragraph ~~(h)~~ (f).

(e) For purposes of this subdivision, a parcel is not occupied by buildings, streets, utilities, paved or gravel parking lots, or other similar structures unless 15 percent of the area of the parcel contains buildings, streets, utilities, paved or gravel parking lots, or other similar structures.

(f) For districts consisting of two or more noncontiguous areas, each area must qualify as a redevelopment district under paragraph (a) to be included in the district, and the entire area of the district must satisfy paragraph (a).

EFFECTIVE DATE. The amendment to Minnesota Statutes, section 469.174, subdivision 10, paragraph (c), confirms the intent of the legislature with regard to the original provisions of the language contained in Minnesota Statutes 2002, section 469.174, subdivision 10, paragraph (c), and is retroactive to the effective date of the original language. The amendment to Minnesota Statutes, section 469.174, subdivision 10, paragraph (d), is effective for districts for which the request for certification was received by the county after June 30, 2002.

Sec. 4. Minnesota Statutes 2002, section 469.174, subdivision 25, is amended to read:

Subd. 25. **INCREMENT.** "Increment," "tax increment," "tax increment revenues," "revenues derived from tax increment," and other similar terms for a district include:

(1) taxes paid by the captured net tax capacity, but excluding any excess taxes, as computed under section 469.177;

(2) the proceeds from the sale or lease of property, tangible or intangible, purchased by the authority with tax increments;

(3) ~~repayments of~~ principal and interest received on loans or other advances made by the authority with tax increments; and

(4) interest or other investment earnings on or from tax increments.

EFFECTIVE DATE. This section is effective for districts for which the request for certification was made after June 30, 1982, and payments of principal and interest received on loans or other advances that were made after June 30, 1997.

Sec. 5. Minnesota Statutes 2002, section 469.174, is amended by adding a subdivision to read:

Subd. 29. **QUALIFIED HOUSING DISTRICT.** "Qualified housing district" means:

(1) a housing district for a residential rental project or projects in which the only properties receiving assistance from revenues derived from tax increments from the district meet the rent restriction requirements and the low-income occupancy test for a qualified low-income housing project under section 42(g) of the Internal Revenue Code of 1986, as amended through December 31, 2002, regardless of whether the project actually receives a low-income housing credit; or

(2) a housing district for a single-family homeownership project or projects, if 95 percent or more of the homes receiving assistance from tax increments from the district are purchased by qualified purchasers. A qualified purchaser means the first purchaser of a home after the tax increment assistance is provided whose income is at or below 85 percent of the median gross income for a family of the same size as the purchaser. Median gross income is the greater of (i) area median gross income, or (ii) the statewide median gross income, as determined by the secretary of Housing and Urban Development.

EFFECTIVE DATE. This section applies to all districts for which the request for certification was made on or after January 1, 2002, and to all districts to which the definition of qualified housing districts under Minnesota Statutes 2000, section 273.1399, applied.

Sec. 6. Minnesota Statutes 2002, section 469.175, subdivision 1, is amended to read:

Subdivision 1. **TAX INCREMENT FINANCING PLAN.** A tax increment financing plan shall contain:

(1) a statement of objectives of an authority for the improvement of a project;

(2) a statement as to the development program for the project, including the property within the project, if any, that the authority intends to acquire;

(3) a list of any development activities that the plan proposes to take place within the project, for which contracts have been entered into at the time of the preparation of the plan, including the names of the parties to the contract, the activity governed by the contract, the cost stated in the contract, and the expected date of completion of that activity;

(4) identification or description of the type of any other specific development reasonably expected to take place within the project, and the date when the development is likely to occur;

(5) estimates of the following:

(i) cost of the project, including ~~administration~~ administrative expenses, except that if part of the cost of the project is paid or financed with increment from the tax increment financing district, the tax increment financing plan for the district must contain an estimate of the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increments from the district;

(ii) amount of bonded indebtedness to be incurred;

(iii) sources of revenue to finance or otherwise pay public costs;

(iv) the most recent net tax capacity of taxable real property within the tax increment financing district and within any subdistrict;

(v) the estimated captured net tax capacity of the tax increment financing district at completion; and

(vi) the duration of the tax increment financing district's and any subdistrict's existence;

(6) statements of the authority's alternate estimates of the impact of tax increment financing on the net tax capacities of all taxing jurisdictions in which the tax increment financing district is located in whole or in part. For purposes of one statement, the authority shall assume that the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district, and for purposes of the second statement, the authority shall assume that none of the estimated captured net tax capacity would be available to the taxing jurisdictions without creation of the district or subdistrict;

(7) identification and description of studies and analyses used to make the determination set forth in subdivision 3, clause (2); and

(8) identification of all parcels to be included in the district or any subdistrict.

EFFECTIVE DATE. This section applies to districts for which the request for certification was made after July 31, 1979, and is effective for tax increment financing plans and modifications approved after June 30, 2003.

Sec. 7. Minnesota Statutes 2002, section 469.175, subdivision 3, is amended to read:

Subd. 3. **MUNICIPALITY APPROVAL.** (a) A county auditor shall not certify the original net tax capacity of a tax increment financing district until the tax increment financing plan proposed for that district has been approved by the municipality in which the district is located. If an authority that proposes to establish a tax increment financing district and the municipality are not the same, the authority shall apply to the municipality in which the district is proposed to be located and shall obtain the

approval of its tax increment financing plan by the municipality before the authority may use tax increment financing. The municipality shall approve the tax increment financing plan only after a public hearing thereon after published notice in a newspaper of general circulation in the municipality at least once not less than ten days nor more than 30 days prior to the date of the hearing. The published notice must include a map of the area of the district from which increments may be collected and, if the project area includes additional area, a map of the project area in which the increments may be expended. The hearing may be held before or after the approval or creation of the project or it may be held in conjunction with a hearing to approve the project.

(b) Before or at the time of approval of the tax increment financing plan, the municipality shall make the following findings, and shall set forth in writing the reasons and supporting facts for each determination:

(1) that the proposed tax increment financing district is a redevelopment district, a renewal or renovation district, a housing district, a soils condition district, or an economic development district; if the proposed district is a redevelopment district or a renewal or renovation district, the reasons and supporting facts for the determination that the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be documented in writing and retained and made available to the public by the authority until the district has been terminated;

(2) that ~~the proposed development or redevelopment~~, in the opinion of the municipality,:

(i) the proposed development or redevelopment would not reasonably be expected to occur solely through private investment within the reasonably foreseeable future; and ~~that~~

(ii) the increased market value of the site that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan. The requirements of this ~~clause~~ item do not apply if the district is a qualified housing district~~, as defined in section 273.1399, subdivision 1~~;

(3) that the tax increment financing plan conforms to the general plan for the development or redevelopment of the municipality as a whole;

(4) that the tax increment financing plan will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the development or redevelopment of the project by private enterprise;

(5) that the municipality elects the method of tax increment computation set forth in section 469.177, subdivision 3, clause (b), if applicable.

(c) When the municipality and the authority are not the same, the municipality shall approve or disapprove the tax increment financing plan within 60 days of submission by the authority. When the municipality and the authority are not the same, the municipality may not amend or modify a tax increment financing plan except as

proposed by the authority pursuant to subdivision 4. Once approved, the determination of the authority to undertake the project through the use of tax increment financing and the resolution of the governing body shall be conclusive of the findings therein and of the public need for the financing.

(d) For a district that is subject to the requirements of paragraph (b), clause (2), item (ii), the municipality's statement of reasons and supporting facts must include all of the following:

(1) an estimate of the amount by which the market value of the site will increase without the use of tax increment financing;

(2) an estimate of the increase in the market value that will result from the development or redevelopment to be assisted with tax increment financing; and

(3) the present value of the projected tax increments for the maximum duration of the district permitted by the tax increment financing plan.

(e) For purposes of this subdivision, "site" means the parcels on which the development or redevelopment to be assisted with tax increment financing will be located.

EFFECTIVE DATE. This section is effective for determinations made after June 30, 2003, except the provisions of paragraph (e) apply to requests for certification of tax increment districts made after June 30, 1995.

Sec. 8. Minnesota Statutes 2002, section 469.175, subdivision 4, is amended to read:

Subd. 4. **MODIFICATION OF PLAN.** (a) A tax increment financing plan may be modified by an authority~~, provided that~~.

(b) The authority may make the following modifications only upon the notice and after the discussion, public hearing, and findings required for approval of the original plan:

(1) any reduction or enlargement of geographic area of the project or tax increment financing district~~,~~ that does not meet the requirements of paragraph (e);

(2) increase in amount of bonded indebtedness to be incurred~~, including~~;

(3) a determination to capitalize interest on the debt if that determination was not a part of the original plan, or to increase or decrease the amount of interest on the debt to be capitalized~~,~~;

(4) increase in the portion of the captured net tax capacity to be retained by the authority~~,~~;

(5) increase in ~~total estimated tax increment expenditures~~ the estimate of the cost of the project, including administrative expenses, that will be paid or financed with tax increment from the district; or

(6) designation of additional property to be acquired by the authority ~~shall be approved upon the notice and after the discussion, public hearing, and findings required for approval of the original plan; provided that.~~

(c) If an authority changes the type of district ~~from housing, redevelopment, or economic development~~ to another type of district, this change ~~shall~~ is not ~~be considered~~ a modification but ~~shall require~~ requires the authority to follow the procedure set forth in sections 469.174 to 469.179 for adoption of a new plan, including certification of the net tax capacity of the district by the county auditor.

(d) If a redevelopment district or a renewal and renovation district is enlarged, the reasons and supporting facts for the determination that the addition to the district meets the criteria of section 469.174, subdivision 10, paragraph (a), clauses (1) and (2), or subdivision 10a, must be documented.

(e) The requirements of ~~this~~ paragraph (b) do not apply if (1) the only modification is elimination of parcels from the project or district and (2)(A) the current net tax capacity of the parcels eliminated from the district equals or exceeds the net tax capacity of those parcels in the district's original net tax capacity or (B) the authority agrees that, notwithstanding section 469.177, subdivision 1, the original net tax capacity will be reduced by no more than the current net tax capacity of the parcels eliminated from the district. The authority must notify the county auditor of any modification that reduces or enlarges the geographic area of a district or a project area.

~~(b)~~ (f) The geographic area of a tax increment financing district may be reduced, but shall not be enlarged after five years following the date of certification of the original net tax capacity by the county auditor or after August 1, 1984, for tax increment financing districts authorized prior to August 1, 1979.

EFFECTIVE DATE. This section applies to districts for which the request for certification was made after June 30, 2003. The development authority may elect to have this section apply to a tax increment financing plan or modification that was approved before July 1, 2003, by adopting before January 1, 2004, a modification of the plan that states the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increments from the district. Section 469.175, subdivision 4, paragraph (b), does not apply to a modification adopted under this section if the modification is exclusively for the purpose of stating the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increment from the district. For districts for which the request for certification was made after July 31, 1979, and for which this section is not effective, the total estimated tax increment expenditures are determined by considering all of the information in the tax increment financing plan and exhibits to the plan about estimated sources and uses of funds.

For districts for which certification was requested after June 30, 1982, and before July 1, 2003, and for which the plan has not been amended after July 1, 2003, the limit on administrative expenses equals the greater of (1) nine percent of the increments for the district or (2) the amount determined under section 469.176, subdivision 3, and the tax increment financing plan.

Sec. 9. Minnesota Statutes 2002, section 469.175, subdivision 6, is amended to read:

Subd. 6. **ANNUAL FINANCIAL REPORTING.** (a) The state auditor shall develop a uniform system of accounting and financial reporting for tax increment financing districts. The system of accounting and financial reporting shall, as nearly as possible:

(1) provide for full disclosure of the sources and uses of public funds in the district;

(2) permit comparison and reconciliation with the affected local government's accounts and financial reports;

(3) permit auditing of the funds expended on behalf of a district, including a single district that is part of a multidistrict project or that is funded in part or whole through the use of a development account funded with tax increments from other districts or with other public money;

(4) be consistent with generally accepted accounting principles.

(b) The authority must annually submit to the state auditor a financial report in compliance with paragraph (a). Copies of the report must also be provided to the county auditor and to the governing body of the municipality, if the authority is not the municipality. To the extent necessary to permit compliance with the requirement of financial reporting, the county and any other appropriate local government unit or private entity must provide the necessary records or information to the authority or the state auditor as provided by the system of accounting and financial reporting developed pursuant to paragraph (a). The authority must submit the annual report for a year on or before August 1 of the next year.

(c) The annual financial report must also include the following items:

(1) the original net tax capacity of the district and any subdistrict under section 469.177, subdivision 1;

(2) the net tax capacity for the reporting period of the district and any subdistrict;

(3) the captured net tax capacity of the district;

(4) any fiscal disparity deduction from the captured net tax capacity under section 469.177, subdivision 3;

(5) the captured net tax capacity retained for tax increment financing under section 469.177, subdivision 2, paragraph (a), clause (1);

(6) any captured net tax capacity distributed among affected taxing districts under section 469.177, subdivision 2, paragraph (a), clause (2);

(7) the type of district;

(8) the date the municipality approved the tax increment financing plan and the date of approval of any modification of the tax increment financing plan, the approval

of which requires notice, discussion, a public hearing, and findings under subdivision 4, paragraph (a);

(9) the date the authority first requested certification of the original net tax capacity of the district and the date of the request for certification regarding any parcel added to the district;

(10) the date the county auditor first certified the original net tax capacity of the district and the date of certification of the original net tax capacity of any parcel added to the district;

(11) the month and year in which the authority has received or anticipates it will receive the first increment from the district;

(12) the date the district must be decertified;

(13) for the reporting period and prior years of the district, the actual amount received from, at least, the following categories:

(i) tax increments paid by the captured net tax capacity retained for tax increment financing under section 469.177, subdivision 2, paragraph (a), clause (1), but excluding any excess taxes;

(ii) tax increments that are interest or other investment earnings on or from tax increments;

(iii) tax increments that are proceeds from the sale or lease of property, tangible or intangible, purchased by the authority with tax increments;

(iv) tax increments that are repayments of loans or other advances made by the authority with tax increments;

(v) bond or loan proceeds;

(vi) special assessments;

(vii) grants; and

(viii) transfers from funds not exclusively associated with the district;

(14) for the reporting period and for the prior years of the district, ~~the amount budgeted under the tax increment financing plan, and~~ the actual amount expended for, at least, the following categories:

(i) acquisition of land and buildings through condemnation or purchase;

(ii) site improvements or preparation costs;

(iii) installation of public utilities, parking facilities, streets, roads, sidewalks, or other similar public improvements;

(iv) administrative costs, including the allocated cost of the authority;

(v) public park facilities, facilities for social, recreational, or conference purposes, or other similar public improvements; and

(vi) transfers to funds not exclusively associated with the district;

(15) for properties sold to developers, the total cost of the property to the authority and the price paid by the developer;

(16) the amount of any payments and the value of any in-kind benefits, such as physical improvements and the use of building space, that are paid or financed with tax increments and are provided to another governmental unit other than the municipality during the reporting period;

(17) the amount of any payments for activities and improvements located outside of the district that are paid for or financed with tax increments;

(18) the amount of payments of principal and interest that are made during the reporting period on any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(19) the principal amount, at the end of the reporting period, of any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(20) the amount of principal and interest payments that are due for the current calendar year on any nondefeased:

(i) general obligation tax increment financing bonds;

(ii) other tax increment financing bonds; and

(iii) notes and pay-as-you-go contracts;

(21) if the fiscal disparities contribution under chapter 276A or 473F for the district is computed under section 469.177, subdivision 3, paragraph (a), the amount of increased property taxes imposed on other properties in the municipality that approved the tax increment financing plan as a result of the fiscal disparities contribution;

(22) whether the tax increment financing plan or other governing document permits increment revenues to be expended:

(i) to pay bonds, the proceeds of which were or may be expended on activities outside of the district;

(ii) for deposit into a common bond fund from which money may be expended on activities located outside of the district; or

(iii) to otherwise finance activities located outside of the tax increment financing district; ~~and~~

(23) the estimate, if any, contained in the tax increment financing plan of the amount of the cost of the project, including administrative expenses, that will be paid or financed with tax increment; and

(24) any additional information the state auditor may require.

(d) The commissioner of revenue shall prescribe the method of calculating the increased property taxes under paragraph (c), clause (21), and the form of the statement disclosing this information on the annual statement under subdivision 5.

(e) The reporting requirements imposed by this subdivision apply to districts certified before, on, and after August 1, 1979.

EFFECTIVE DATE. This section is effective beginning with the reports due in calendar year 2004.

Sec. 10. Minnesota Statutes 2002, section 469.176, subdivision 1c, is amended to read:

Subd. 1c. **DURATION LIMITS; PRE-1979 DISTRICTS.** (a) For tax increment financing districts created prior to August 1, 1979, no tax increment shall be paid to the authority after April 1, 2001, or the term of a nondefeased bond or obligation outstanding on April 1, 1990, secured by increments from the district or project area, whichever time is greater, provided that in no case will a tax increment be paid to an authority after August 1, 2009, from such a district. If a district's termination date is extended beyond April 1, 2001, because bonds were outstanding on April 1, 1990, with maturities extending beyond April 1, 2001, the following restrictions apply. No increment collected from the district may be expended after April 1, 2001, except to pay or ~~defease~~ ~~(i)~~ repay:

(1) bonds issued before April 1, 1990~~, or (ii)~~;

(2) bonds issued to refund the principal of the outstanding bonds and pay associated issuance costs~~, provided the average maturity of the refunding bonds does not exceed the bonds refunded~~;

(3) administrative expenses of the district required to be paid under section 469.176, subdivision 4h, paragraph (a);

(4) transfers of increment permitted under section 469.1763, subdivision 6; and

(5) any advance or payment made by the municipality or the authority after June 1, 2002, to pay any bonds listed in clause (1) or (2).

(b) Each year, any increments from a district subject to this subdivision must be first applied to pay obligations listed under paragraph (a), clauses (1) and (2), and administrative expenses under paragraph (a), clause (3). Any remaining increments may be used for transfers of increments permitted under section 469.1763, subdivision 6, and to make payments under paragraph (a), clause (5).

(c) When sufficient money has been received to pay in full or defease obligations under paragraph (a), clauses (1), (2), and (5), the tax increment project or district must be decertified.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to tax increment financing districts for which the request for certification was made before August 1, 1979.

Sec. 11. Minnesota Statutes 2002, section 469.176, subdivision 2, is amended to read:

Subd. 2. **EXCESS ~~TAX~~ INCREMENTS.** ~~In any year in which the tax increment exceeds the amount necessary to pay the costs authorized by the tax increment financing plan, including the amount necessary to cancel any tax levy as provided in section 475.61, subdivision 3,~~ (a) The authority shall annually determine the amount of excess increments for a district, if any. This determination must be based on the tax increment financing plan in effect on December 31 of the year and the increments and other revenues received as of December 31 of the year.

(b) For purposes of this subdivision, "excess increments" equals the excess of:

(1) total increments collected from the district since its certification, reduced by any excess increments paid under paragraph (c), clause (4), for a prior year, over

(2) the total costs authorized by the tax increment financing plan to be paid with increments from the district, reduced, but not below zero, by the sum of:

(i) the amounts of those authorized costs that have been paid from sources other than tax increments from the district;

(ii) revenues, other than tax increments from the district, that are dedicated for or otherwise required to be used to pay those authorized costs and that the authority has received and that are not included in item (i); and

(iii) the amount of principal and interest obligations due on outstanding bonds after December 31 of the year and not prepaid under paragraph (c) in a prior year.

(c) The authority shall use ~~the excess amount to do any of~~ excess increment only to do one or more of the following:

(1) prepay any outstanding bonds~~,~~;

(2) discharge the pledge of tax increment ~~therefor,~~ for any outstanding bonds;

(3) pay into an escrow account dedicated to the payment of ~~such bond,~~ any outstanding bonds; or

(4) return the excess amount to the county auditor who shall distribute the excess amount to the ~~municipality~~ city or town, county, and school district in which the tax increment financing district is located in direct proportion to their respective local tax rates.

(d) The county auditor must report to the commissioner of children, families, and learning the amount of any excess tax increment distributed to a school district within 30 days of the distribution.

EFFECTIVE DATE. This section is effective for all tax increment financing districts, regardless of whether the request for certification was made before, on, or after August 1, 1979, and applies after August 1, 2003, except the amendment to paragraph (c), clause (4), applies retroactively to August 1, 1979.

Sec. 12. Minnesota Statutes 2002, section 469.176, subdivision 3, is amended to read:

Subd. 3. **LIMITATION ON ADMINISTRATIVE EXPENSES.** (a) For districts for which certification was requested before August 1, 1979, or after June 30, 1982 and before August 1, 2001, no tax increment shall be used to pay any administrative expenses for a project which exceed ten percent of the total estimated tax increment expenditures authorized by the tax increment financing plan or the total tax increment expenditures for the project, whichever is less.

(b) For districts for which certification was requested after July 31, 1979, and before July 1, 1982, no tax increment shall be used to pay administrative expenses, as defined in Minnesota Statutes 1980, section 273.73, for a district which exceeds five percent of the total tax increment expenditures authorized by the tax increment financing plan or the total estimated tax increment expenditures for the district, whichever is less.

(c) For districts for which certification was requested after July 31, 2001, no tax increment may be used to pay any administrative expenses for a project which exceed ten percent of total estimated tax increment expenditures authorized by the tax increment financing plan or the total tax increments, as defined in section 469.174, subdivision 25, clause (1), from the district, whichever is less.

EFFECTIVE DATE. This section is effective for districts for which the request for certification was made before, on, or after August 1, 1979.

Sec. 13. Minnesota Statutes 2002, section 469.176, subdivision 7, is amended to read:

Subd. 7. **PARCELS NOT INCLUDABLE IN DISTRICTS.** (a) The authority may request inclusion in a tax increment financing district and the county auditor may certify the original tax capacity of a parcel or a part of a parcel that qualified under the provisions of section 273.111 or 273.112 or chapter 473H for taxes payable in any of the five calendar years before the filing of the request for certification only for:

(1) a district in which 85 percent or more of the planned buildings and facilities (determined on the basis of square footage) are a qualified manufacturing facility or a qualified distribution facility or a combination of both; or

(2) a qualified housing district ~~as defined in section 273.1399, subdivision 1~~.

(b)(1) A distribution facility means buildings and other improvements to real property that are used to conduct activities in at least each of the following categories:

(i) to store or warehouse tangible personal property;

(ii) to take orders for shipment, mailing, or delivery;

(iii) to prepare personal property for shipment, mailing, or delivery; and

(iv) to ship, mail, or deliver property.

(2) A manufacturing facility includes space used for manufacturing or producing tangible personal property, including processing resulting in the change in condition of the property, and space necessary for and related to the manufacturing activities.

(3) To be a qualified facility, the owner or operator of a manufacturing or distribution facility must agree to pay and pay 90 percent or more of the employees of the facility at a rate equal to or greater than 160 percent of the federal minimum wage for individuals over the age of 20.

EFFECTIVE DATE. This section applies to all districts for which the request for certification was made on or after January 1, 2002, and to all districts to which the definition of qualified housing districts under Minnesota Statutes 2000, section 273.1399, applied.

Sec. 14. Minnesota Statutes 2002, section 469.1763, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Activities" means acquisition of property, clearing of land, site preparation, soils correction, removal of hazardous waste or pollution, installation of utilities, construction of public or private improvements, and other similar activities, but only to the extent that tax increment revenues may be spent for such purposes under other law.

(c) "Third party" means an entity other than (1) the person receiving the benefit of assistance financed with tax increments, or (2) the municipality or the development authority or other person substantially under the control of the municipality.

(d) "Revenues derived from tax increments paid by properties in the district" means only tax increment as defined in section 469.174, subdivision 25, clause (1), and does not include tax increment as defined in section 469.174, subdivision 25, clauses (2), (3), and (4).

EFFECTIVE DATE. This section is effective for districts for which the request for certification was made after April 30, 1990.

Sec. 15. Minnesota Statutes 2002, section 469.1763, subdivision 3, is amended to read:

Subd. 3. **FIVE-YEAR RULE.** (a) Revenues derived from tax increments are considered to have been expended on an activity within the district under subdivision 2 only if one of the following occurs:

(1) before or within five years after certification of the district, the revenues are actually paid to a third party with respect to the activity;

(2) bonds, the proceeds of which must be used to finance the activity, are issued and sold to a third party before or within five years after certification, the revenues are spent to repay the bonds, and the proceeds of the bonds either are, on the date of issuance, reasonably expected to be spent before the end of the later of (i) the five-year period, or (ii) a reasonable temporary period within the meaning of the use of that term under section 148(c)(1) of the Internal Revenue Code, or are deposited in a reasonably required reserve or replacement fund;

(3) binding contracts with a third party are entered into for performance of the activity before or within five years after certification of the district and the revenues are spent under the contractual obligation; ~~or~~

(4) costs with respect to the activity are paid before or within five years after certification of the district and the revenues are spent to reimburse a party for payment of the costs, including interest on unreimbursed costs; or

(5) expenditures are made for housing purposes as permitted by subdivision 2, paragraph (b).

(b) For purposes of this subdivision, bonds include subsequent refunding bonds if the original refunded bonds meet the requirements of paragraph (a), clause (2).

EFFECTIVE DATE. This section is effective for expenditures made after June 30, 2003.

Sec. 16. Minnesota Statutes 2002, section 469.1763, subdivision 6, is amended to read:

Subd. 6. **POOLING PERMITTED FOR DEFICITS.** (a) This subdivision applies only to districts for which the request for certification was made before August 1, 2001, and without regard to whether the request for certification was made prior to August 1, 1979.

(b) The municipality for the district may transfer available increments from another tax increment financing district located in the municipality, if the transfer is necessary to eliminate a deficit in the district to which the increments are transferred. A deficit in the district for purposes of this subdivision means the lesser of the following two amounts:

(1)(i) the amount due during the calendar year to pay preexisting obligations of the district; minus

(ii) the total increments collected or to be collected from properties located within the district that are available for the calendar year including amounts collected in prior years that are currently available; plus

(iii) total increments from properties located in other districts in the municipality including amounts collected in prior years that are available to be used to meet the district's obligations under this section, excluding this subdivision, or other provisions of law (but excluding a special tax under section 469.1791 and the grant program under Laws 1997, chapter 231, article 1, section 19, or Laws 2001, First Special Session chapter 5); or

(2) the reduction in increments collected from properties located in the district for the calendar year as a result of the changes in class rates in Laws 1997, chapter 231, article 1; Laws 1998, chapter 389, article 2; and Laws 1999, chapter 243, and Laws 2001, First Special Session chapter 5, or the elimination of the general education tax levy under Laws 2001, First Special Session chapter 5.

(c) A preexisting obligation means:

(1) bonds issued and sold before August 1, 2001, or bonds issued pursuant to a binding contract requiring the issuance of bonds entered into before July 1, 2001, and bonds issued to refund such bonds or to reimburse expenditures made in conjunction with a signed contractual agreement entered into before August 1, 2001, to the extent that the bonds are secured by a pledge of increments from the tax increment financing district; and

(2) binding contracts entered into before August 1, 2001, to the extent that the contracts require payments secured by a pledge of increments from the tax increment financing district.

(d) The municipality may require a development authority, other than a seaway port authority, to transfer available increments including amounts collected in prior years that are currently available for any of its tax increment financing districts in the municipality to make up an insufficiency in another district in the municipality, regardless of whether the district was established by the development authority or another development authority. This authority applies notwithstanding any law to the contrary, but applies only to a development authority that:

(1) was established by the municipality; or

(2) the governing body of which is appointed, in whole or part, by the municipality or an officer of the municipality or which consists, in whole or part, of members of the governing body of the municipality. The municipality may use this authority only after it has first used all available increments of the receiving development authority to eliminate the insufficiency and exercised any permitted action under section 469.1792, subdivision 3, for preexisting districts of the receiving development authority to eliminate the insufficiency.

(e) The authority under this subdivision to spend tax increments outside of the area of the district from which the tax increments were collected:

(1) ~~may only be exercised after obtaining approval of the use of the increments, in writing, by the commissioner of revenue;~~

~~(2)~~ is an exception to the restrictions under section 469.176, subdivision 4i, and the other provisions of this section, and the percentage restrictions under subdivision 2 must be calculated after deducting increments spent under this subdivision from the total increments for the district; and

~~(3)~~ (2) applies notwithstanding the provisions of the Tax Increment Financing Act in effect for districts for which the request for certification was made before June 30, 1982, or any other law to the contrary.

(f) If a preexisting obligation requires the development authority to pay an amount that is limited to the increment from the district or a specific development within the district and if the obligation requires paying a higher amount to the extent that increments are available, the municipality may determine that the amount due under the preexisting obligation equals the higher amount and may authorize the transfer of increments under this subdivision to pay up to the higher amount. The existence of a guarantee of obligations by the individual or entity that would receive the payment under this paragraph is disregarded in the determination of eligibility to pool under this subdivision. The authority to transfer increments under this paragraph may only be used to the extent that the payment of all other preexisting obligations in the municipality due during the calendar year have been satisfied.

EFFECTIVE DATE. This section is effective retroactively to January 2, 2002, and thereafter.

Sec. 17. Minnesota Statutes 2002, section 469.177, subdivision 1, is amended to read:

Subdivision 1. **ORIGINAL NET TAX CAPACITY.** (a) Upon or after adoption of a tax increment financing plan, the auditor of any county in which the district is situated shall, upon request of the authority, certify the original net tax capacity of the tax increment financing district and that portion of the district overlying any subdistrict as described in the tax increment financing plan and shall certify in each year thereafter the amount by which the original net tax capacity has increased or decreased as a result of a change in tax exempt status of property within the district and any subdistrict, reduction or enlargement of the district or changes pursuant to subdivision 4.

(b) ~~For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988,~~ If the classification under section 273.13 of property located in a district changes to a classification that has a different assessment ratio, the original net tax capacity of that property must be redetermined at the time when its use is changed as if the property had originally been classified in the same class in which it is classified after its use is changed.

(c) The amount to be added to the original net tax capacity of the district as a result of previously tax exempt real property within the district becoming taxable equals the net tax capacity of the real property as most recently assessed pursuant to section 273.18 or, if that assessment was made more than one year prior to the date of title transfer rendering the property taxable, the net tax capacity assessed by the assessor at the time of the transfer. If improvements are made to tax exempt property

after certification of the district and before the parcel becomes taxable, the assessor shall, at the request of the authority, separately assess the estimated market value of the improvements. If the property becomes taxable, the county auditor shall add to original net tax capacity, the net tax capacity of the parcel, excluding the separately assessed improvements. If substantial taxable improvements were made to a parcel after certification of the district and if the property later becomes tax exempt, in whole or part, as a result of the authority acquiring the property through foreclosure or exercise of remedies under a lease or other revenue agreement or as a result of tax forfeiture, the amount to be added to the original net tax capacity of the district as a result of the property again becoming taxable is the amount of the parcel's value that was included in original net tax capacity when the parcel was first certified. The amount to be added to the original net tax capacity of the district as a result of enlargements equals the net tax capacity of the added real property as most recently certified by the commissioner of revenue as of the date of modification of the tax increment financing plan pursuant to section 469.175, subdivision 4.

(d) ~~For districts approved under section 469.175, subdivision 3, or parcels added to existing districts after May 1, 1988,~~ If the net tax capacity of a property increases because the property no longer qualifies under the Minnesota Agricultural Property Tax Law, section 273.111; the Minnesota Open Space Property Tax Law, section 273.112; or the Metropolitan Agricultural Preserves Act, chapter 473H, or because platted, unimproved property is improved or three years pass after approval of the plat under section 273.11, subdivision 1, the increase in net tax capacity must be added to the original net tax capacity.

(e) The amount to be subtracted from the original net tax capacity of the district as a result of previously taxable real property within the district becoming tax exempt, or a reduction in the geographic area of the district, shall be the amount of original net tax capacity initially attributed to the property becoming tax exempt or being removed from the district. If the net tax capacity of property located within the tax increment financing district is reduced by reason of a court-ordered abatement, stipulation agreement, voluntary abatement made by the assessor or auditor or by order of the commissioner of revenue, the reduction shall be applied to the original net tax capacity of the district when the property upon which the abatement is made has not been improved since the date of certification of the district and to the captured net tax capacity of the district in each year thereafter when the abatement relates to improvements made after the date of certification. The county auditor may specify reasonable form and content of the request for certification of the authority and any modification thereof pursuant to section 469.175, subdivision 4.

(f) If a parcel of property contained a substandard building that was demolished or removed and if the authority elects to treat the parcel as occupied by a substandard building under section 469.174, subdivision 10, paragraph (b), the auditor shall certify the original net tax capacity of the parcel using the greater of (1) the current net tax capacity of the parcel, or (2) the estimated market value of the parcel for the year in which the building was demolished or removed, but applying the class rates for the current year.

EFFECTIVE DATE. This section applies to all districts, regardless of whether the request for certification was made before, on, or after August 1, 1979, beginning for taxes payable in 2004. This section requires adjustment of the original tax capacity under Minnesota Statutes, section 469.177, subdivision 7, of all parcels for class rate changes enacted after May 1, 1988, regardless of whether the classification of the property has changed after the certification of the district. This section requires adjustment of original tax capacity for changes in the classification of the property, only if the change in use occurs after December 31, 2002.

Sec. 18. Minnesota Statutes 2002, section 469.177, subdivision 12, is amended to read:

Subd. 12. **DECERTIFICATION OF TAX INCREMENT FINANCING DISTRICT.** The county auditor shall decertify a tax increment financing district when the earliest of the following times is reached:

(1) the applicable maximum duration limit under section 469.176, subdivisions 1a to 1g;

(2) the maximum duration limit, if any, provided by the municipality pursuant to section 469.176, subdivision 1;

(3) the time of decertification specified in section 469.1761, subdivision 4, if the commissioner of revenue issues an order of noncompliance and the maximum duration limit for economic development districts has been exceeded;

(4) upon completion of the required actions to allow decertification under section 469.1763, subdivision 4; or

(5) upon the later of receipt by the county auditor of a written request for decertification from the authority that requested certification of the original net tax capacity of the district or its successor or the decertification date specified in the request.

EFFECTIVE DATE. This section is effective for all districts regardless of whether the request for certification was made before, on, or after August 1, 1979.

Sec. 19. Minnesota Statutes 2002, section 469.1771, subdivision 4, is amended to read:

Subd. 4. **LIMITATIONS.** (a) If the increments are pledged to repay bonds that were issued before the lawsuit was filed under this section, the damages under this section may not exceed the greater of (1) ten percent of the expenditures or revenues derived from increment, or (2) the amount of available revenues after paying debt services due on the bonds.

(b) The court may abate all or part of the amount if it determines the unauthorized action or failure to perform the required action was taken in good faith and the payment would work an undue hardship on the authority or municipality.

EFFECTIVE DATE. This section is effective for violations occurring after December 31, 1990.

Sec. 20. Minnesota Statutes 2002, section 469.1771, is amended by adding a subdivision to read:

Subd. 7. **LIMITATIONS ON ACTIONS.** An action under subdivision 1, paragraph (a), contesting the validity of a determination by an authority under section 469.175, subdivision 3, must be commenced within the later of:

(1) 180 days after the municipality's approval under section 469.175, subdivision 3; or

(2) 90 days after the request for certification of the district is filed with the county auditor under section 469.177, subdivision 1.

EFFECTIVE DATE. This section is effective for actions filed after the day following final enactment.

Sec. 21. Minnesota Statutes 2002, section 469.178, subdivision 7, is amended to read:

Subd. 7. **INTERFUND LOANS.** The authority or municipality may advance or loan money to finance expenditures under section 469.176, subdivision 4, from its general fund or any other fund under which it has legal authority to do so. The loan or advance must be ~~approved~~ authorized, by resolution of the governing body, before money is transferred, advanced, or spent, whichever is earliest. The resolution may generally grant to the authority the power to make interfund loans under one or more tax increment financing plans or for one or more districts. The terms and conditions for repayment of the loan must be provided in writing and include, at a minimum, the principal amount, the interest rate, and maximum term. The maximum rate of interest permitted to be charged is limited to the greater of the rates specified under section 270.75 or 549.09 as of the date or advance is made, unless the written agreement states that the maximum interest rate will fluctuate as the interest rates specified under section 270.75 or 549.09 are from time to time adjusted.

EFFECTIVE DATE. This section is effective for loans and advances made after July 31, 2001, and for districts for which the request for certification was made after July 31, 1979.

Sec. 22. Minnesota Statutes 2002, section 469.1791, subdivision 3, is amended to read:

Subd. 3. **PRECONDITIONS TO ESTABLISH DISTRICT.** (a) A city may establish a special taxing district within a tax increment financing district under this section only if the conditions under paragraphs (b) and (c) are met or if the city elects to exercise the authority under paragraph (d).

(b) The city has determined that:

(1) total tax increments from the district, including unspent increments from previous years and increments transferred under paragraph (c), will be insufficient to pay the amounts due in a year on preexisting obligations; and

(2) this insufficiency of increments resulted from the reduction in property tax class rates enacted in the 1997 and 1998 legislative sessions.

(c) The city has agreed to transfer any available increments from other tax increment financing districts in the city to pay the preexisting obligations of the district under section 469.1763, subdivision 6. This requirement does not apply to any available increments of a qualified housing district~~, as defined in section 273.1399, subdivision 1~~.

(d) If a tax increment financing district does not qualify under paragraphs (b) and (c), the governing body may elect to establish a special taxing district under this section. If the city elects to exercise this authority, increments from the tax increment financing district and the proceeds of the tax imposed under this section may only be used to pay preexisting obligations and reasonable administrative expenses of the authority for the tax increment financing district. The tax increment financing district must be decertified when all preexisting obligations have been paid.

EFFECTIVE DATE. This section applies to all districts for which the request for certification was made on or after January 1, 2002, and to all districts to which the definition of qualified housing districts under Minnesota Statutes 2000, section 273.1399, applied.

Sec. 23. Minnesota Statutes 2002, section 469.1792, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** This section applies only to an authority with a preexisting district for which:

(1) the increments from the district were insufficient to pay preexisting obligations as a result of the class rate changes or the elimination of the state-determined general education property tax levy under this act, or both; or

(2)(i) the development authority has a binding contract, entered into before August 1, 2001, with a person requiring the authority to pay to the person an amount that may not exceed the increment from the district or a specific development within the district; and

(ii) the authority is unable to pay the full amount under the contract from the pledged increments or other increments from the district that would have been due if the class rate changes or elimination of the state-determined general education property tax levy or both had not been made under Laws 2001, First Special Session chapter 5.

EFFECTIVE DATE. This section is effective retroactively to the effective date of the original enactment of section 469.1792, subdivision 1, and applies to all districts for which the request for certification was made after July 1, 1979.

Sec. 24. Minnesota Statutes 2002, section 469.1792, subdivision 2, is amended to read:

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

(b) "Preexisting district" means a tax increment financing district for which the request for certification was made before August 1, 2001.

(c) "Preexisting obligation" means a bond or binding contract that:

(1)(i) was issued or approved before August 1, 2001, or was issued pursuant to a binding contract entered into before ~~August~~ July 1, 2001; or

(ii) was issued to refinance an obligation under item (i), if the refinancing does not increase the present value of the debt service; and

(2) is secured by increments from a preexisting district.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to districts for which the request for certification was made on, before, or after August 1, 1979, and before August 1, 2001.

Sec. 25. Minnesota Statutes 2002, section 469.1792, subdivision 3, is amended to read:

Subd. 3. **ACTIONS AUTHORIZED.** (a) An authority with a district qualifying under this section may take either or both of the following actions for any or all of its preexisting districts:

(1) the authority may elect that the original local tax rate under section 469.177, subdivision 1a, does not apply to the district; and

(2) the authority may elect the fiscal disparities contribution will be computed under section 469.177, subdivision 3, paragraph (a), regardless of the election that was made for the district or if the district is an economic development district for which the request for certification was made after June 30, 1997.

(b) The authority may take action under this subdivision only after the municipality approves the action, by resolution, after notice and public hearing in the manner provided under section 469.175, subdivision ~~2~~ 3.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to districts for which the request for certification was made on, before, or after August 1, 1979, and before August 1, 2001.

Sec. 26. Minnesota Statutes 2002, section 469.1813, subdivision 8, is amended to read:

Subd. 8. **LIMITATION ON ABATEMENTS.** In any year, the total amount of property taxes abated by a political subdivision under this section may not exceed (1) five percent of the current levy, or (2) $100,000, whichever is greater. The limit under this subdivision does not apply to an uncollected abatement from a prior year that is added to the abatement levy.

EFFECTIVE DATE. This section is effective beginning with property taxes levied in 2003, payable in 2004.

Sec. 27. Minnesota Statutes 2002, section 469.1815, subdivision 1, is amended to read:

Subdivision 1. **INCLUSION IN PROPOSED AND FINAL LEVIES.** The political subdivision must add to its levy amount for the current year under sections 275.065 and 275.07 the total estimated amount of all current year abatements granted. If all or a portion of an abatement levy for a prior year was uncollected, the political subdivision may add the uncollected amount to its abatement levy for the current year. The tax amounts shown on the proposed notice under section 275.065, subdivision 3, and on the property tax statement under section 276.04, subdivision 2, are the total amounts before the reduction of any abatements that will be granted on the property.

EFFECTIVE DATE. This section is effective beginning with property taxes levied in 2003, payable in 2004.

Sec. 28. Laws 1997, chapter 231, article 10, section 25, is amended to read:

Sec. 25. **EFFECTIVE DATE.**

Sections 1, 3 to 6, 7, and 10, are effective for districts for which the requests for certification are made after June 30, 1997.

Section 2, ~~clauses~~ clause (1) ~~and~~ is effective for all districts, regardless of whether the request for certification was made before, on, or after August 1, 1979. Section 2, clause (4), ~~are~~ is effective for districts for which the requests for certification were made after July 31, 1979, and for payments and investment earnings received after July 1, 1997. Section 2, clauses (2) and (3), are effective for districts for which the request for certification was made after June 30, 1982, and proceeds from sales and leases of properties purchased by the authority after June 30, 1997, and repayments of advances and loans that were made after June 30, 1997.

Sections 8 and 9 apply to all tax increment districts, whenever certified, insofar as the underlying law applies to them, and any uses of tax increment expended prior to the date of enactment of this act which are in compliance with the provisions of those sections are deemed valid.

Sections 12 and 13 are effective on the day the chief clerical officer of the city of Columbia Heights complies with Minnesota Statutes, sections 645.021, subdivision 3.

Sections 17 to 20 are effective the day following final enactment and upon compliance by the governing body with Minnesota Statutes, section 645.021, subdivision 3.

Section 24 is effective the day following final enactment.

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

Sec. 29. Laws 2002, chapter 377, article 7, section 3, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for ~~increments payable in 2002~~ deficits occurring in calendar year 2000 and thereafter.

Sec. 30. Laws 2002, chapter 377, article 11, section 1, is amended to read:

Section 1. **CITY OF MOORHEAD; TAX LEVY AUTHORIZED.**

(a) Each year the city of Moorhead may impose a tax on all class 3a and class 3b property located in the city in an amount which the city determines is equal to the reduction in revenues from increment from all tax increment financing districts in the city resulting from the class rate changes and the elimination of the state-determined general education property levy under Laws 2001, First Special Session chapter 5. The proceeds of this tax and increments from the district may only be used to pay preexisting obligations as defined in Minnesota Statutes, section 469.1763, subdivision 6, whether general obligations or payable wholly from tax increments, and administrative expenses. The tax must be levied and collected in the same manner and as part of the property tax levied by the city and is subject to the same administrative, penalty, and enforcement provisions. A tax imposed under this section is a special levy and is not subject to levy limitations under Minnesota Statutes, section 275.71.

(b) This section expires December 31, ~~2005~~ 2010.

EFFECTIVE DATE. This section is effective upon approval by and compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of Moorhead.

Sec. 31. **HOPKINS TAX INCREMENT FINANCING DISTRICT.**

Subdivision 1. **DISTRICT EXTENSION.** (a) The governing body of the city of Hopkins may elect to extend the duration of its redevelopment tax increment financing district 2-11 by up to four additional years.

(b) Notwithstanding any law to the contrary, effective upon approval of this subdivision, no increments may be spent on activities located outside of the area of the district, other than to pay administrative expenses.

Subd. 2. **FIVE-YEAR RULE.** The requirements of Minnesota Statutes, section 469.1763, subdivision 3, that activities must be undertaken within a five-year period from the date of certification of tax increment financing district must be considered to be met for the city of Hopkins redevelopment tax increment district 2-11, if the activities are undertaken within nine years from the date of certification of the district.

EFFECTIVE DATE. Subdivision 1 is effective upon compliance with the provisions of Minnesota Statutes, sections 469.1782, subdivision 2, and 645.021. Subdivision 2 is effective upon compliance by the governing body of the city of Hopkins with the provisions of Minnesota Statutes, section 645.021.

ARTICLE 11

MINERALS TAXES

Section 1. Minnesota Statutes 2002, section 273.134, is amended to read:

273.134 **TACONITE AND IRON ORE AREAS; TAX RELIEF AREA; DEFINITIONS.**

(a) For purposes of this section and ~~section~~ sections 273.135 and 273.1391, "municipality" means any city, however organized, or town, ~~and~~ which meets the following qualifications:

(1) it is a municipality in which the assessed valuation of unmined iron ore on May 1, 1941, was not less than 40 percent of the assessed valuation of all real property; or

(2) it is a municipality in which, on January 1, 1977, or the applicable assessment date, there is a taconite concentrating plant or where taconite is mined or quarried or where there is located an electric generating plant which qualifies as a taconite facility.

"The applicable assessment date" is the date as of which property is listed and assessed for the tax in question.

(b) For the purposes of section 273.135, "tax relief area" means the geographic area contained within the boundaries of a school district ~~on January 2, 2000, which contains a municipality~~ which meets the following qualifications:

(1) it is a ~~municipality~~ school district in which the assessed valuation of unmined iron ore on May 1, 1941, was not less than 40 percent of the assessed valuation of all real property and whose boundaries are within 20 miles of a taconite mine or plant; or

(2) it is a ~~municipality~~ school district in which, on January 1, 1977 or the applicable assessment date, there is a taconite concentrating plant or where taconite is mined or quarried or where there is located an electric generating plant which qualifies as a taconite facility.

~~For purposes of this paragraph, a "tax relief area" does not include a school district whose boundaries are more than 20 miles from a taconite mine or plant or in which the assessed valuation of unmined iron ore on May 1, 1941, was less than 40 percent of the assessed valuation of all real property.~~

~~(b) For purposes of section 273.1391, subdivision 2, paragraph (c), and chapter 298, "tax relief area" means the geographic area contained within the boundaries of a school district which contains a municipality that meets the following qualifications:~~

~~(1) it is a municipality in which the assessed valuation of unmined iron ore on May 1, 1941, was not less than 40 percent of the assessed valuation of all real property; or~~

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

~~(2) it is a municipality in which, on January 1, 1977, or the applicable assessment date, there is a taconite concentrating plant or where taconite is mined or quarried or where there is located an electric generating plant which qualifies as a taconite facility.~~

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 2. **[273.1341] TACONITE ASSISTANCE AREA.**

A "taconite assistance area" means the geographic area that falls within the boundaries of a school district that contains a municipality in which the assessed valuation of unmined iron ore on May 1, 1941, was not less than 40 percent of the assessed valuation of all real property.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 3. Minnesota Statutes 2002, section 273.135, subdivision 1, is amended to read:

Subdivision 1. The property tax to be paid in respect to property taxable within a tax relief area as defined in section 273.134, paragraph ~~(a)~~ (b), on homestead property, as otherwise determined by law and regardless of the market value of the property, for all purposes shall be reduced in the amount prescribed by subdivision 2, subject to the limitations contained therein.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 4. Minnesota Statutes 2002, section 273.135, subdivision 2, is amended to read:

Subd. 2. The amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a ~~tax relief area~~ municipality as defined under section 273.134, paragraph (a), ~~that is within the boundaries of a municipality which meets the qualifications prescribed in section 273.134, paragraph (a),~~ 66 percent of the tax, provided that the reduction shall not exceed the maximum amounts specified in paragraph (c).

(b) In the case of property located within the boundaries of a school district which qualifies as a tax relief area under section 273.134, paragraph ~~(a)~~ (b), but which is outside the boundaries of a municipality which meets the qualifications prescribed in section 273.134, paragraph (a), 57 percent of the tax, provided that the reduction shall not exceed the maximum amounts specified in paragraph (c).

(c) The maximum reduction of the tax is $315.10 on property described in paragraph (a) and $289.80 on property described in paragraph (b).

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 5. Minnesota Statutes 2002, section 273.1391, subdivision 2, is amended to read:

Subd. 2. The amount of the reduction authorized by subdivision 1 shall be:

(a) In the case of property located within a school district which does not meet the qualifications of section 273.134, paragraph (b), as a tax relief area, but which is located in a county with a population of less than 100,000 in which taconite is mined or quarried and wherein a school district is located which does meet the qualifications of a tax relief area, and provided that at least 90 percent of the area of the school district which does not meet the qualifications of section 273.134, paragraph (b), lies within such county, 57 percent of the tax on qualified property located in the school district that does not meet the qualifications of section 273.134, paragraph (b), provided that the amount of said reduction shall not exceed the maximum amounts specified in paragraph (d). The reduction provided by this paragraph shall only be applicable to property located within the boundaries of the county described therein.

(b) In the case of property located within a school district which does not meet the qualifications of section 273.134, paragraph (b), as a tax relief area, but which is located in a school district in a county containing a city of the first class and a ~~qualifying~~ municipality as defined in section 273.134, paragraph (a), but not in a school district containing a city of the first class or adjacent to a school district containing a city of the first class unless the school district so adjacent contains a ~~qualifying~~ municipality as defined in section 273.134, paragraph (a), 57 percent of the tax, but not to exceed the maximums specified in paragraph (d).

(c) In the case of property located within the boundaries of a municipality that meets the qualifications in section 273.134, paragraph ~~(b)~~ (a), but not the qualifications of a tax relief area in section 273.134, paragraph ~~(a)~~ (b), 66 percent of the tax, provided that the reduction shall not exceed $315.10. In the case of property located within the boundaries of a school district which qualifies as a ~~tax relief~~ taconite assistance area under section ~~273.134, paragraph (b)~~ 273.1341, but does not qualify as a tax relief area under section 273.134, paragraph ~~(a)~~ (b), but which is outside the boundaries of a municipality which meets the qualifications of the preceding sentence, 57 percent of the tax, provided that the reduction shall not exceed the maximum amounts specified in paragraph (d).

(d) Except as otherwise provided in this section, the maximum reduction of the tax is $289.80.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 6. Minnesota Statutes 2002, section 298.2211, subdivision 1, is amended to read:

Subdivision 1. **PURPOSE; GRANT OF AUTHORITY.** In order to accomplish the legislative purposes specified in sections 469.142 to 469.165 and chapter 462C, within tax relief areas as defined in section 273.134, the commissioner of iron range resources and rehabilitation may exercise the following powers: (1) all powers

conferred upon a rural development financing authority under sections 469.142 to 469.149; (2) all powers conferred upon a city under chapter 462C; (3) all powers conferred upon a municipality or a redevelopment agency under sections 469.152 to 469.165; (4) all powers provided by sections 469.142 to 469.151 to further any of the purposes and objectives of chapter 462C and sections 469.152 to 469.165; ~~and~~ (5) apply for, borrow, receive, and expend grant and loan money made available from federal sources and from federally funded programs; and (6) all powers conferred upon a municipality or an authority under sections 469.174 to 469.177, 469.178, except subdivision 2 thereof, and 469.179, subject to compliance with the provisions of section 469.175, subdivisions 1, 2, and 3; provided that any tax increments derived by the commissioner from the exercise of this authority may be used only to finance or pay premiums or fees for insurance, letters of credit, or other contracts guaranteeing the payment when due of net rentals under a project lease or the payment of principal and interest due on or repurchase of bonds issued to finance a project or program, to accumulate and maintain reserves securing the payment when due on bonds issued to finance a project or program, or to provide an interest rate reduction program pursuant to section 469.012, subdivision 7. Tax increments and earnings thereon remaining in any bond reserve account after payment or discharge of any bonds secured thereby shall be used within one year thereafter in furtherance of this section or returned to the county auditor of the county in which the tax increment financing district is located. If returned to the county auditor, the county auditor shall immediately allocate the amount among all government units which would have shared therein had the amount been received as part of the other ad valorem taxes on property in the district most recently paid, in the same proportions as other taxes were distributed, and shall immediately distribute it to the government units in accordance with the allocation.

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

Sec. 7. Minnesota Statutes 2002, section 298.27, is amended to read:

298.27 **COLLECTION AND PAYMENT OF TAX.**

The taxes provided by section 298.24 shall be paid directly to each eligible county and the iron range resources and rehabilitation board. The commissioner of revenue shall notify each producer of the amount to be paid each recipient prior to February 15. Every person subject to taxes imposed by section 298.24 shall file a correct report covering the preceding year. The report must contain the information required by the commissioner. The report shall be filed by each producer on or before February 1. A remittance equal to 50 percent of the total tax required to be paid hereunder ~~in 2003 and 100 percent of the total tax required to be paid hereunder in 2004 and thereafter~~ shall be paid on or before February 24. A remittance equal to the remaining total tax required to be paid hereunder ~~in 2003~~ shall be paid on or before August 24. On or before February 25~~,~~ and ~~in 2003,~~ August 25, the county auditor shall make distribution of the payments previously received by the county in the manner provided by section 298.28. Reports shall be made and hearings held upon the determination of the tax in accordance with procedures established by the commissioner of revenue. The commissioner of revenue shall have authority to make reasonable rules as to the form

and manner of filing reports necessary for the determination of the tax hereunder, and by such rules may require the production of such information as may be reasonably necessary or convenient for the determination and apportionment of the tax. All the provisions of the occupation tax law with reference to the assessment and determination of the occupation tax, including all provisions for appeals from or review of the orders of the commissioner of revenue relative thereto, but not including provisions for refunds, are applicable to the taxes imposed by section 298.24 except in so far as inconsistent herewith. If any person subject to section 298.24 shall fail to make the report provided for in this section at the time and in the manner herein provided, the commissioner of revenue shall in such case, upon information possessed or obtained, ascertain the kind and amount of ore mined or produced and thereon find and determine the amount of the tax due from such person. There shall be added to the amount of tax due a penalty for failure to report on or before February 1, which penalty shall equal ten percent of the tax imposed and be treated as a part thereof.

If any person responsible for making a tax payment at the time and in the manner herein provided fails to do so, there shall be imposed a penalty equal to ten percent of the amount so due, which penalty shall be treated as part of the tax due.

In the case of any underpayment of the tax payment required herein, there may be added and be treated as part of the tax due a penalty equal to ten percent of the amount so underpaid.

A person having a liability of $120,000 or more during a calendar year must remit all liabilities 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 date the tax is due. 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.

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 8. Minnesota Statutes 2002, section 298.28, subdivision 4, is amended to read:

Subd. 4. **SCHOOL DISTRICTS.** (a) 17.15 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c), except as otherwise provided in paragraph (f).

(b) 3.43 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 13.72 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts ~~in~~ which ~~the taconite was mined or quarried or the concentrate produced~~ qualify as a tax relief area under section 273.134, paragraph (b), or in which there is a qualifying

municipality as defined by section 273.134, paragraph ~~(b)~~ (a), in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 126C.05 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapters 122A, 126C, and 127A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values after reduction for any portion distributed to cities and towns under section 126C.48, subdivision 8, paragraph (5), that is less than the amount of its levy reduction under section 126C.48, subdivision 8, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) Any school district described in paragraph (c) where a levy increase pursuant to section 126C.17, subdivision 9, was authorized by referendum for taxes payable in 2001, shall receive a distribution ~~from a fund that receives a distribution in 1998~~ of 21.3 cents per ton. ~~On July 15 of 1999, and each year thereafter, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1.~~ Each district shall receive $175 times the pupil units identified in section 126C.05, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1.8 percent times the district's taxable net tax capacity in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of $175 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 126C.13 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

Each district receiving money according to this paragraph shall reserve $25 times the number of pupil units in the district. It may use the money for early childhood programs or for outcome-based learning programs that enhance the academic quality of the district's curriculum. The outcome-based learning programs must be approved by the commissioner of children, families, and learning.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

(f) Effective for the distribution in 2003 only, five percent of the distributions to school districts under paragraphs (b), (c), and (e); subdivision 6, paragraph (c); subdivision 11; and section 298.225, shall be distributed to the general fund. The remainder less any portion distributed to cities and towns under section 126C.48, subdivision 8, paragraph (5), shall be distributed to the northeast Minnesota economic protection trust fund created in section 298.292. Fifty percent of the amount distributed to the ~~northeast Minnesota~~ Douglas J. Johnson economic protection trust fund shall be made available for expenditure under section 298.293 as governed by section 298.296. Effective in 2003 only, 100 percent of the distributions to school districts under section 477A.15 less any portion distributed to cities and towns under section 126C.48, subdivision 8, paragraph (5), shall be distributed to the general fund.

EFFECTIVE DATE. This section is effective for distributions in 2004 and thereafter.

Sec. 9. Minnesota Statutes 2002, section 298.292, subdivision 2, is amended to read:

Subd. 2. **USE OF MONEY.** Money in the northeast Minnesota economic protection trust fund may be used for the following purposes:

(1) to provide loans, loan guarantees, interest buy-downs and other forms of participation with private sources of financing, but a loan to a private enterprise shall be for a principal amount not to exceed one-half of the cost of the project for which financing is sought, and the rate of interest on a loan to a private enterprise shall be no less than the lesser of eight percent or an interest rate three percentage points less than a full faith and credit obligation of the United States government of comparable maturity, at the time that the loan is approved;

(2) to fund reserve accounts established to secure the payment when due of the principal of and interest on bonds issued pursuant to section 298.2211;

(3) to pay in periodic payments or in a lump sum payment any or all of the interest on bonds issued pursuant to chapter 474 for the purpose of constructing, converting, or retrofitting heating facilities in connection with district heating systems or systems utilizing alternative energy sources; and

(4) to invest in a venture capital fund or enterprise that will provide capital to other entities that are engaging in, or that will engage in, projects or programs that have the purposes set forth in subdivision 1. No investments may be made in a venture capital fund or enterprise unless at least two other unrelated investors make investments of at least $500,000 in the venture capital fund or enterprise, and the investment by the northeast Minnesota economic protection trust fund may not exceed the amount of the largest investment by an unrelated investor in the venture capital fund or enterprise. For purposes of this subdivision, an "unrelated investor" is a person or entity that is not related to the entity in which the investment is made or to any individual who owns more than 40 percent of the value of the entity, in any of the

following relationships: spouse, parent, child, sibling, employee, or owner of an interest in the entity that exceeds ten percent of the value of all interests in it. For purposes of determining the limitations under this clause, the amount of investments made by an investor other than the northeast Minnesota economic protection trust fund is the sum of all investments made in the venture capital fund or enterprise during the period beginning one year before the date of the investment by the northeast Minnesota economic protection trust fund.

Money from the trust fund shall be expended only in or for the benefit of the tax relief area defined in section 273.134, paragraph (b).

EFFECTIVE DATE. This section is effective for loans executed on or after the day following final enactment.

Sec. 10. Minnesota Statutes 2002, section 298.296, subdivision 4, is amended to read:

Subd. 4. **TEMPORARY LOAN AUTHORITY.** (a) The board may recommend that up to $7,500,000 from the corpus of the trust may be used for loans, loan guarantees, grants, or equity investments as provided in this subdivision. The money would be available for loans for construction and equipping of facilities constituting (1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent; or (2) a new mine or minerals processing plant for any mineral subject to the net proceeds tax imposed under section 298.015. A loan or loan guarantee under this paragraph may not exceed $5,000,000 for any facility.

(b) Additionally, the board must reserve the first $2,000,000 of the net interest, dividends, and earnings arising from the investment of the trust after June 30, 1996, to be used for ~~additional~~ grants, loans, loan guarantees, or equity investments for the purposes set forth in paragraph (a). This amount must be reserved until it is used ~~for the grants~~ as described in this subdivision.

(c) Additionally, the board may recommend that up to $5,500,000 from the corpus of the trust may be used for additional grants, loans, loan guarantees, or equity investments for the purposes set forth in paragraph (a).

(d) The board may require that it receive an equity percentage in any project to which it contributes under this section.

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

Sec. 11. Minnesota Statutes 2002, section 298.2961, is amended by adding a subdivision to read:

Subd. 3. **REDISTRIBUTION.** (a) If a taconite production facility is sold after operations at the facility had ceased, any money remaining in the taconite environmental fund for the former producer may be released to the purchaser of the facility on the terms otherwise applicable to the former producer under this section.

(b) Any portion of the taconite environmental fund that is not released by the commissioner within three years of its deposit in the taconite environmental fund shall be divided between the taconite environmental protection fund created in section 298.223 and the Douglas J. Johnson economic protection trust fund created in section 298.292 for placement in their respective special accounts. Two-thirds of the unreleased funds must be distributed to the taconite environmental protection fund and one-third to the Douglas J. Johnson economic protection trust fund.

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

Sec. 12. **REVISOR INSTRUCTION.**

The revisor of statutes shall change the phrase "Northeast Minnesota Economic Protection Trust Fund" or a similar phrase referring to the fund, to the "Douglas J. Johnson Economic Protection Trust Fund" wherever it appears in Minnesota Statutes.

Sec. 13. **REPEALER.**

Minnesota Statutes 2002, section 298.24, subdivision 3, is repealed effective for concentrates produced after January 1, 2003.

ARTICLE 12

PUBLIC FINANCE

Section 1. **[37.31] ISSUANCE OF BONDS.**

Subdivision 1. **BONDING AUTHORITY.** The society may issue negotiable bonds in a principal amount that the society determines necessary to provide sufficient money for achieving its purposes, including the payment of interest on bonds of the society, the establishment of reserves to secure its bonds, the payment of fees to a third party providing credit enhancement, and the payment of all other expenditures of the society incident to and necessary or convenient to carry out its corporate purposes and powers. Bonds of the society may be issued as bonds or notes or in any other form authorized by law. The principal amount of bonds issued and outstanding under this section at any time may not exceed $20,000,000, excluding bonds for which refunding bonds or crossover refunding bonds have been issued.

Subd. 2. **REFUNDING OF BONDS.** The society may issue bonds to refund outstanding bonds of the society, to pay any redemption premiums on those bonds, and to pay interest accrued or to accrue to the redemption date next succeeding the date of delivery of the refunding bonds. The society may apply the proceeds of any refunding bonds to the purchase or payment at maturity of the bonds to be refunded, or to the redemption of outstanding bonds on the redemption date next succeeding the date of delivery of the refunding bonds and may, pending the application, place the proceeds in escrow to be applied to the purchase, retirement, or redemption of the bonds.

Pending use, escrowed proceeds may be invested and reinvested in obligations issued or guaranteed by the state or the United States or by any agency or instrumentality of the state or the United States, or in certificates of deposit or time deposits secured in a manner determined by the society, maturing at a time appropriate to assure the prompt payment of the principal and interest and redemption premiums, if any, on the bonds to be refunded. The income realized on any investment may also be applied to the payment of the bonds to be refunded. After the terms of the escrow have been fully satisfied, any balance of the proceeds and any investment income may be returned to the society for use by it in any lawful manner. All refunding bonds issued under this subdivision must be issued and secured in the manner provided by resolution of the society.

Subd. 3. **KIND OF BONDS.** Bonds issued under this section must be negotiable investment securities within the meaning and for all purposes of the Uniform Commercial Code, subject only to the provisions of the bonds for registration. The bonds issued must be limited obligations of the society not secured by its full faith and credit and payable solely from specified sources or assets.

Subd. 4. **RESOLUTION AND TERMS OF SALE.** The bonds of the society must be authorized by a resolution or resolutions adopted by the society. The bonds must bear the date or dates, mature at the time or times, bear interest at a fixed or variable rate, including a rate varying periodically at the time or times and on the terms determined by the society, or any combination of fixed and variable rates, be in the denominations, be in the form, carry the registration privileges, be executed in the manner, be payable in lawful money of the United States, at the place or places within or without the state, and be subject to the terms of redemption or purchase before maturity as the resolutions or certificates provide. If, for any reason existing at the date of issue of the bonds or existing at the date of making or purchasing any loan or securities from the proceeds or after that date, the interest on the bonds is or becomes subject to federal income taxation, this fact does not affect the validity or the provisions made for the security of the bonds. The society may make covenants and take or have taken actions that are in its judgment necessary or desirable to comply with conditions established by federal law or regulations for the exemption of interest on its obligations. The society may refrain from compliance with those conditions if in its judgment this would serve the purposes and policies set forth in this chapter with respect to any particular issue of bonds, unless this would violate covenants made by the society. The maximum maturity of a bond, whether or not issued for the purpose of refunding, must be 30 years from its date. The bonds of the society may be sold at public or private sale, at a price or prices determined by the society; provided that:

(1) the aggregate price at which an issue of bonds is initially offered by underwriters to investors, as stated in the authority's official statement with respect to the offering, must not exceed by more than three percent the aggregate price paid by the underwriters to the society at the time of delivery;

(2) the commission paid by the society to an underwriter for placing an issue of bonds with investors must not exceed three percent of the aggregate price at which the

issue is offered to investors as stated in the society's offering statement; and

(3) the spread or commission must be an amount determined by the society to be reasonable in light of the risk assumed and the expenses of issuance, if any, required to be paid by the underwriters.

Subd. 5. **EXEMPTION.** The notes and bonds of the society are not subject to sections 16C.03, subdivision 4, and 16C.05.

Subd. 6. **RESERVES; FUNDS; ACCOUNTS.** The society may establish reserves, funds, or accounts necessary to carry out the purposes of the society or to comply with any agreement made by or any resolution passed by the society.

Subd. 7. **APPROVAL; COMMISSIONER OF FINANCE.** Before issuing bonds under this section, the society must obtain the approval, in writing, of the commissioner of finance.

Subd. 8. **EXPIRATION.** The authority to issue bonds, other than bonds to refund outstanding bonds, under this section expires July 1, 2009.

Sec. 2. **[37.32] TENDER OPTION.**

An obligation may be issued giving its owner the right to tender or the society to demand tender of the obligation to the society or another person designated by it, for purchase at a specified time or times, if the society has first entered into an agreement with a suitable financial institution obligating the financial institution to provide funds on a timely basis for purchase of bonds tendered. The obligation is not considered to mature on any tender date and the purchase of a tendered obligation is not considered a payment or discharge of the obligation by the society. Obligations tendered for purchase may be remarketed by or on behalf of the society or another purchaser. The society may enter into agreements it considers appropriate to provide for the purchase and remarketing of tendered obligations, including:

(1) provisions under which undelivered obligations may be considered tendered for purchase and new obligations may be substituted for them;

(2) provisions for the payment of charges of tender agents, remarketing agents, and financial institutions extending lines of credit or letters of credit assuring repurchase; and

(3) provisions for reimbursement of advances under letters of credit that may be paid from the proceeds of the obligations or from tax and other revenues appropriated for the payment and security of the obligations and similar or related provisions.

Sec. 3. **[37.33] BOND FUND.**

Subdivision 1. **CREATION AND CONTENTS.** The society may establish a special fund or funds for the security of one or more or all series of its bonds. The funds must be known as debt service reserve funds. The society may pay into each debt service reserve fund:

(1) the proceeds of sale of bonds to the extent provided in the resolution or indenture authorizing the issuance of them;

(2) money directed to be transferred by the society to the debt service reserve fund; and

(3) other money made available to the society from any other source only for the purpose of the fund.

Subd. 2. **USE OF FUNDS.** Except as provided in this section, the money credited to each debt service reserve fund must be used only for the payment of the principal of bonds of the society as they mature, the purchase of the bonds, the payment of interest on them, or the payment of any premium required when the bonds are redeemed before maturity. Money in a debt service reserve fund must not be withdrawn at a time and in an amount that reduces the amount of the fund to less than the amount the society determines to be reasonably necessary for the purposes of the fund. However, money may be withdrawn to pay principal or interest due on bonds secured by the fund if other money of the society is not available.

Subd. 3. **INVESTMENT.** Money in a debt service reserve fund not required for immediate use may be invested in accordance with section 37.07.

Subd. 4. **MINIMUM AMOUNT OF RESERVE AT ISSUANCE.** If the society establishes a debt service reserve fund for the security of any series of bonds, it shall not issue additional bonds that are similarly secured if the amount of any of the debt service reserve funds at the time of issuance does not equal or exceed the minimum amount required by the resolution creating the fund, unless the society deposits in each fund at the time of issuance, from the proceeds of the bonds, or otherwise, an amount that when added together with the amount then in the fund will be at least the minimum amount required.

Subd. 5. **TRANSFER OF EXCESS.** To the extent consistent with the resolutions and indentures securing outstanding bonds, the society may at the close of a fiscal year transfer to any other fund or account from any debt service reserve fund any excess in that reserve fund over the amount determined by the society to be reasonably necessary for the purpose of the reserve fund.

Sec. 4. **[37.34] MONEY OF THE SOCIETY.**

The society may contract with the holders of any of its bonds as to the custody, collection, securing, investment, and payment of money of the society or money held in trust or otherwise for the payment of bonds, and to carry out the contract. Money held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of the money may be secured in the same manner as money of the society, and all banks and trust companies are authorized to give security for the deposits.

Sec. 5. **[37.35] NONLIABILITY.**

Subdivision 1. **NONLIABILITY OF INDIVIDUALS.** No member of the society or other person executing the bonds is liable personally on the bonds or is subject to any personal liability or accountability by reason of their issuance.

Subd. 2. **NONLIABILITY OF STATE.** The state is not liable on bonds of the society issued under section 37.31 and those bonds are not a debt of the state. The bonds must contain on their face a statement to that effect.

Sec. 6. **[37.36] PURCHASE AND CANCELLATION BY SOCIETY.**

Subject to agreements with bondholders that may then exist, the society may purchase out of money available for the purpose, bonds of the society which shall then be canceled, at a price not exceeding the following amounts:

(1) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date of the bonds; or

(2) if the bonds are not redeemable, the redemption price applicable on the first date after the purchase upon which the bonds become subject to redemption plus accrued interest to that date.

Sec. 7. **[37.37] STATE PLEDGE AGAINST IMPAIRMENT OF CONTRACTS.**

The state pledges and agrees with the holders of bonds issued under section 37.31 that the state will not limit or alter the rights vested in the society to fulfill the terms of any agreements made with the bondholders or in any way impair the rights and remedies of the holders until the bonds, together with interest on them, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged. The society may include this pledge and agreement of the state in any agreement with the holders of bonds issued under section 37.31.

Sec. 8. Minnesota Statutes 2002, section 373.01, subdivision 3, is amended to read:

Subd. 3. **CAPITAL NOTES.** A county board may, by resolution and without referendum, issue capital notes subject to the county debt limit to purchase capital equipment useful for county purposes that has an expected useful life at least equal to the term of the notes. The notes shall be payable in not more than five years and shall be issued on terms and in a manner the board determines. A tax levy shall be made for payment of the principal and interest on the notes, in accordance with section 475.61, as in the case of bonds. For purposes of this subdivision, "capital equipment" means public safety, ambulance, road construction or maintenance, and medical ~~, and data processing~~ equipment, and computer hardware and original operating system software. The authority to issue capital notes for original operating systems software expires on July 1, 2005.

Sec. 9. Minnesota Statutes 2002, section 373.45, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (a) As used in this section, the following terms have the meanings given.

(b) "Authority" means the Minnesota public facilities authority.

(c) "Commissioner" means the commissioner of finance.

(d) "Debt obligation" means a general obligation bond issued by a county, or a bond payable from a county lease obligation under section 641.24, to provide funds for the construction of:

(1) jails;

(2) correctional facilities;

(3) law enforcement facilities;

(4) social services and human services facilities; or

(5) solid waste facilities.

Sec. 10. Minnesota Statutes 2002, section 373.47, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY TO INCUR DEBT.** ~~(a)~~ Subject to prior approval by the public safety radio system planning committee under section 473.907, the governing body of a county may finance the cost of designing, constructing, and acquiring public safety communication system infrastructure and equipment for use on the statewide, shared public safety radio system by issuing:

(1) capital improvement bonds under section 373.40, as if the infrastructure and equipment qualified as a "capital improvement" within the meaning of section 373.40, subdivision 1, paragraph (b); and

(2) capital notes under the provisions of section 373.01, subdivision 3, as if the equipment qualified as "capital equipment" within the meaning of section 373.01, subdivision 3.

~~(b) For purposes of this section, "county" means the following counties: Anoka, Benton, Carver, Chisago, Dakota, Dodge, Fillmore, Freeborn, Goodhue, Hennepin, Houston, Isanti, Mower, Olmsted, Ramsey, Rice, Scott, Sherburne, Steele, Wabasha, Washington, Wright, and Winona.~~

~~(c) The authority to incur debt under this section is not effective until July 1, 2003, for the following counties: Benton, Dodge, Fillmore, Freeborn, Goodhue, Houston, Mower, Olmsted, Rice, Sherburne, Steele, Wabasha, Wright, and Winona.~~

Sec. 11. Minnesota Statutes 2002, section 376.009, is amended to read:

376.009 **COUNTY HOSPITAL DEFINED; MAY HAVE MANY BUILDINGS, SITES.**

For the purposes of sections 376.01 to 376.06, "county hospital" means any hospital owned or operated by a county which may consist of any number of buildings at one location or any number of buildings at different locations within the county. The county board of any county that has not established a county hospital may by resolution authorize a statutory or home rule charter city in the county and its city council to exercise the powers of a county and the county board under sections 376.01

to 376.07, in which case references in sections 376.01 to 376.07 to "county" and "county board" refer to the city so designated and its governing body, respectively.

Sec. 12. Minnesota Statutes 2002, section 376.55, subdivision 3, is amended to read:

Subd. 3. **FINANCING.** The county board may transfer surplus funds from any fund except the road and bridge, sinking or drainage ditch funds for the purpose of establishing, acquiring, maintaining, enlarging, or adding to a county nursing home. When surplus funds are not available for transfer, a county board may issue bonds to pay the cost of establishing, acquiring, equipping, furnishing, enlarging, or adding to a county nursing home, subject to section 376.56.

Sec. 13. Minnesota Statutes 2002, section 376.55, is amended by adding a subdivision to read:

Subd. 7. **CITY POWERS.** The county board of any county that has not established a nursing home may by resolution authorize a statutory or home rule charter city within the county to exercise the powers of a county under sections 376.55 to 376.60. A city so designated may exercise within its boundaries all the powers of a county under sections 376.55 to 376.60.

Sec. 14. Minnesota Statutes 2002, section 376.56, subdivision 3, is amended to read:

Subd. 3. **CHAPTER 475 BONDS.** Bonds issued under section 376.55, subdivision 3, may be general obligations of the county and may be issued and sold, and taxes levied for their payment as provided under chapter 475. No election shall be required to authorize the bond issue for acquiring, improving, remodeling, or replacing an existing nursing home without increasing the total number of accommodations for residents in all nursing homes in the county. The revenues of the nursing home shall also be pledged for the payment of the bonds and for any interest and premium. Part of the proceeds may be deposited in the debt service fund for the issue, to capitalize interest and create a reserve to reduce or eliminate the tax otherwise required by section 475.61 to be levied before issuing the bonds. The remaining proceeds from the sale of the bonds and any surplus funds transferred under section 376.55, subdivision 3 must be credited to and deposited in the county nursing home building fund of the county in which the nursing home is located.

Sec. 15. Minnesota Statutes 2002, section 410.32, is amended to read:

410.32 **CITIES MAY ISSUE CAPITAL NOTES TO BUY CAPITAL EQUIPMENT.**

Notwithstanding any contrary provision of other law or charter, a home rule charter city may, by resolution and without public referendum, issue capital notes subject to the city debt limit to purchase public safety equipment, ambulance and other medical equipment, road construction and maintenance equipment, and other capital equipment ~~having~~ and computer hardware and original operating system software, provided the equipment or software has an expected useful life at least as long as the

term of the notes. The authority to issue capital notes for original operating system software expires on July 1, 2005. The notes shall be payable in not more than five years and be issued on terms and in the manner the city determines. The total principal amount of the capital notes issued in a fiscal year shall not exceed 0.03 percent of the market value of taxable property in the city for that year. A tax levy shall be made for the payment of the principal and interest on the notes, in accordance with section 475.61, as in the case of bonds. Notes issued under this section shall require an affirmative vote of two-thirds of the governing body of the city. Notwithstanding a contrary provision of other law or charter, a home rule charter city may also issue capital notes subject to its debt limit in the manner and subject to the limitations applicable to statutory cities pursuant to section 412.301.

Sec. 16. **[475.521] CAPITAL IMPROVEMENT BONDS.**

Subdivision 1. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given.

(a) "Bonds" mean an obligation defined under section 475.51.

(b) "Capital improvement" means acquisition or betterment of public lands, buildings or other improvements for the purpose of a city hall, public safety facility, and public works facility. An improvement must have an expected useful life of five years or more to qualify. Capital improvement does not include light rail transit or any activity related to it, or a park, library, road, bridge, administrative building other than a city hall, or land for any of those facilities.

(c) "City" means a home rule charter or statutory city.

Subd. 2. **ELECTION REQUIREMENT.** (a) Bonds issued by a city to finance capital improvements under an approved capital improvements plan are not subject to the election requirements of section 475.58. The bonds are subject to the net debt limits under section 475.53. The bonds must be approved by an affirmative vote of three-fifths of the members of a five-member city council. In the case of a city council having more than five members, the bonds must be approved by a vote of at least two-thirds of the city council.

(b) Before the issuance of bonds qualifying under this section, the city must publish a notice of its intention to issue the bonds and the date and time of the hearing to obtain public comment on the matter. The notice must be published in the official newspaper of the city or in a newspaper of general circulation in the city. Additionally, the notice may be posted on the official Web site, if any, of the city. The notice must be published at least 14 but not more than 28 days before the date of the hearing.

(c) A city may issue the bonds only after obtaining the approval of a majority of the voters voting on the question of issuing the obligations, if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the city in the last general election and is filed with the city clerk within 30 days after the public hearing. The commissioner of revenue shall prepare a suggested form of the question to be presented at the election.

Subd. 3. **CAPITAL IMPROVEMENT PLAN.** (a) A city may adopt a capital improvement plan. The plan must cover at least a five-year period beginning with the date of its adoption. The plan must set forth the estimated schedule, timing, and details of specific capital improvements by year, together with the estimated cost, the need for the improvement, and sources of revenue to pay for the improvement. In preparing the capital improvement plan, the city council must consider for each project and for the overall plan:

(1) the condition of the city's existing infrastructure, including the projected need for repair or replacement;

(2) the likely demand for the improvement;

(3) the estimated cost of the improvement;

(4) the available public resources;

(5) the level of overlapping debt in the city;

(6) the relative benefits and costs of alternative uses of the funds;

(7) operating costs of the proposed improvements; and

(8) alternatives for providing services most efficiently through shared facilities with other cities or local government units.

(b) The capital improvement plan and annual amendments to it must be approved by the city council after public hearing.

Subd. 4. **LIMITATIONS ON AMOUNT.** A city may not issue bonds under this section if the maximum amount of principal and interest to become due in any year on all the outstanding bonds issued under this section, including the bonds to be issued, will equal or exceed 0.05367 percent of taxable market value of property in the county. Calculation of the limit must be made using the taxable market value for the taxes payable year in which the obligations are issued and sold. This section does not limit the authority to issue bonds under any other special or general law.

Subd. 5. **APPLICATION OF CHAPTER 475.** Bonds to finance capital improvements qualifying under this section must be issued under the issuance authority in chapter 475 and the provisions of chapter 475 apply, except as otherwise specifically provided in this section.

Sec. 17. Minnesota Statutes 2002, section 412.301, is amended to read:

412.301 **FINANCING PURCHASE OF CERTAIN EQUIPMENT.**

The council may issue certificates of indebtedness or capital notes subject to the city debt limits to purchase public safety equipment, ambulance equipment, road construction or maintenance equipment, and other capital equipment ~~having~~ and computer hardware and original operating system software, provided the equipment or software has an expected useful life at least as long as the terms of the certificates or notes. The authority to issue capital notes for original operating system software expires on July 1, 2005. Such certificates or notes shall be payable in not more than five

years and shall be issued on such terms and in such manner as the council may determine. If the amount of the certificates or notes to be issued to finance any such purchase exceeds 0.25 percent of the market value of taxable property in the city, they shall not be issued for at least ten days after publication in the official newspaper of a council resolution determining to issue them; and if before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular municipal election is filed with the clerk, such certificates or notes shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on such certificates or notes, in accordance with section 475.61, as in the case of bonds.

Sec. 18. **[469.0772] KOOCHICHING COUNTY; PORT AUTHORITY.**

Subdivision 1. **AUTHORITY TO ESTABLISH.** The governing body of the county of Koochiching may establish a port authority that has the same powers as a port authority established under section 469.049. If the county establishes a port authority, the governing body of the county shall exercise all powers granted to a city by sections 469.048 to 469.068 or other law. Any city in Koochiching county may participate in the activities of the county port authority under terms jointly agreed to by the city and county.

Subd. 2. **FOREIGN TRADE ZONE.** Koochiching county or any city, town, or other political subdivision located in Koochiching county may apply to the board defined in United States Code, title 19, section 81a, for the right to use the powers provided in United States Code, title 19, sections 81a and 81u. If the right is granted the city, town, or other political subdivision may use the powers within or outside of a port district. The county, a city, town, or other political subdivision may apply jointly with any other city, town, or political subdivision located in Koochiching county.

Sec. 19. Minnesota Statutes 2002, section 469.1813, subdivision 8, is amended to read:

Subd. 8. **LIMITATION ON ABATEMENTS.** In any year, the total amount of property taxes abated by a political subdivision under this section may not exceed (1) ~~five~~ ten percent of the current levy, or (2) ~~$100,000~~ $200,000, whichever is greater.

Sec. 20. Minnesota Statutes 2002, section 473.39, is amended by adding a subdivision to read:

Subd. 1j. **OBLIGATIONS.** After July 1, 2003, in addition to the authority in subdivisions 1a, 1b, 1c, 1d, 1e, 1g, 1h, and 1i, the council may issue certificates of indebtedness, bonds, or other obligations under this section in an amount not exceeding $45,000,000 for capital expenditures as prescribed in the council's regional transit master plan and transit capital improvement program and for related costs, including the costs of issuance and sale of the obligations.

APPLICATION. This section applies to the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington.

Sec. 21. Minnesota Statutes 2002, section 473.898, subdivision 3, is amended to read:

Subd. 3. **LIMITATIONS.** (a) The principal amount of the bonds issued pursuant to subdivision 1, exclusive of any original issue discount, shall not exceed the amount of $10,000,000 plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and pay for any bond insurance or other credit enhancement.

(b) In addition to the amount authorized under paragraph (a), the council may issue bonds under subdivision 1 in a principal amount of $3,306,300, plus the amount the council determines necessary to pay the cost of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph may not be used to finance portable or subscriber radio sets.

(c) In addition to the amount authorized under paragraphs (a) and (b), the council may issue bonds under subdivision 1 in a principal amount of $12,000,000, plus the amount the council determines necessary to pay the costs of issuance, fund reserves, debt service, and any bond insurance or other credit enhancement. The proceeds of bonds issued under this paragraph must be used to pay up to 30 percent of the cost to a local government unit of building a subsystem and may not be used to finance portable or subscriber radio sets. The bond proceeds may be used to make improvements to an existing 800 MHz radio system that will interoperate with the regionwide public safety radio communication system, provided that the improvements conform to the board's plan and technical standards. The council must time the sale and issuance of the bonds so that the debt service on the bonds can be covered by the additional revenue that will become available in the fiscal year ending June 30, 2005, generated under section 403.11 and appropriated under section 473.901.

Sec. 22. Minnesota Statutes 2002, section 474A.061, subdivision 1, is amended to read:

Subdivision 1. **ALLOCATION APPLICATION.** (a) An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter and the Internal Revenue Code, (3) the type of qualified bonds to be issued, (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in July, or in the amount of two percent of the requested allocation on or after the last Monday in July, (5) a public purpose scoring worksheet for manufacturing project and enterprise zone facility project applications, and (6) for residential rental projects, a statement from the applicant or bond counsel as to whether the project preserves existing federally subsidized housing for residential rental project applications and whether the project is restricted to persons who are 55 years of age or older. The issuer must pay the application deposit by a check made payable to the department of finance. The Minnesota housing finance agency, the Minnesota rural finance authority, and the Minnesota higher education services office

may apply for and receive an allocation under this section without submitting an application deposit.

(b) An entitlement issuer may not apply for an allocation from the ~~housing pool or from the~~ public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. An entitlement issuer may not apply for an allocation from the housing pool unless it either has permanently issued bonds equal to any amount of bonding authority carried forward from a previous year or has returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6. This paragraph does not apply to an application from the Minnesota housing finance agency for an allocation under subdivision 2a for cities who choose to have the agency issue bonds on their behalf.

(c) If an application is rejected under this section, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Sec. 23. Minnesota Statutes 2002, section 475.58, subdivision 3b, is amended to read:

Subd. 3b. **STREET RECONSTRUCTION.** (a) A municipality may, without regard to the election requirement under subdivision 1, issue and sell obligations for street reconstruction, if the following conditions are met:

(1) the streets are reconstructed under a street reconstruction plan that describes the streets to be reconstructed, the estimated costs, and any planned reconstruction of other streets in the municipality over the next five years, and the plan and issuance of the obligations has been approved by a vote of all of the members of the governing body following a public hearing for which notice has been published in the official newspaper at least ten days but not more than 28 days prior to the hearing; and

(2) if a petition requesting a vote on the issuance is signed by voters equal to five percent of the votes cast in the last municipal general election and is filed with the municipal clerk within 30 days of the public hearing, the municipality may issue the bonds only after obtaining the approval of a majority of the voters voting on the question of the issuance of the obligations.

(b) Obligations issued under this subdivision are subject to the debt limit of the municipality and are not excluded from net debt under section 475.51, subdivision 4.

For purposes of this subdivision, street reconstruction includes utility replacement and relocation and other activities incidental to the street reconstruction, but does not include the portion of project cost allocable to widening a street or adding curbs and gutters where none previously existed.

Sec. 24. Laws 1967, chapter 558, section 1, subdivision 5, as amended by Laws 1979, chapter 135, section 1, and Laws 1985, chapter 98, section 2, is amended to read:

Subd. 5. Promotion of tourist, agricultural and industrial developments. The amount to be spent annually for the purposes of this subdivision shall not exceed ~~one dollar~~ five dollars per capita of the county's population.

EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the governing body of Beltrami county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 25. **BONDS ISSUANCE VALIDATED.**

The provisions of Minnesota Statutes, sections 373.47, subdivision 1, and 473.907, subdivision 3, requiring prior review and approval by the public radio safety planning committee do not apply to the general obligation bonds issued by Anoka county in a principal amount of $10,500,000 on November 20, 2002.

EFFECTIVE DATE. This section is effective upon compliance by the governing body of Anoka county with the provisions of Minnesota Statutes, section 645.021.

Sec. 26. **BUFFALO; CITY BONDS FOR HIGHWAY 55.**

The city of Buffalo may issue up to $1,300,000 of its general obligation bonds to pay for the city's share of costs of reconstruction and upgrading of that part of Minnesota trunk highway marked 55 that lies within the city of Buffalo.

The bonds must be issued and sold in accordance with Minnesota Statutes, chapter 475, except that the debt need not be included within any limit on net debt imposed by Minnesota Statutes, chapter 475, and no election is required to authorize the bond issue.

Notwithstanding any other law, including any law enacted during the 2003 legislative session whether enacted before or after the enactment of this act, the debt or debt service on bonds issued under this section is excluded from any levy or other taxing limits and is not spending or revenue for purposes of calculating local government aids or local government aids reductions.

EFFECTIVE DATE. This section is effective the day after the governing body of Buffalo and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 27. **CORPORATE STATUS FOR CERTAIN FEDERAL TAX LAW.**

For purposes of section 1.103-1 of the federal income tax regulations, Lewis and Clark Rural Water System, Inc. is hereby recognized as a corporation authorized to act on behalf of its members, including its Minnesota member governmental units, to provide drinking water to their communities and to issue debt obligations in its own name on behalf of some or all of its members, provided that Minnesota member governmental units are not liable for the payment of principal of or interest on such obligations.

Sec. 28. **NURSING HOME BONDS AUTHORIZED.**

Itasca county may issue bonds under Minnesota Statutes, sections 376.55 and 376.56, to finance the construction of a 35-bed nursing home facility to replace an existing 35-bed private facility located in the county. The bonds issued under this section must be payable solely from revenues and may not be general obligations of the county.

EFFECTIVE DATE. This section is effective the day after the governing body of Itasca county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 29. **VALIDATION OF APPROVAL.**

Notwithstanding Minnesota Statutes, section 645.021, subdivision 3, Laws 1980, chapter 569, sections 2 through 8, approved by the board of directors of local government information systems by resolution adopted on July 30, 1980, are effective as of July 1, 1980, and apply to obligations issued by local government information systems after April 1, 2003.

Sec. 30. **KANDIYOHI COUNTY AND CITY OF WILLMAR.**

Subdivision 1. **POWERS.** Notwithstanding Minnesota Statutes, sections 469.090 and 469.1082, Kandiyohi county may exercise the powers of a city under Minnesota Statutes, sections 469.090 to 469.107. Kandiyohi county and the city of Willmar may enter into a joint powers agreement under Minnesota Statutes, section 471.59, to jointly or cooperatively exercise any of the powers common to both the county and the city under Minnesota Statutes, sections 469.090 to 469.107, in a manner to be determined by a majority of the Kandiyohi county board and the Willmar city council.

Subd. 2. **SPECIAL TAXING DISTRICT.** A joint powers entity created under subdivision 1 is a political subdivision of the state and a special taxing district as defined by Minnesota Statutes, section 275.066, clause (24), with the power to adopt and certify a property tax levy to the county auditor. The maximum allowable levy limit for this special taxing district is the same levy limit as provided under Minnesota Statutes, section 469.107, subdivision 1, and, to the extent levied, shall replace the levy authorized under subdivision 1 for Kandiyohi county and the city of Willmar.

Subd. 3. **EFFECTIVE DATE; NO LOCAL APPROVAL REQUIRED.** This section is effective the day after final enactment.

Sec. 31. **MINNEAPOLIS COMMUNITY PLANNING AND ECONOMIC DEVELOPMENT DEPARTMENT.**

Subdivision 1. Notwithstanding a contrary provision of law, the charter of the city of Minneapolis, or its civil service rules, the city council of the city of Minneapolis may, by ordinance:

(1) establish a department of the city to be designated as the community planning and economic development department, or another name as the city designates by ordinance. The term "the department" as used in sections 31 to 33 means the

community planning and economic development department established under this subdivision;

(2) transfer to the department the community development and planning duties and functions of any other department or office of the city of Minneapolis, including the employees performing those duties and functions. If the duties and functions of the city planning department are transferred to the department, the department must perform the administrative duties that were formerly performed by the city's planning department on behalf of or at the request of the city's planning commission;

(3) transfer any positions of the Minneapolis community development agency to the city of Minneapolis. The ordinance may provide the process for establishing, classifying, and describing the duties for the transferred positions. Employees of the Minneapolis community development agency who are not in the classified service of the city of Minneapolis may be transferred to the city of Minneapolis, and the city council may transfer the employees into the classified service of the city of Minneapolis and into positions for which the employees are qualified, as determined by the city council;

(4) establish the position of director of the department in the unclassified service of the city, and establish other unclassified positions as necessary. Unclassified positions, other than the director, must meet the following criteria:

(i) the person occupying the position must report to the director or a deputy director;

(ii) the person occupying the position must be part of the director's management team;

(iii) the duties of the position must involve significant discretion and substantial involvement in the development, interpretation, or implementation of city or department policy;

(iv) the duties of the position must not primarily require technical expertise where continuity in the position would be significant; and

(v) the person occupying the position must be accountable to, loyal to, and compatible with the mayor, the city council, and the director; and

(5) establish the terms and conditions of employment for employees of the department.

Subd. 2. The employees of the department are employees of the city of Minneapolis for the purposes of membership in the public employees retirement association. An employee transferred from the Minneapolis community development agency to the city of Minneapolis must elect within six months of the effective date of the transfer to either continue as a member of the retirement program in which the employee participated on the date of the employee's transfer to the city of Minneapolis or to become a member of the public employees retirement association. This election is irrevocable. An employee who was a member of the Minneapolis employees retirement fund on the date of the employee's transfer to the city of Minneapolis may

continue as a member of that fund retaining all vested rights, constructive time, and employee and employer contributions made on the employee's behalf to that fund. The city of Minneapolis must make the required employer contributions to the elected retirement program. An employee electing to become a member of the public employees retirement association may enroll in the association with vested rights based upon the employee's current tenure as an employee of the Minneapolis community development agency, but that tenure does not constitute allowable service for purposes of determining benefits.

Subd. 3. The terms of a collective bargaining agreement that is in effect between the Minneapolis community development agency and its employees, some or all of whom may be transferred to the city of Minneapolis, are binding upon the city of Minneapolis and the employees for the term of the contract.

Subd. 4. An employee electing under subdivision 2 to become a member of the public employees retirement association may purchase allowable service credit from the association by paying to the association an amount calculated under Minnesota Statutes, section 356.55. The service credit that is purchasable is a period or periods of employment by the Minneapolis community development agency that would have been eligible service for coverage by the general employees retirement plan of the public employees retirement association if the service had been rendered after the effective date of this article. A person electing to purchase service credit under this subdivision must provide any documentation of prior service required by the executive director of the public employees retirement association. Notwithstanding any provision of Minnesota Statutes, section 356.55, to the contrary, the prior service credit purchase payment may be made in whole or in part on an institution-to-institution basis from a plan qualified under the federal Internal Revenue Code, section 401(a), 401(k), or 414(h), or from an annuity qualified under the federal Internal Revenue Code, section 403, or from a deferred compensation plan under the federal Internal Revenue Code, section 457, to the extent permitted by federal law. In no event may a prior service credit purchase transfer be paid directly to the person purchasing the service.

Sec. 32. **AUTHORITY.**

Subdivision 1. Notwithstanding a contrary law or provision of the Minneapolis city charter, the city council may exercise the powers granted by Minnesota Statutes, sections 469.001 to 469.134, and 469.152 to 469.1799, and any other powers granted to a city of the first class, except for powers relating to public housing. In exercising the powers authorized by this section, the city of Minneapolis shall be the authority, agency, or redevelopment agency referred to in Minnesota Statutes, sections 469.001 to 469.134, and 469.152 to 469.1799, and the city council of the city of Minneapolis shall be the governing body or board of commissioners of the authority, agency, or redevelopment agency. The city council may exercise the powers authorized by this subdivision; by Laws 1980, chapter 595, as amended; by Laws 1990, chapter 604, article 7, section 29, as amended by Laws 1991, chapter 291, article 10, section 20; and may exercise any other development or redevelopment powers authorized by law, independently, or in conjunction with each other, as though all of the authorized

powers had been granted to a single entity. But a program, project, or district authorized by the city under Minnesota Statutes, sections 469.001 to 469.134, and 469.152 to 469.1799, is subject to the limitations of the program, project, or district imposed by Minnesota Statutes, sections 469.001 to 469.134, and 469.152 to 469.1799.

Subd. 2. The city council may delegate to the department any of the powers granted to the city of Minneapolis under subdivision 1, except the power to tax and the power to issue bonds, notes, or other obligations of the city of Minneapolis.

Subd. 3. Notwithstanding a contrary law or provision of the Minneapolis city charter, money, investments, real property, personal property, assets, programs, projects, districts, developments, or obligations of the Minneapolis community development agency may be transferred by resolution of the city council to the city of Minneapolis and be made subject to the control, authority, and operation of the department. If a transfer is made, the city of Minneapolis is bound by the contractual obligations of the Minneapolis community development agency with respect to the money, investments, real estate, personal property, assets, programs, projects, districts, developments, or obligations, including the obligations of any bonds, notes, or other debt obligations of the Minneapolis community development agency. The pledge of the full faith and credit of the Minneapolis community development agency to any bonds, notes, or other debt obligations of the Minneapolis community development agency that are transferred to the city of Minneapolis shall not be secured by the full faith and credit of the city of Minneapolis and shall not be secured by the taxing powers of the city of Minneapolis but only by the assets pledged by the Minneapolis community development agency to the payment of the bonds, notes, or other debt obligations. The city council is granted the powers necessary to perform the contractual obligations transferred to the city of Minneapolis.

Subd. 4. The city council may pledge to the payment of bonds, notes, or other obligations of the city of Minneapolis revenues, assets, reserves, or other property transferred to the city of Minneapolis under this section.

Subd. 5. The city council may pledge to the payment of bonds, notes, or other obligations of the city of Minneapolis the full faith and credit of the city of Minneapolis, or the taxing power of the city of Minneapolis, to finance programs, projects, districts, developments, facilities, or activities undertaken by the department.

Subd. 6. Unless prohibited by other law or a contractual obligation including a pledge to the owners of bonds, notes, or other indebtedness, the money and investments of the Minneapolis community development agency transferred to the city of Minneapolis under this section may be deposited in any fund or account of the city of Minneapolis.

Subd. 7. If all money, investments, real property, personal property, assets, programs, projects, districts, developments, or obligations of the Minneapolis community development agency are transferred to the city of Minneapolis, the city council may, by resolution, dissolve the Minneapolis community development agency. Any rights, duties, claims, awards, grants, or liabilities that may arise after the dissolution of the Minneapolis community development agency shall constitute rights, duties,

claims, awards, grants, or liabilities of the city of Minneapolis. The pledge of the full faith and credit of the Minneapolis community development agency to any bonds, notes, or other debt obligations of the Minneapolis community development agency that are transferred to the city of Minneapolis shall not be secured by the full faith and credit or the taxing powers of the city of Minneapolis but shall be secured only by the assets pledged by the Minneapolis community development agency to the payment of the bonds, notes, or other debt obligations.

Subd. 8. If the city of Minneapolis exercises its powers for industrial development or establishes industrial development districts under Minnesota Statutes, sections 469.048 to 469.068, the term "industrial," when used in relation to industrial development, includes economic and economic development and housing and housing development.

Sec. 33. **LIMITATIONS.**

Subdivision 1. Bonds, notes, or other obligations issued to finance or refinance a program, project, district, development, facility, or activity of the department must be issued by the city council, or, at the request of the city council, by the board of estimate and taxation of the city of Minneapolis. The limitations of this section must not be applied in a manner that impairs the security of bonds, notes, or other obligations issued before the imposition of the limitations.

Subd. 2. Unless otherwise provided in sections 31 to 33, all actions of the city council under sections 31 to 33 are actions within chapter 3, section 1, of the charter of the city of Minneapolis.

Sec. 34. **EFFECTIVE DATE; LOCAL APPROVAL.**

Sections 31 to 33 are effective the day after the governing body of the city of Minneapolis and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 35. **DEFINITIONS.**

Subdivision 1. **DEFINITIONS.** For the purposes of sections 35 to 41, the terms defined in this section have the following meanings.

Subd. 2. **LAKES AREA ECONOMIC DEVELOPMENT AUTHORITY.** "Lakes area economic development authority" or "authority" means the lakes area economic authority established as provided in section 36.

Subd. 3. **PERSON.** "Person" means an individual, partnership, corporation, cooperative, or other organization or entity, public or private.

Subd. 4. **MEMBER.** "Member" means the city of Alexandria or Garfield or the township of Alexandria or La Grand, or any other municipality, the geographic area of which is included within the jurisdiction of the authority.

Subd. 5. **MUNICIPALITY.** "Municipality" means a statutory or home rule charter city or town located in Douglas county.

Sec. 36. **LAKES AREA ECONOMIC DEVELOPMENT AUTHORITY.**

Subdivision 1. **ESTABLISHMENT.** A lakes area economic development authority with jurisdiction over the geographic area of its members is established as a public corporation and political subdivision of the state with perpetual succession and all the rights, powers, privileges, immunities, and duties that may be validly granted to or imposed upon a municipal corporation, as provided in sections 35 to 41.

Subd. 2. **BOARD OF COMMISSIONERS.** The authority is governed by a board of commissioners to be selected as follows: the mayor of each member city, and the chair of the town board of each member town shall appoint one commissioner, subject to the approval of the respective city council or town board. The terms of the commissioner are as provided in subdivision 5.

Subd. 3. **TIME LIMITS FOR SELECTION, ALTERNATIVE APPOINTMENT BY DISTRICT JUDGE.** The initial appointment of commissioners must be made no later than 60 days after sections 35 to 41 become effective. Subsequent appointments must be made within 60 days before the expiration of a term in the same manner as the predecessor was selected. A vacancy on the board must be filled within 60 days after it occurs. If a selection is not made within the prescribed time, the chief judge of the seventh judicial district of the Minnesota district court on application by an interested person shall appoint an eligible person to the board.

Subd. 4. **VACANCIES.** If a vacancy occurs in the office of commissioner, the vacancy must be filled for the unexpired term in a like manner as provided for selection of the commissioner who vacated the office. The office must be considered vacant under the conditions specified in Minnesota Statutes, section 351.02.

Subd. 5. **TERMS OF OFFICE.** The terms of the initial appointees to the board of commissioners are for three, four, five, and six years and must be established by lot among the initial four commissioners. The mayor or town board chair of any new member added under section 39 shall designate the term, not to exceed six years, of the first commissioner selected to represent the member. Succeeding terms of all commissioners are six years, except that each commissioner serves until a successor has been duly selected and qualified.

Subd. 6. **REMOVAL.** A commissioner may be removed by the unanimous vote of the appointing governing body, with or without cause.

Subd. 7. **QUALIFICATIONS.** A commissioner may, but need not, be a resident of the territory of the member appointing that commissioner.

Subd. 8. **COMPENSATION.** A commissioner must be paid a per diem compensation for attending a regular or special meeting in an amount determined by the board. A commissioner must be reimbursed for all reasonable expenses incurred in the performance of the commissioner's duties as determined by the board.

Sec. 37. **POWERS; APPLICATION OF EDA LAW.**

Subdivision 1. **USE OF EDA POWERS.** Except as otherwise provided in sections 35 to 41, the authority may exercise any of the powers of an economic

development authority (EDA) provided by Minnesota Statutes, sections 469.090 to 469.1082, and for this purpose the term "city" means a member. Minnesota Statutes, sections 469.096 to 469.101, 469.103 to 469.106, and 469.108 to 469.1081, apply to the authority, except that the authority's fiscal year is the calendar year.

Subd. 2. **LAW THAT IS NOT APPLICABLE.** The provisions in:

(1) Minnesota Statutes, section 469.091, subdivision 1, expressly relating to:

(i) the adoption of an enabling resolution;

(ii) Minnesota Statutes, section 469.092; or

(iii) housing and redevelopment authorities; and

(2) Minnesota Statutes, sections 469.093, 469.095, 469.102, and 469.107;

do not apply to the authority.

Sec. 38. **MEMBERS MUST LEVY TAXES FOR AUTHORITY.**

(a) A member shall, at the request of the authority, levy a tax in any year for the benefit of the authority. The tax is, for each member, a pro rata portion of the total amount of tax requested by the authority based on the taxable market value within a member's jurisdiction, but in no event may the tax in any year exceed 0.01813 percent of taxable market value. For purposes of this section, "taxable market value" has the meaning as given in Minnesota Statutes, section 273.032.

(b) The treasurer of each member city or town shall, within 15 days after receiving the property tax settlements from the county treasurer, pay to the treasurer of the authority the amount collected for this purpose. The money must be used by the authority for the purposes provided by sections 35 to 41.

Sec. 39. **ADDITION AND WITHDRAWAL OF MEMBERS.**

Subdivision 1. **ADDITIONS.** A municipality upon a resolution adopted by a four-fifths vote of all of its governing body may petition the authority to be included within the jurisdiction of the authority and, if approved by the authority, the geographic area of the municipality must be included within the jurisdiction of the authority and subject to the jurisdiction of the authority under sections 35 to 41.

Subd. 2. **WITHDRAWALS.** A municipality may withdraw from the authority by resolution of its governing body. The municipality must notify the board of commissioners of the authority of the withdrawal by providing a copy of the resolution at least two years in advance of the proposed withdrawal. Unless the authority and the withdrawing member agree otherwise by action of their governing bodies, the taxable property of the withdrawing member is subject to the property tax levy under section 38 for two taxes payable years following the notification of the withdrawal and the withdrawing member retains any rights, obligations, and liabilities obtained or incurred during its participation.

Sec. 40. **CONTRACTS WITH NONPROFIT CORPORATIONS.**

The authority may enter into contracts with one or more nonprofit corporations to make, from funds of and under guidelines set by the authority, loans or grants for projects the authority may undertake under sections 35 to 41. Minnesota Statutes, section 465.719, does not apply so long as the nonprofit corporation is not described in Minnesota Statutes, section 465.719, subdivision 1, paragraph (b), item (i), or (b), item (ii).

Sec. 41. **RELATION TO EXISTING LAWS.**

Sections 35 to 41 must be given full effect notwithstanding any law or charter that is inconsistent with them.

Sec. 42. **LOCAL APPROVAL; EFFECTIVE DATE.**

Sections 35 to 41 are only effective as to all affected governing bodies on the day after the last of the governing bodies or town boards of the cities of Alexandria and Garfield and the towns of Alexandria and La Grand in Douglas county and the chief clerical officer of each of them timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

ARTICLE 13

MOSQUITO CONTROL DISTRICT

Section 1. Minnesota Statutes 2002, section 18B.07, subdivision 2, is amended to read:

Subd. 2. **PROHIBITED PESTICIDE USE.** (a) A person may not use, store, handle, distribute, or dispose of a pesticide, rinsate, pesticide container, or pesticide application equipment in a manner:

(1) that is inconsistent with a label or labeling as defined by FIFRA;

(2) that endangers humans, damages agricultural products, food, livestock, fish, or wildlife; or

(3) that will cause unreasonable adverse effects on the environment.

(b) A person may not direct a pesticide onto property beyond the boundaries of the target site. A person may not apply a pesticide resulting in damage to adjacent property.

(c) A person may not directly apply a pesticide on a human by overspray or target site spray, except when:

(1) the pesticide is intended for use on a human;

(2) the pesticide application is for mosquito control operations ~~conducted before June 30, 2003, in compliance with paragraph (d), clauses (1) and (2)~~;

(3) the pesticide application is for control of gypsy moth, forest tent caterpillar, or other pest species, as determined by the commissioner, and the pesticide used is a biological agent; or

(4) the pesticide application is for a public health risk, as determined by the commissioner of health, and the commissioner of health, in consultation with the commissioner of agriculture, determines that the application is warranted based on the commissioner's balancing of the public health risk with the risk that the pesticide application poses to the health of the general population, with special attention to the health of children.

(d) For pesticide applications under paragraph (c), clause (2), the following conditions apply:

(1) no practicable and effective alternative method of control exists;

(2) the pesticide is among the least toxic available for control of the target pest; and

(3) notification to residents in the area to be treated is provided at least 24 hours before application through direct notification, posting daily on the treating organization's Web site, and by sending a broadcast e-mail to those persons who request notification of such, of those areas to be treated by adult mosquito control techniques during the next calendar day. For control operations related to human disease, notice under this paragraph may be given less than 24 hours in advance.

(e) For pesticide applications under paragraph (c), clauses (3) and (4), the following conditions apply:

(1) no practicable and effective alternative method of control exists;

(2) the pesticide is among the least toxic available for control of the target pest; and

(3) notification of residents in the area to be treated is provided by direct notification and through publication in a newspaper of general circulation within the affected area.

~~(e)~~ (f) For purposes of this subdivision, "direct notification" may include mailings, public meetings, posted placards, neighborhood newsletters, or other means of contact designed to reach as many residents as possible.

~~(f)~~ (g) A person may not apply a pesticide in a manner so as to expose a worker in an immediately adjacent, open field.

Sec. 2. Minnesota Statutes 2002, section 473.702, is amended to read:

473.702 **ESTABLISHMENT OF DISTRICT; PURPOSE; AREA; GOVERNING BODY.**

A metropolitan mosquito control district is created to control mosquitoes, disease vectoring ticks, and black gnats (Simuliidae) in the metropolitan area. The area of the district is the metropolitan area defined in section 473.121. ~~The area of the district is~~

~~the metropolitan area excluding the part of Carver county west of the west line of township 116N, range 24W, township 115N, range 24W, and township 114N, range 24W.~~ The metropolitan mosquito control commission is created as the governing body of the district, composed and exercising the powers as prescribed in sections 473.701 to 473.716.

Sec. 3. Minnesota Statutes 2002, section 473.703, subdivision 1, is amended to read:

Subdivision 1. **METRO COUNTY COMMISSIONERS.** The district shall be operated by a commission which shall consist of three members from Anoka county, ~~one member~~ two members from Carver county, three members from Dakota county, three members from Hennepin county, three members from Ramsey county, two members from Scott county, and two members from Washington county. Commissioners shall be members of the board of county commissioners of their respective counties, and shall be appointed by their respective boards of county commissioners.

Sec. 4. Minnesota Statutes 2002, section 473.704, subdivision 17, is amended to read:

Subd. 17. **ENTRY TO PROPERTY.** (a) Members of the commission, its officers, and employees, while on the business of the commission, may enter upon any property within or outside the district at reasonable times to determine the need for control programs. They may take all necessary and proper steps for the control programs on property within the district as the director of the commission may designate. Subject to the paramount control of the county and state authorities, commission members and officers and employees of the commission may enter upon any property and clean up any stagnant pool of water, the shores of lakes and streams, and other breeding places for mosquitoes within the district. The commission may apply insecticides approved by the director to any area within or outside the district that is found to be a breeding place for mosquitoes. The commission shall give reasonable notification to the governing body of the local unit of government prior to applying insecticides outside of the district on land located within the jurisdiction of the local unit of government. The commission shall not enter upon private property if the owner objects except to monitor for disease-bearing mosquitoes, ticks, or black gnats or for control of ~~disease bearing mosquito encephalitis outbreaks~~ mosquito species capable of carrying a human disease in the local area of a human disease outbreak regardless of whether there has been an occurrence of the disease in a human being.

(b) The commissioner of natural resources must approve mosquito control plans or make modifications as the commissioner of natural resources deems necessary for the protection of public water, wild animals, and natural resources before control operations are started on state lands administered by the commissioner of natural resources. ~~Until July 1, 2002, approval may, if the commissioner of natural resources considers it necessary, be denied, modified, or revoked by the commissioner of natural resources at any time upon written notice to the commission.~~

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

Sec. 5. Minnesota Statutes 2002, section 473.705, is amended to read:

473.705 **CONTRACTS FOR MATERIALS, SUPPLIES AND EQUIPMENT.**

~~No contract~~ Contracts for the purchase of materials, supplies, and equipment ~~costing more than $5,000 shall be made~~ must comply with and be governed by the Minnesota uniform municipal contracting law, section 471.345. A sealed bid solicitation must not be done by the commission without publishing the notice once in the official newspaper of each of the counties in the district that bids or proposals will be received. The notice shall be published at least ten days before bids are opened. Such notice shall state the nature of the work or purchase and the terms and conditions upon which the contract is to be awarded, naming therein a time and place where such bids will be received, opened, and read publicly. After such bids have been duly received, opened, read publicly, and recorded, the commission shall award such contract to the lowest responsible bidder or it may reject all bids. Each contract shall be duly executed in writing and the party to whom the contract is awarded may be required to give sufficient bond to the commission for the faithful performance of the contract. If no satisfactory bid is received the commission may readvertise. The commission shall have the right to set qualifications and specifications and to require bids to meet such qualifications and specifications before bids are accepted. ~~If the commission by an affirmative vote of five-sixths of the voting power of the commission shall declare that an emergency exists requiring the immediate purchase of materials or supplies at a cost in excess of $5,000 but not to exceed $10,000 in amount, or in making emergency repairs, it shall not be necessary to advertise for bids, but such material, equipment, and supplies may be purchased in the open market at the lowest price available without securing formal competitive bids. An emergency as used in this section shall be an unforeseen circumstance or condition which results in placing life or property in jeopardy.~~ All contracts involving employment of labor shall stipulate terms thereof and such conditions as the commission deems reasonable as to hours and wages.

Sec. 6. Minnesota Statutes 2002, section 473.711, subdivision 2a, is amended to read:

Subd. 2a. **TAX LEVY.** (a) The commission may levy a tax on all taxable property in the district as defined in section 473.702 to provide funds for the purposes of sections 473.701 to 473.716. The tax shall not exceed the property tax levy limitation determined in this subdivision. A participating county may agree to levy an additional tax to be used by the commission for the purposes of sections 473.701 to 473.716 but the sum of the county's and commission's taxes may not exceed the county's proportionate share of the property tax levy limitation determined under this subdivision based on the ratio of its total net tax capacity to the total net tax capacity of the entire district as adjusted by section 270.12, subdivision 3. The auditor of each county in the district shall add the amount of the levy made by the district to other taxes of the county for collection by the county treasurer with other taxes. When collected, the county treasurer shall make settlement of the tax with the district in the same manner as other taxes are distributed to political subdivisions. No county shall levy any tax for mosquito, disease vectoring tick, and black gnat (Simuliidae) control except under this section. The levy shall be in addition to other taxes authorized by law.

(b) The property tax levied by the metropolitan mosquito control commission shall not exceed ~~the following amount for the years specified:~~

~~(1) for taxes payable in 1996, the product of (i) the commission's property tax levy limitation for taxes payable in 1995 determined under this subdivision minus 50 percent of the amount actually levied for taxes payable in 1995, multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property located within the district for the current taxes payable year divided by the total market valuation of all taxable property located within the district for the previous taxes payable year;~~

~~(2) for taxes payable in 1997 and subsequent years,~~ the product of (i) the commission's property tax levy limitation for the previous year determined under this subdivision multiplied by (ii) an index for market valuation changes equal to the total market valuation of all taxable property for the current tax payable year located within the district ~~for the current taxes payable year~~ plus any area that has been added to the district since the previous year, divided by the total market valuation of all taxable property located within the district for the previous taxes payable year~~; and~~.

~~(3)~~ (c) For the purpose of determining the commission's property tax levy limitation under this subdivision, "total market valuation" means the total market valuation of all taxable property within the district without valuation adjustments for fiscal disparities (chapter 473F), tax increment financing (sections 469.174 to 469.179), and high voltage transmission lines (section 273.425).

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter.

Sec. 7. Minnesota Statutes 2002, section 473.714, subdivision 1, is amended to read:

Subdivision 1. **COMPENSATION.** ~~Except as provided in subdivision 2,~~ Each commissioner, including the officers of the commission ~~shall~~, may be reimbursed for actual and necessary expenses incurred in the performance of duties. ~~The chair shall be paid a per diem for attending meetings, monthly, executive, and special, and each commissioner shall be paid a per diem for attending meetings, monthly, executive, and special, which per diem shall be established by the commission. A commissioner who receives a per diem from the commissioner's county shall not be paid a per diem for the same day by the commission for attending meetings of the commission.~~ The annual budget of the commission shall provide as a separate account anticipated expenditures for ~~per diem,~~ travel and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair or members only when budgeted. No commissioner may be paid a per diem.

Sec. 8. **TRANSITIONAL AUTHORITY.**

The metropolitan mosquito control district and the Carver county board of commissioners may enter into an agreement for the district to provide its services to the part of Carver county added to the district by this article until the proceeds of the levy from that part of Carver county are available for those services. During this period the

services may be provided on the terms and for fees that are mutually agreed to by the parties.

Sec. 9. **REPEALER.**

Minnesota Statutes 2002, sections 473.711, subdivision 2b, and 473.714, subdivision 2, are repealed.

Sec. 10. **EFFECTIVE DATE.**

Sections 1 to 9 are effective the day following final enactment.

ARTICLE 14

MISCELLANEOUS

Section 1. Minnesota Statutes 2002, section 8.30, is amended to read:

8.30 **COMPROMISE OF TAX AND FEE CLAIMS.**

Notwithstanding any other provisions of law to the contrary, the attorney general shall have authority to compromise taxes, fees, surcharges, assessments, penalties, and interest in ~~any case referred to the attorney general by the commissioner of revenue~~ all cases, whether reduced to judgment or not, where the debt is being reduced by an amount exceeding $50,000 and, in the attorney general's opinion, it shall be in the best interests of the state to do so. Such a compromise must be in a form prescribed by the attorney general and shall be in writing signed by the attorney general, the taxpayer or taxpayer's representative, and the commissioner of revenue. Compromises of such debts in cases where the debt is being reduced by an amount of $50,000 or less are governed by section 16D.15.

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

Sec. 2. Minnesota Statutes 2002, section 270.059, is amended to read:

270.059 **REVENUE DEPARTMENT SERVICE AND RECOVERY SPECIAL REVENUE FUND.**

A revenue department service and recovery special revenue fund is created for the purpose of recovering the costs of furnishing public government data and related services or products, as well as recovering costs associated with collecting local taxes on sales. All money collected under this section is deposited in the revenue department service and recovery special revenue fund. Money in the fund is appropriated to the commissioner of revenue to reimburse the department of revenue for the costs incurred in administering the tax law or providing the data, service, or product. Any monies paid to the department as a criminal fine for a tax law violation that are designated by the court to fund tax law enforcement are appropriated to this fund.

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

Sec. 3. Minnesota Statutes 2002, section 270.67, subdivision 4, is amended to read:

Subd. 4. **OFFER-IN-COMPROMISE AND INSTALLMENT PAYMENT PROGRAM.** (a) In implementing the authority provided in subdivision 2 or in ~~section~~ sections 8.30 and 16D.15 to accept offers of installment payments or offers-in-compromise of tax liabilities, the commissioner of revenue shall prescribe guidelines for employees of the department of revenue to determine whether an offer-in-compromise or an offer to make installment payments is adequate and should be accepted to resolve a dispute. In prescribing the guidelines, the commissioner shall develop and publish schedules of national and local allowances designed to provide that taxpayers entering into a compromise or payment agreement have an adequate means to provide for basic living expenses. The guidelines must provide that the taxpayer's ownership interest in a motor vehicle, to the extent of the value allowed in section 550.37, will not be considered as an asset; in the case of an offer related to a joint tax liability of spouses, that value of two motor vehicles must be excluded. The guidelines must provide that employees of the department shall determine, on the basis of the facts and circumstances of each taxpayer, whether the use of the schedules is appropriate and that employees must not use the schedules to the extent the use would result in the taxpayer not having adequate means to provide for basic living expenses. The guidelines must provide that:

(1) an employee of the department shall not reject an offer-in-compromise or an offer to make installment payments from a low-income taxpayer solely on the basis of the amount of the offer; and

(2) in the case of an offer-in-compromise which relates only to issues of liability of the taxpayer:

(i) the offer must not be rejected solely because the commissioner is unable to locate the taxpayer's return or return information for verification of the liability; and

(ii) the taxpayer shall not be required to provide an audited, reviewed, or compiled financial statement.

(b) The commissioner shall establish procedures:

(1) that require presentation of a counteroffer or a written rejection of the offer by the commissioner if the amount offered by the taxpayer in an offer-in-compromise or an offer to make installment payments is not accepted by the commissioner;

(2) for an administrative review of any written rejection of a proposed offer-in-compromise or installment agreement made by a taxpayer under this section before the rejection is communicated to the taxpayer;

(3) that allow a taxpayer to request reconsideration of any written rejection of the offer or agreement to the commissioner of revenue to determine whether the rejection is reasonable and appropriate under the circumstances; and

(4) that provide for notification to the taxpayer when an offer-in-compromise has been accepted, and issuance of certificates of release of any liens imposed under section 270.69 related to the liability which is the subject of the compromise.

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

Sec. 4. Minnesota Statutes 2002, section 290.06, subdivision 24, is amended to read:

Subd. 24. **CREDIT FOR JOB CREATION.** (a) A corporation that leases and operates a heavy maintenance base for aircraft that is owned by the state of Minnesota or one of its political subdivisions, or an engine repair facility described in section 116R.02, subdivision 6, or both, may take a credit against the tax due under this chapter.

(b) For the first taxable year when the facility has been in operation for at least three consecutive months, the credit is equal to $5,000 multiplied by the number of persons employed by the corporation on a full-time basis at the facility on the last day of the taxable year, not to exceed the number of persons employed by the corporation on a full-time basis at the facility on the date 90 days before the last day of the taxable year. For each of the succeeding four taxable years, the credit is equal to $5,000 multiplied by the number of persons employed by the corporation on a full-time basis at the facility on the last day of the taxable year, not to exceed the number of persons employed by the corporation on a full-time basis at the facility on the date 90 days before the last day of the taxable year.

(c) For the first taxable year in which the credit is allowed for the facility, the credit must not exceed 80 percent of the wages paid to or incurred for persons employed by the taxpayer at the facility during the taxable year. For the succeeding four taxable years, the credit must not exceed 20 percent of the wages paid to or incurred for persons employed by the taxpayer at the facility during the taxable year. For purposes of this section, "wages" has the meaning given under section 3121(b) of the Internal Revenue Code, except the limitation to the contribution and benefit base does not apply.

(d) If the credit provided under this subdivision exceeds the tax liability of the corporation for the taxable year, the excess amount of the credit may be carried over to each of the ~~ten~~ 20 taxable years succeeding the taxable year. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. The unused portion of the credit must be carried to the following taxable year. No credit may be carried to a taxable year more than ~~ten~~ 20 years after the taxable year in which the credit was earned.

(e) If an unused portion of the credit remains at the end of the carryover period under paragraph (d), the commissioner shall refund the unused portion to the taxpayer. The provisions of this paragraph do not apply if the corporation that earned the credit under this subdivision or a successor in interest to the corporation filed for bankruptcy protection.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2003.

Sec. 5. Minnesota Statutes 2002, section 297F.05, subdivision 1, is amended to read:

Subdivision 1. **RATES; CIGARETTES.** A tax is imposed upon the sale of cigarettes in this state, upon having cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the use or storage by consumers, at the following rates~~, subject to the discount provided in this chapter~~:

(1) on cigarettes weighing not more than three pounds per thousand, 24 mills on each such cigarette; and

(2) on cigarettes weighing more than three pounds per thousand, 48 mills on each such cigarette.

EFFECTIVE DATE. This section is effective for sales of stamps made after June 30, 2003.

Sec. 6. Minnesota Statutes 2002, section 297F.08, subdivision 7, is amended to read:

Subd. 7. **PRICE OF STAMPS.** The commissioner shall sell stamps to any person licensed as a distributor ~~at a discount of 1.0 percent from the face amount of the stamps for the first $1,500,000 of such stamps purchased in any fiscal year; and at a discount of 0.6 percent on the remainder of such stamps purchased in any fiscal year~~. The commissioner shall not sell stamps to any other person. The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.

EFFECTIVE DATE. This section is effective for sales of stamps made after June 30, 2003.

Sec. 7. Minnesota Statutes 2002, section 297F.08, is amended by adding a subdivision to read:

Subd. 12. **CIGARETTES IN INTERSTATE COMMERCE.** (a) A person may not transport or cause to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold.

(b) A person may not affix to cigarettes the stamp required by another state or pay any other excise tax on the cigarettes imposed by another state if the other state prohibits stamps from being affixed to the cigarettes, prohibits the payment of any other excise tax on the cigarettes, or prohibits the sale of the cigarettes.

(c) Not later than 15 days after the end of each calendar quarter, a person who transports or causes to be transported from this state cigarettes for sale in another state shall submit to the commissioner a report identifying the quantity and style of each brand of the cigarettes transported or caused to be transported in the preceding calendar

quarter, and the name and address of each recipient of the cigarettes.

(d) For purposes of this section, "person" has the meaning given in section 297F.01, subdivision 12. Person does not include any common or contract carrier, or public warehouse that is not owned, in whole or in part, directly or indirectly by such person.

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

Sec. 8. Minnesota Statutes 2002, section 297F.09, subdivision 2, is amended to read:

Subd. 2. **MONTHLY RETURN; TOBACCO PRODUCTS DISTRIBUTOR.** On or before the 18th day of each calendar month, a distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product:

(1) brought, or caused to be brought, into this state for sale; and

(2) made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month.

Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns must be made in the form and manner prescribed by the commissioner and must contain any other information required by the commissioner. The return must be accompanied by a remittance for the full tax liability shown~~, less 1.5 percent of the liability as compensation to reimburse the distributor for expenses incurred in the administration of this chapter~~.

EFFECTIVE DATE. This section is effective for sales made after June 30, 2003.

Sec. 9. **[297F.24] FEE IN LIEU OF SETTLEMENT.**

Subdivision 1. **FEE IMPOSED.** (a) A fee is imposed upon the sale of nonsettlement cigarettes in this state, upon having nonsettlement cigarettes in possession in this state with intent to sell, upon any person engaged in business as a distributor, and upon the use or storage by consumers of nonsettlement cigarettes. The fee equals a rate of 1.75 cents per cigarette.

(b) The purpose of this fee is to:

(1) ensure that manufacturers of nonsettlement cigarettes pay fees to the state that are comparable to costs attributable to the use of the cigarettes;

(2) prevent manufacturers of nonsettlement cigarettes from undermining the state's policy of discouraging underage smoking by offering nonsettlement cigarettes at prices substantially below the cigarettes of other manufacturers; and

(3) fund such other purposes as the legislature determines appropriate.

Subd. 2. **NONSETTLEMENT CIGARETTES.** For purposes of this section, a "nonsettlement cigarette" means a cigarette manufactured by a person other than a manufacturer that:

(1) is making annual payments to the state of Minnesota under a settlement of the lawsuit styled as State v. Philip Morris Inc., No. C1-94-8565 (Minnesota District Court, Second Judicial District), if the style of cigarettes is included in computation of the payments under the agreement; or

(2) has voluntarily entered into an agreement with the state of Minnesota, approved by the attorney general, agreeing to terms similar to those contained in the settlement agreement, identified in clause (1) including making annual payments to the state, with respect to its national sales of the style of cigarettes, equal to at least 75 percent of the payments that would apply if the manufacturer was one of the four original parties to the settlement agreement required to make annual payments to the state.

Subd. 3. **COLLECTION AND ADMINISTRATION.** The commissioner shall administer the fee under this section in the same manner as the excise tax imposed under section 297F.05 and all of the provisions of this chapter apply as if the fee were a tax imposed under section 297F.05. The commissioner shall deposit the proceeds of the fee in the general fund.

EFFECTIVE DATE. This section is effective for sales of nonsettlement cigarettes made after June 30, 2003.

Sec. 10. Minnesota Statutes 2002, section 297H.06, subdivision 1, is amended to read:

Subdivision 1. **CERTAIN SURCHARGES OR FEES.** The amount of a surcharge, fee, or charge established pursuant to section 115A.919, 115A.921, 115A.923, 400.08, 473.811, or 473.843 is exempt from the solid waste management tax. ~~The amount shown on a property tax statement as a county charge for solid waste management service or as a surcharge, fee, or charge established pursuant to section 400.08, subdivision 3, or section 473.811, subdivision 3a, is exempt from the solid waste management tax.~~ The exemption does not apply to the tax imposed on market price under section 297H.02, subdivision 1, paragraphs (b) and (c), or section 297H.03, subdivision 1, paragraphs (b) and (c).

EFFECTIVE DATE. This section is effective April 1, 2003.

Sec. 11. Minnesota Statutes 2002, section 298.75, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** Except as may otherwise be provided, the following words, when used in this section, shall have the meanings herein ascribed to them.

(1) "Aggregate material" shall mean nonmetallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, crushed rock, limestone, granite, and borrow, but only if the borrow is transported on a public road, street, or highway.

Aggregate material shall not include dimension stone and dimension granite. Aggregate material must be measured or weighed after it has been extracted from the pit, quarry, or deposit.

(2) "Person" shall mean any individual, firm, partnership, corporation, organization, trustee, association, or other entity.

(3) "Operator" shall mean any person engaged in the business of removing aggregate material from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate material in a marketable product or service.

(4) "Extraction site" shall mean a pit, quarry, or deposit containing aggregate material and any contiguous property to the pit, quarry, or deposit which is used by the operator for stockpiling the aggregate material.

(5) "Importer" shall mean any person who buys aggregate material produced from a county not listed in paragraph (6) or another state and causes the aggregate material to be imported into a county in this state which imposes a tax on aggregate material.

(6) "County" shall mean the counties of Pope, Stearns, Benton, Sherburne, Carver, Scott, Dakota, Le Sueur, Kittson, Marshall, Pennington, Red Lake, Polk, Norman, Mahnomen, Clay, Becker, Carlton, St. Louis, Rock, Murray, Wilkin, Big Stone, Sibley, Hennepin, Washington, Chisago, and Ramsey. County also means any other county whose board has voted after a public hearing to impose the tax under this section and has notified the commissioner of revenue of the imposition of the tax.

(7) "Borrow" shall mean granular borrow, consisting of durable particles of gravel and sand, crushed quarry or mine rock, crushed gravel or stone, or any combination thereof, the ratio of the portion passing the (#200) sieve divided by the portion passing the (1 inch) sieve may not exceed 20 percent by mass.

EFFECTIVE DATE. This section is effective for borrow removed and transported on a public road, street, or highway on or after July 1, 2003.

Sec. 12. Minnesota Statutes 2002, section 469.1731, subdivision 3, is amended to read:

Subd. 3. **FILING.** The city must file a copy of the resolution and development plan with the commissioner of trade and economic development. The designation takes effect ~~for the first calendar year that begins more than 90~~ 30 days after the filing.

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

Sec. 13. Laws 2002, chapter 377, article 12, section 17, is amended to read:

Sec. 17. **APPROPRIATION.**

(a) $585,000 in fiscal year 2002 and $7,015,000 in fiscal year 2003 are appropriated to the commissioner of revenue from the general fund for tax compliance activities, including identification and collection of tax liabilities from individuals and businesses that currently do not pay all taxes owed, and audit and collection activity

in the income tax, sales tax, lawful gambling, insurance, and corporate areas. The base funding for these activities in fiscal years 2004 and 2005 is increased by $4,750,000 each year.

(b) The commissioner must include these tax compliance activities in the report required by Laws 2001, First Special Session chapter 10, article 1, section 16, subdivision 2, paragraph (c).

(c) Laws 2002, chapter 220, article 10, section 38, does not apply to the positions necessary to carry out the compliance activities identified in this section.

~~(d) If the legislative auditor determines that:~~

~~(1) actual revenue collections generated from tax compliance activities funded by Laws 2001, First Special Session chapter 10, article 1, section 16, subdivision 2, paragraphs (a) and (b), will not generate at least $52,000,000 in additional general fund revenue for the biennium ending June 30, 2003; or~~

~~(2) actual revenue collections generated from new tax compliance activities funded by the appropriation in this section will not generate at least $7,600,000 in additional general fund revenue for the biennium ending June 30, 2003;~~

~~then the commissioner of finance must cancel from the budget reserve account to the general fund the difference between the $52,000,000 or the $7,600,000 and the actual additional general fund revenue. The legislative auditor's determination under this paragraph must be made in the February 1, 2003, report to the legislature required by Laws 2001, First Special Session chapter 10, article 1, section 16.~~

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

Sec. 14. **ADVANCE COLLECTION PROGRAM.**

Subdivision 1. **PROGRAM ESTABLISHED.** The commissioner of revenue shall establish an advance collection program to collect tax, interest, and penalty obligations that otherwise would not be collected.

Subd. 2. **POLICIES.** The commissioner of revenue shall implement and operate the program in a manner that:

(1) minimizes the impact of the program on the incentive for taxpayers to comply with Minnesota taxes; and

(2) emphasizes collecting as large a portion of the department's account receivables that are unlikely otherwise to be collected.

Subd. 3. **AUTHORITY.** (a) The authority under this section applies only to obligations on the department of revenue's accounts receivable system for which the original debt was more than two years old on the date of enactment of this section. The commissioner of revenue shall select the debts on the accounts receivable system to which this program applies and may exclude any debt or debts as the commissioner deems appropriate, because inclusion, in the sole opinion of the commissioner, may:

(1) adversely affect tax compliance;

(2) reduce the amount the state likely will collect in the future;

(3) delay resolution of an issue of the meaning or application of the tax or other law;

(4) be inconsistent with tax administration and collection policies;

(5) not be justified because of the taxpayer's conduct or past actions; or

(6) not be in the interest of the state for any reason the commissioner solely determines.

(b) To implement this program, the commissioner shall exercise authority under Minnesota Statutes, section 270.67, to accept as a partial or discounted payment of the obligation as full payment. The commissioner shall set the discount rate for each debt at the level the commissioner determines appropriate, given the provisions of this section. For obligations that are four or more years old on the date of enactment, the commissioner may offer a reduction or discount of up to 50 percent; for obligations that are more than two years old upon the date of enactment, the commissioner may offer a reduction or discount of up to 35 percent. The commissioner may apply the appropriate discount to all or part of an obligation, regardless of the age of the obligation, if the taxpayer has an obligation that meets the minimum age requirement on the date of enactment. The commissioner shall notify taxpayers or other debtors qualifying under the program established under this section in any way the commissioner determines appropriate.

(c) This section does not limit the commissioner's authority under Minnesota Statutes, section 270.67.

Sec. 15. **CITY OF DULUTH; TAX INCREMENT FINANCING DISTRICT.**

Subdivision 1. **AUTHORIZATION.** Upon approval of the governing body of the city of Duluth, the Duluth economic development authority may create an economic development tax increment financing district for aircraft related facilities. The authority may establish a district only after entering a development agreement, which provides for construction of an aircraft maintenance facility with a minimum square footage of 150,000 and requires employment of a minimum of 200 individuals with average annual compensation in excess of $30,000. Except as otherwise provided in this section, the provisions of Minnesota Statutes, sections 469.174 to 469.179 apply to the district.

Subd. 2. **SPECIAL RULES.** (a) Notwithstanding the provisions of Minnesota Statutes, section 469.176, subdivision 1b, paragraph (a), clause (3), no tax increment shall be paid to the authority after 25 years after receipt by the authority of the first tax increment for the district authorized by this section.

(b) The development in the district authorized by this section shall be deemed to be a purpose authorized under Minnesota Statutes, section 469.176, subdivision 4c, paragraph (a).

(c) For purposes of Minnesota Statutes, section 469.177, subdivision 12, the applicable maximum duration limit of the district authorized by this section shall be as set forth in paragraph (a).

EFFECTIVE DATE. This section is effective upon compliance with the requirements of Minnesota Statutes, sections 469.1782 and 645.021.

Sec. 16. **REPEALER.**

Laws 1984, chapter 652, section 2, is repealed.

EFFECTIVE DATE. This section is effective for Benton county the day after the governing body of Benton county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

This section is effective for Stearns county the day after the governing body of Stearns county and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Presented to the governor May 24, 2003

Signed by the governor May 25, 2003, 10:49 p.m.

CHAPTER 128—S.F.No. 905

An act relating to state government; appropriating money for environmental, natural resources, agricultural, economic development, and housing purposes; establishing and modifying certain programs; providing for regulation of certain activities and practices; providing for accounts, assessments, and fees; amending Minnesota Statutes 2002, sections 13.462, subdivision 2; 16A.531, subdivision 1, by adding a subdivision; 17.03, subdivision 6; 17.101, subdivision 1; 17.451; 17.452, subdivisions 8, 10, 11, 12, 13, by adding subdivisions; 17.4988; 18.78; 18.79, subdivisions 2, 3, 5, 6, 9, 10; 18.81, subdivisions 2, 3; 18.84, subdivision 3; 18.86; 18B.10; 18B.26, subdivision 3; 18B.37, by adding a subdivision; 21.81, subdivision 8, by adding subdivisions; 21.82; 21.83, subdivision 2; 21.84; 21.85, subdivisions 11, 13; 21.86; 21.88; 21.89, subdivisions 2, 4; 21.90, subdivisions 2, 3; 21.901; 28A.08, subdivision 3; 28A.085, subdivision 1; 28A.09, subdivision 1; 32.394, subdivisions 8, 8b, 8d; 35.155; 38.02, subdivisions 1, 3; 41A.036, subdivision 2; 41A.09, subdivisions 2a, 3a; 43A.24, subdivision 2; 47.59, subdivision 4a; 84.027, subdivision 13; 84.029, subdivision 1; 84.085, subdivision 1; 84.091, subdivisions 2, 3; 84.0911; 84.788, subdivisions 2, 3; 84.798, subdivision 3; 84.803, subdivision 2; 84.92, subdivision 8; 84.922, subdivisions 2, 5; 84.926; 84.927, subdivision 2; 84.928, subdivision 1; 84A.02; 84A.21; 84A.32, subdivision 1; 84A.55, subdivision 8; 84D.14; 85.04; 85.052, subdivision 3; 85.053, subdivision 1; 85.055, subdivision 1; 85A.02, subdivision 17; 86B.415, subdivision 8; 86B.870, subdivision 1; 97A.045, by adding a subdivision; 97A.071, subdivision 2; 97A.075, subdivisions 1, 2, 4; 97A.105, subdivision 1; 97A.401, subdivision 3; 97A.441, subdivision 7, by adding a subdivision; 97A.475, subdivisions 2, 3, 4, 5, 10, 15, 26, 27, 28, 29, 30, 38, 39, 40, 42, by adding a subdivision; 97A.485, subdivision 6; 97A.505, by adding subdivisions; 97B.311; 103B.231, subdivision 3a; 103B.305, subdivision 3, by adding subdivisions; 103B.311, subdivisions 1, 2, 3, 4; 103B.315, subdivisions 4, 5, 6; 103B.321, subdivisions