

<u>239.101, subd. 3</u>	<u>chapter 296</u>	<u>chapter 296A</u>
<u>239.761, subd. 2</u>	<u>296.01</u>	<u>296A.01</u>
<u>239.785, subd. 3</u>	<u>296.15</u>	<u>296A.22</u>
<u>239.785, subd. 3</u>	<u>296.25</u>	<u>296A.23</u>
<u>239.785, subd. 4</u>	<u>chapter 296</u>	<u>chapter 296A</u>
<u>270.101, subd. 1</u>	<u>chapter 296</u>	<u>chapter 296A</u>
<u>282.322</u>	<u>chapter 296</u>	<u>chapter 296A</u>
<u>297A.25, subd. 7</u>	<u>chapter 296</u>	<u>chapter 296A</u>
<u>297A.25, subd. 7</u>	<u>296.01, subd. 27a</u>	<u>296A.01, subd. 39</u>
<u>297A.25, subd. 7</u>	<u>296.18, subd. 1,</u>	<u>296A.16, subd. 2,</u>
	<u>clause (2)</u>	<u>clause (2)</u>
<u>325E.35, subd. 9</u>	<u>296.01</u>	<u>296A.01</u>
<u>353A.01, subd. 2</u>	<u>chapter 296</u>	<u>chapter 296A</u>
<u>458A.30</u>	<u>chapter 296</u>	<u>chapter 296A</u>
<u>514.950, subd. 10</u>	<u>296.01</u>	<u>296A.01</u>

Sec. 31. REPEALER.

Minnesota Statutes 1996, sections 296.01; 296.02, subdivisions 1, 1a, 1b, 1c, 2, 3, 4, 6, and 8; 296.025; 296.0261; 296.035; 296.04; 296.041; 296.06; 296.11; 296.115; 296.12; 296.141, subdivisions 1, 2, 3, 5, 6, and 7; 296.15; 296.151; 296.152; 296.16, subdivisions 1a and 2; 296.165; 296.17, subdivisions 1, 3, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 19, 20, 21, and 22; 296.171, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, and 10; 296.18, subdivisions 2, 3, 4, 5, 6, and 8; 296.19; 296.20; 296.21; 296.23; 296.25; 296.26; 296.27; and 296.421; Minnesota Statutes 1997 Supplement, sections 296.141, subdivision 4; 296.16, subdivision 1; 296.17, subdivision 18; 296.171, subdivision 4; and 296.18, subdivision 1, are repealed.

Sec. 32. EFFECTIVE DATE.

Sections 1, 2, 13, 14, 18, and 27 to 29 are effective the day following final enactment. Sections 3 to 12, 15 to 17, 19, 21, 22, 25, and 26 are effective for returns, reports, refunds, taxes, or other payments first becoming due on or after July 1, 1998. Section 20 is effective for audits or investigations initiated on or after July 1, 1998. Section 23 is effective for crimes committed on or after July 1, 1998. Sections 24 and 31 are effective July 1, 1998.

Presented to the governor March 17, 1998

Signed by the governor March 18, 1998, 4:34 p.m.

CHAPTER 300—S.F.No. 2570

An act relating to taxation; making technical changes to income, franchise, sales, excise, property, healthcare provider, and gambling taxes; making technical changes to tax administrative provisions; requiring mandate explanations be attached to legislative bills before committee hearings; amending Minnesota Statutes 1996, sections 270.06; 270.069, subdivision 1; 270.70, subdivision 15; 278.10; 289A.42, subdivision 2; 289A.65, subdivisions 7 and 8; 297E.15, subdivisions 8 and 9;

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Minnesota Statutes 1997 Supplement, sections 3.987, subdivision 2; 270.701, subdivision 2; 289A.09, subdivision 2; 289A.20, subdivision 2; 289A.38, subdivision 7; 290.0673, subdivisions 4, 5, and 7; 290.92, subdivision 30; 295.53, subdivision 4a; 297A.01, subdivisions 3 and 11; 297F.22, subdivisions 6 and 7; and 297G.21, subdivisions 6 and 7.

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

ARTICLE 1

INCOME AND FRANCHISE TAXES

Section 1. Minnesota Statutes 1997 Supplement, section 289A.09, subdivision 2, is amended to read:

Subd. 2. WITHHOLDING STATEMENT TO EMPLOYEE OR PAYEE AND TO COMMISSIONER. (a) A person required to deduct and withhold from an employee a tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, or who would have been required to deduct and withhold a tax under section 290.92, subdivision 2a or 3, or persons required to withhold tax under section 290.923, subdivision 2, determined without regard to section 290.92, subdivision 19, if the employee or payee had claimed no more than one withholding exemption, or who paid wages or made payments not subject to withholding under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, to an employee or person receiving royalty payments in excess of \$600, or who has entered into a voluntary withholding agreement with a payee under section 290.92, subdivision 20, must give every employee or person receiving royalty payments in respect to the remuneration paid by the person to the employee or person receiving royalty payments during the calendar year, on or before January 31 of the succeeding year, or, if employment is terminated before the close of the calendar year, within 30 days after the date of receipt of a written request from the employee if the 30-day period ends before January 31, a written statement showing the following:

- (1) name of the person;
 - (2) the name of the employee or payee and the employee's or payee's social security account number;
 - (3) the total amount of wages as that term is defined in section 290.92, subdivision 1, paragraph (1); the total amount of remuneration subject to withholding under section 290.92, subdivision 20; the amount of sick pay as required under section 6051(f) of the Internal Revenue Code; and the amount of royalties subject to withholding under section 290.923, subdivision 2; and
 - (4) the total amount deducted and withheld as tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2.
- (b) The statement required to be furnished by this paragraph with respect to any remuneration must be furnished at those times, must contain the information required, and must be in the form the commissioner prescribes.
- (c) The commissioner may prescribe rules providing for reasonable extensions of time, not in excess of 30 days, to employers or payers required to give the statements to their employees or payees under this subdivision.

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(d) A duplicate of any statement made under this subdivision and in accordance with rules prescribed by the commissioner, along with a reconciliation in the form the commissioner prescribes of the statements for the calendar year, including a reconciliation of the quarterly returns required to be filed under subdivision 1, must be filed with the commissioner on or before February 28 of the year after the payments were made.

(e) If an employer cancels the employer's Minnesota withholding account number required by section 290.92, subdivision 24, the information required by paragraph (d), must be filed with the commissioner within 30 days of the end of the quarter in which the employer cancels its account number.

(f) The employer must submit the statements required to be sent to the commissioner on magnetic media, if the magnetic media was required to satisfy the federal reporting requirements of section 6011(e) of the Internal Revenue Code and the regulations issued under it.

(g) A "provider of payroll services third-party bulk filer" as defined in section ~~289A.20~~ 290.92, subdivision ~~2~~ 30, paragraph ~~(f)~~ (a), clause ~~(2)~~, must submit the returns required by this subdivision and subdivision 1, paragraph (a), with the commissioner by electronic means.

Sec. 2. Minnesota Statutes 1997 Supplement, section 289A.20, subdivision 2, is amended to read:

Subd. 2. **WITHHOLDING FROM WAGES, ENTERTAINER WITHHOLDING, WITHHOLDING FROM PAYMENTS TO OUT-OF-STATE CONTRACTORS, AND WITHHOLDING BY PARTNERSHIPS AND SMALL BUSINESS CORPORATIONS.** (a) A tax required to be deducted and withheld during the quarterly period must be paid on or before the last day of the month following the close of the quarterly period, unless an earlier time for payment is provided. A tax required to be deducted and withheld from compensation of an entertainer and from a payment to an out-of-state contractor must be paid on or before the date the return for such tax must be filed under section 289A.18, subdivision 2. Taxes required to be deducted and withheld by partnerships and S corporations must be paid on or before the date the return must be filed under section 289A.18, subdivision 2.

(b) An employer who, during the previous quarter, withheld more than \$1,500 of tax under section 290.92, subdivision 2a or 3, or 290.923, subdivision 2, must deposit tax withheld under those sections with the commissioner within the time allowed to deposit the employer's federal withheld employment taxes under Treasury Regulation, section 31.6302-1, without regard to the safe harbor or de minimis rules in subparagraph (f) or the one-day rule in subsection (c), clause (3). Taxpayers must submit a copy of their federal notice of deposit status to the commissioner upon request by the commissioner.

(c) The commissioner may prescribe by rule other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify payors according to the amount of their tax liability and may adopt an appropriate reporting period for the class that the commissioner judges to be consistent with efficient tax collection. In no event will the duration of the reporting period be more than one year.

(d) If less than the correct amount of tax is paid to the commissioner, proper adjustments with respect to both the tax and the amount to be deducted must be made, without

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interest, in the manner and at the times the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment will be assessed and collected in the manner and at the times the commissioner prescribes.

(e) If the aggregate amount of the tax withheld during a fiscal year ending June 30 under section 290.92, subdivision 2a or 3, is equal to or exceeds the amounts established for remitting federal withheld taxes pursuant to the regulations promulgated under section 6302(h) of the Internal Revenue Code, the employer must remit each required deposit in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the deposit is due. If the date the deposit 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 deposit is due.

(f) ~~Providers of payroll services~~ A third-party bulk filer as defined in section 290.92, subdivision 30, paragraph (a), clause (2), who remit ~~remits~~ withholding deposits must remit all deposits by means of a funds transfer as provided in paragraph (e), regardless of the aggregate amount of tax withheld during a fiscal year for all of the employers. For the purposes of this paragraph, "providers of payroll services" means persons who have custody of or control over another employer's funds for the purpose of paying on behalf of the other employer's Minnesota withholding taxes.

Sec. 3. Minnesota Statutes 1997 Supplement, section 289A.38, subdivision 7, is amended to read:

Subd. 7. **FEDERAL TAX CHANGES.** If the amount of income, items of tax preference, deductions, or credits for any year of a taxpayer as reported to the Internal Revenue Service is changed or corrected by the commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in income, items of tax preference, deductions, credits, or withholding tax, or, in the case of estate tax, where there are adjustments to the taxable estate resulting in a change to the credit for state death taxes, the taxpayer shall report the change or correction or renegotiation results in writing to the commissioner. The report must be submitted within 180 days after the final determination and must be in the form of either an amended Minnesota estate, withholding tax, or income tax return conceding the accuracy of the federal determination or a letter detailing how the federal determination is incorrect or does not change the Minnesota tax. An amended Minnesota income tax return must be accompanied by an amended property tax refund return, if necessary. A taxpayer filing an amended federal tax return must also file a copy of the amended return with the commissioner of revenue within 180 days after filing the amended return.

Sec. 4. Minnesota Statutes 1996, section 289A.42, subdivision 2, is amended to read:

Subd. 2. **FEDERAL EXTENSIONS.** When a taxpayer consents to an extension of time for the assessment of federal withholding or income taxes, the period in which the commissioner may recompute the tax is also extended, notwithstanding any period of limitations to the contrary, as follows:

- (1) for the periods provided in section 289A.38, subdivisions 8 and 9;

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(2) for six months following the expiration of the extended federal period of limitations when no change is made by the federal authority. If no change is made by the federal authority, and, but for this subdivision, the commissioner's time period to adjust the tax has expired, and if the commissioner has completed a field audit of the taxpayer, no additional changes resulting in additional tax due or a refund may be made. For purposes of this subdivision, "field audit" has the meaning given it in section 289A.38, subdivision 9.

Sec. 5. Minnesota Statutes 1997 Supplement, section 290.0673, subdivision 4, is amended to read:

Subd. 4. **DUTIES OF PROGRAM.** (a) Each program certified by the commissioner of children, families, and learning under subdivision 2 must comply with the requirements of this subdivision.

(b) Each program must maintain records for each graduate for which the program provides a credit certificate to an employer. These records must include information sufficient to verify the graduate's eligibility under this section, identify the employer, describe the job including its compensation rate and benefits, and determine the amount of placement and retention fees received.

(c) Each program must report to the commissioner of revenue children, families, and learning by January 1, 1999, and by January 1, 2001, on its use of the credit. Each report must include, at least, information on:

- (1) the number of graduates placed;
- (2) demographic information on the graduates;
- (3) the types of position in which each graduate is placed, including compensation information;
- (4) the tenure of each graduate at the placed position or in other jobs;
- (5) the amount of employer fees paid to the program;
- (6) the amount of money raised by the program from other sources; and
- (7) the types and sizes of employers with which graduates have been placed and retained.

(d) The commissioner of children, families, and learning shall compile and summarize this information and report to the legislature by February 15, 1999, and February 15, 2001.

Sec. 6. Minnesota Statutes 1997 Supplement, section 290.0673, subdivision 5, is amended to read:

Subd. 5. **ISSUANCE OF CREDIT CERTIFICATES.** (a) The total amount of credits under this section is limited to \$1,200,000 for taxable years beginning after December 31, 1996, and before January 1, 2002. The commissioner of children, families, and learning may issue under paragraph (b) no more than the specified amount of certificates for taxable years beginning during each calendar year:

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1997	\$100,000
1998	\$200,000
1999	\$300,000
2000	\$300,000
2001	\$300,000

Unused certificates for a taxable year carry over and may be used for a later taxable year, regardless of when issued by the commissioner of children, families, and learning.

(b) Upon application, the commissioner of children, families, and learning shall issue certificates to job training programs, certified under subdivision 2, up to the dollar amount available for the taxable year. The certificates must be in a dollar amount that is no greater than the dollar amount applied for, and reflects the ~~commissioner's~~ commissioner of children, families, and learning's estimate of the job training program's projected fees for placements and retentions of qualifying graduates. The commissioner of children, families, and learning shall issue the certificates in the order in which applications are received until the available authority has been issued.

(c) To the extent available, the job training program must provide to employers of its qualified graduates certificates issued by the commissioner of children, families, and learning under this subdivision.

Sec. 7. Minnesota Statutes 1997 Supplement, section 290.0673, subdivision 7, is amended to read:

Subd. 7. **MANNER OF CLAIMING.** The commissioner of revenue shall prescribe the manner in which the credit may be claimed. This may include allowing the credit only as a separately processed claim for a refund.

Sec. 8. Minnesota Statutes 1997 Supplement, section 290.92, subdivision 30, is amended to read:

Subd. 30. **REGISTRATION; THIRD-PARTY BULK FILER.** (a) For purposes of this subdivision, the following terms have the meanings given:

(1) Notwithstanding section 290.01, "person" means an individual, fiduciary, partnership, corporation, limited liability company, association, or other entity organized under the laws of this state or any other jurisdiction.

(2) "Third-party bulk filer" means a person ~~that collects withholding taxes from more than one employer for the purpose of filing returns and depositing the withheld taxes with the commissioner who has custody or control over another employer's funds for the purpose of filing returns and depositing the withheld taxes of the other employer with the commissioner.~~

(b) A person shall not act as a third-party bulk filer unless the person is registered with the commissioner under this subdivision.

(c) A person may apply to the commissioner, on a form prescribed by the commissioner, for registration as a third-party bulk filer under this subdivision, and the commissioner shall grant the application if the application indicates that the person will comply with this subdivision.

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(d) A third-party bulk filer must:

(1) keep client funds held for payment of federal or state withholding taxes or other client obligations in an account separate from the third-party bulk filer's own funds;

(2) permit the commissioner to conduct scheduled or unscheduled audits of the third-party bulk filer's books and records relating to compliance with this subdivision and fully cooperate with the audits or, at the discretion of the commissioner, submit an audit conducted by a certified public accountant;

(3) file returns electronically and make deposits electronically with the commissioner in compliance with the commissioner's requirements for electronic filing and depositing;

(4) provide to the commissioner at least monthly, in the form requested by the commissioner, an updated client list that includes at least the name, address, tax identification number, and federal deposit frequency of each client. The address listed for the client must be the client's actual street or post office box address and not the third-party bulk filer's address;

(5) disclose in writing to prospective clients that:

(i) the third-party bulk filer may invest client funds prior to depositing them with the commissioner and with the Internal Revenue Service and that earnings from those investments will be the property of the third-party bulk filer;

(ii) if the third-party bulk filer incurs losses on those investments or uses the client's funds for other purposes, the third-party bulk filer will still be liable to the client for the amounts withheld but will be able to make required tax deposits on behalf of the client only by using the third-party bulk filer's own funds or other assets to replace the funds lost through the investments or used for other purposes; and

(iii) no state or federal agency monitors or assumes any responsibility for the financial solvency of third-party bulk filers;

(6) timely file all returns and timely make all tax deposits required under its contracts with its clients;

(7) upon request, provide to the commissioner, within the time specified in the request, a copy of any contract with a client; and

(8) comply with all other requirements of this section or of rules adopted under this section.

(e) When the commissioner sends an order of assessment issued under section 289A.37, in either paper or electronic form, to a third-party bulk filer regarding a client, the commissioner shall also send a paper copy of the order of assessment to the client.

(f) If the commissioner determines that a required deposit appears not to have been made, the commissioner shall send a written notice of the delinquency, in electronic or paper form, to the third-party bulk filer, and a copy to the client as required under paragraph (e).

(g) If the commissioner determines that a required deposit has not been made, and that continued operation of the third-party bulk filer would present a risk of loss to its

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clients, the commissioner may, upon ten business days' written notice by certified mail to the third-party bulk filer, suspend the registration of the third-party bulk filer for an indefinite period, and notify the third-party bulk filer's clients that the registration has been suspended. A registration may not be suspended if the failure to make a deposit was caused by the client's failure to deposit funds or provide the information necessary to calculate appropriate tax withholding payments. The commissioner shall, upon request, provide the third-party bulk filer with the opportunity for an administrative appeal under section 289A.65, subdivisions 1, 4, and 10, prior to suspension; the hearing, if any, on the administrative appeal must occur within the ten-day period unless the commissioner, in the commissioner's sole discretion, agrees to delay the suspension to permit a later hearing. The 60-day period specified in section 289A.65, subdivision 4, does not apply to a proceeding under this paragraph. Within 30 days after the beginning of a suspension under this paragraph, the commissioner may commence a proceeding to suspend or revoke under paragraph (h); if the commissioner fails to do so, the suspension under this paragraph terminates.

(h) If the commissioner determines, in compliance with paragraph (i), that a third-party bulk filer has violated this section without reasonable cause or is no longer eligible for registration under this subdivision, the commissioner may suspend or revoke the third-party bulk filer's registration or may assess a civil penalty upon the third-party bulk filer, not to exceed \$5,000 per violation. A suspension of registration may be for any period of less than six months and may include conditions for reinstatement. If the commissioner revokes the registration, the third-party bulk filer may not apply for reregistration for six months after the revocation. If the commissioner suspends or revokes a registration, the commissioner shall notify the former registrant's clients that the registration has been suspended or revoked. If the commissioner assesses a civil penalty, the commissioner shall not notify the third-party bulk filer's clients of the assessment.

(i) Prior to a suspension, revocation, or assessment of a civil penalty under paragraph (h), the commissioner shall first provide 30 days' written notice to the third-party bulk filer, specifying the violations and informing the third-party bulk filer that the commissioner intends, based upon those violations, to take action against the third-party bulk filer as permitted under this paragraph and paragraph (h). The notice shall advise the third-party bulk filer of the right to contest the suspension, revocation, or assessment of a civil penalty and of the general procedures for a contested case hearing under chapter 14. The notice may be served personally or by mail in the manner prescribed for service of an order of assessment issued under section 289A.37. A suspension or revocation of registration under this paragraph is effective when the commissioner serves a notice of suspension or revocation upon the third-party bulk filer after 30 days have passed following the date of the notice of intent to suspend or revoke without the third-party bulk filer requesting a hearing. If a hearing is timely requested and held, the suspension or revocation is effective upon service by the commissioner of an order of suspension or revocation under section 14.62, subdivision 1.

(j) A third-party bulk filer may terminate its registration by written notice to the commissioner, but the termination does not affect the commissioner's authority to begin or continue a proceeding to take action permitted under paragraph (h). The commissioner shall notify the third-party bulk filer's clients of a termination of registration under this paragraph.

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(k) The commissioner shall remind employers at least annually, through the department's regular informational publications that it sends to employers, that employers may telephone the department to determine whether a required filing or deposit has been made by a third-party bulk filer.

Sec. 9. EFFECTIVE DATES.

Sections 1, 2, and 8 are effective for withholding on wages paid after December 31, 1997. Sections 3 and 4 are effective for federal extensions granted and final determinations made after the date of final enactment. Sections 5 to 7 are effective for certificates issued after December 31, 1996, and used in taxable years beginning after July 31, 1997.

ARTICLE 2

SALES TAXES

Section 1. Minnesota Statutes 1996, section 270.069, subdivision 1, is amended to read:

Subdivision 1. **COSTS DEDUCTED; APPROPRIATION.** If the commissioner of revenue agrees to collect a locally imposed tax, the local unit of government must agree that all the direct and indirect costs of the department of revenue for collecting the tax and any other statewide indirect costs will be deducted from the amounts collected and paid to the local unit of government. ~~The amounts deducted must be deposited in the state treasury and credited to the general fund.~~

Sec. 2. Minnesota Statutes 1997 Supplement, section 297A.01, subdivision 3, is amended to read:

Subd. 3. A "sale" and a "purchase" includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter;

(b) The production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing;

(c) The furnishing, preparing, or serving for a consideration of food, meals, or drinks. "Sale" or "purchase" does not include:

(1) meals or drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizens homes, and correctional, detention, and detoxification facilities;

(2) meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by govern-

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mental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served; or

(3) meals and lunches served at public and private schools, universities, or colleges.

Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) ~~food or drinks prepared sold by the retailer for immediate consumption either on or off the retailer's premises. For purposes of this subdivision, "food or drinks prepared for immediate consumption" includes any food product upon which an act of preparation including, but not limited to, cooking, mixing, sandwich making, blending, heating, or pouring has been performed by the retailer so the food product may be immediately consumed by the purchaser. For purposes of this subdivision, "premises" means the total space and facilities, including buildings, grounds, and parking lots that are made available or that are available for use by the retailer or customer for the purpose of sale or consumption of prepared food and drinks. Food and drinks sold within a building or grounds which require an admission charge for entrance are presumed to be sold for consumption on the premises. The premises of a caterer is the place where the catered food or drinks are served;~~

(ii) food or drinks prepared by the retailer for immediate consumption either on or off the retailer's premises. For purposes of this subdivision, "food or drinks prepared for immediate consumption" includes any food product upon which an act of preparation including, but not limited to, cooking, mixing, sandwich making, blending, heating, or pouring has been performed by the retailer so the food product may be immediately consumed by the purchaser;

(iii) ice cream, ice milk, or frozen yogurt products, or frozen novelties sold in single or individual servings including novelties, cones, sundaes, and snow cones, sold in single or individual servings. For purposes of this subdivision, "single or individual servings" does not include products prepackaged and when sold in bulk containers or bulk packaging;

~~(iii) (iv) soft drinks and other beverages including all carbonated and noncarbonated beverages or drinks sold in liquid form except beverages or drinks which contain milk or milk products, beverages or drinks containing 15 or more percent fruit juice, or and non-carbonated and noneffervescent bottled water sold in individual containers of one-half gallon or more in size;~~

~~(iv) (v) gum, candy, and candy products, except when sold for fundraising purposes by a nonprofit organization that provides educational and social activities primarily for young people 18 years of age and under;~~

~~(v) (vi) ice;~~

~~(vi) (vii) all food sold from vending machines, pushcarts, lunch carts, motor vehicles, or any other form of vehicle except home delivery vehicles;~~

(viii) all food for immediate consumption sold from concession stands and vehicles;

~~(vii) (ix) party trays;~~

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(viii) (x) all meals and single servings of packaged snack food sold in restaurants and bars; and

~~(ix)~~ (xi) bakery products:

(A) prepared by the retailer for consumption on the retailer's premises;

(B) sold at a place that charges admission;

(C) sold from vending machines; or

(D) sold in single or individual servings from concession stands, vehicles, bars, and restaurants. For purposes of this subdivision, "single or individual servings" does not include products when sold in bulk containers or bulk packaging.

For purposes of this subdivision, "premises" means the total space and facilities, including buildings, grounds, and parking lots that are made available or that are available for use by the retailer or customer for the purpose of sale or consumption of prepared food and drinks. The premises of a caterer is the place where the catered food or drinks are served;

(d) The granting of the privilege of admission to places of amusement, recreational areas, or athletic events, except a world championship football game sponsored by the national football league, and the privilege of having access to and the use of amusement devices, tanning facilities, reducing salons, steam baths, turkish baths, health clubs, and spas or athletic facilities;

(e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;

(f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state. Telephone service does not include services purchased with prepaid telephone calling cards. Telephone service includes paging services and private communication service, as defined in United States Code, title 26, section 4252(d), as amended through December 31, 1991, except for private communication service purchased by an agent acting on behalf of the state lottery. The furnishing for a consideration of access to telephone services by a hotel to its guests is a sale under this clause. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale. The sale of natural gas to be used as a fuel in vehicles propelled by natural gas shall not be considered a sale for the purposes of this section;

(g) The furnishing for a consideration of cable television services, including charges for basic service, charges for premium service, and any other charges for any other pay-view, monthly, or similar television services;

(h) The furnishing for a consideration of parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(i) The furnishing for a consideration of services listed in this paragraph:

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(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 services, security services, 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 for consideration of lodging, board and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.

The services listed in this paragraph are taxable under section 297A.02 if the service is performed wholly within Minnesota or if the service is performed partly within and partly without Minnesota and the greater proportion of the service is performed in Minnesota, based on the cost of performance. In applying the provisions of this chapter, the terms "tangible personal property" and "sales at retail" include taxable services and the provision of taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable under this paragraph. Services performed by a partnership or association for another partnership or association are not taxable under this paragraph if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. 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 a member of an affiliated group under United States Code, title 26, section 1504, as amended through December 31, 1987, and who are eligible to file a consolidated tax return for federal income tax purposes;

(j) A "sale" and a "purchase" includes the transfer of computer software, meaning information and directions that dictate the function performed by data processing equip-

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ment. A "sale" and a "purchase" does not include the design, development, writing, translation, fabrication, lease, or transfer for a consideration of title or possession of a custom computer program; and

(k) The granting of membership in a club, association, or other organization if:

(1) 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

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

Granting of membership includes both one-time 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. The provisions of this paragraph do not apply to camps or other recreation facilities owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, for educational and social activities for young people primarily age 18 and under.

Sec. 3. Minnesota Statutes 1997 Supplement, section 297A.01, subdivision 11, is amended to read:

Subd. 11. "Tangible personal property" means corporeal personal property of any kind whatsoever, including property which is to become real property as a result of incorporation, attachment, or installation following its acquisition.

Personal property does not include:

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

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

(c) property described in section 272.02, subdivision 1, clause (8), paragraphs (a) to (d);

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

Tangible personal property includes computer software, whether contained on tape, discs, cards, or other devices. Tangible personal property also includes prepaid telephone calling cards. For purposes of this chapter, "prepaid telephone calling card" means any card or other similar arrangement, including prepaid authorization numbers, which permit its holder to obtain telephone services and pay for such services in advance.

Sec. 4. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day following final enactment.

Section 3 is effective for sales or purchases made on or after July 1, 1997.

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ARTICLE 3

MISCELLANEOUS

Section 1. Minnesota Statutes 1997 Supplement, section 3.987, subdivision 2, is amended to read:

Subd. 2. **MANDATE EXPLANATIONS.** Any bill introduced in the legislature after June 30, 1997, Before a committee hearing on a bill that seeks to impose program or financial mandates on political subdivisions must include an attachment from the author must provide the committee with a note that gives appropriate responses to the following guidelines. ~~¶~~ The note must state and list:

(1) the policy goals that are sought to be attained, the performance standards that are to be imposed, and an explanation why the goals and standards will best be served by requiring compliance by political subdivisions;

(2) performance standards that will allow political subdivisions flexibility and innovation of method in achieving those goals;

(3) the reasons for each prescribed standard and the process by which each standard governs input such as staffing and other administrative aspects of the program;

(4) the sources of additional revenue, in addition to existing funding for similar programs, that are directly linked to imposition of the mandates that will provide adequate and stable funding for their requirements;

(5) what input has been obtained to ensure that the implementing agencies have the capacity to carry out the delegated responsibilities; and

(6) the reasons why less intrusive measures such as financial incentives or voluntary compliance would not yield the equity, efficiency, or desired level of statewide uniformity in the proposed program.

Sec. 2. Minnesota Statutes 1996, 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

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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

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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 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 disbar from further practice before the commissioner any person, agent, or attorney who is shown to be incompetent or disreputable, who refuses to comply with the rules, or who with intent to defraud, willfully or knowingly deceives, misleads, or threatens a taxpayer or prospective taxpayer, by words, circular, letter, or by advertisement. This clause does not curtail the rights of individuals to appear in their own behalf or partners or corporations' officers to appear in behalf of their respective partnerships or corporations;

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

(18) appoint and employ additional help, purchase supplies or materials, or incur other expenditures in the enforcement of state tax laws as considered necessary. The sala-

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ries of all agents and employees provided for in this chapter shall be fixed by the appointing authority, subject to the approval of the commissioner of administration;

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

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

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

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

Sec. 3. Minnesota Statutes 1996, section 270.70, subdivision 15, is amended to read:

Subd. 15. **EFFECT OF HONORING LEVY.** Any person in possession of (or obligated with respect to) property or rights to property subject to levy upon which a levy has been made who, upon demand by the commissioner, surrenders the property or rights to property (or who pays a liability under section 270.7002, subdivision 1) shall be discharged from any obligation or liability to the person liable for the payment or collection of the delinquent tax with respect to the property or rights to property so surrendered or paid.

Sec. 4. Minnesota Statutes 1997 Supplement, 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. 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 ~~ten-day~~ 30-day period provided in section 270.70, subdivision 2, public notice of sale of the property seized shall not be made within the ~~ten-day~~ 30-day period unless section 270.702 (relating to sale of perishable goods) is applicable.

Sec. 5. Minnesota Statutes 1996, section 278.10, is amended to read:

278.10 TO BE ENTERED IN JUDGMENT BOOK.

Upon entry of the judgment referred to in section 278.07, the county auditor shall bill the taxpayer for the unpaid portion of the judgment, if any, plus the allowable costs, interest, and penalties that have accrued to the date of entry, as provided in section 278.08. If such the judgment has not then been referred to in section 278.07 is not paid within 30 days of the billing, the county auditor shall enter the same in the certified copy

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of the real estate tax judgment book received by the auditor pursuant to section 279.23 for the year for which such taxes were levied, with the same effect as if judgment had been entered in the proceedings, adding thereto any under chapter 279, except that interest or penalties that have accrued to the date of such entry, and in shall not accrue during, nor apply to, the 30-day payment period. In the event such the judgment under section 278.07 shall be entered subsequent to the publication of the notice of real estate tax judgment sale of under section 280.01 for the taxes on such the applicable delinquent list, and if such judgment shall remain unpaid for 30 days thereafter after billing, then interest shall again begin to accrue, and the parcel of land, against which such judgment was entered, shall be immediately advertised and sold bid-in for the state, and all subsequent events, deadlines, and periods related to the enforcement of the judgment against the affected real estate shall be measured from the bid-in date under this section.

Sec. 6. Minnesota Statutes 1996, section 289A.65, subdivision 7, is amended to read:

Subd. 7. **AGREEMENT DETERMINING TAX LIABILITY.** When it appears to be in the best interests of the state, the commissioner may settle any taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer, or the taxpayer's representative authorized by the taxpayer to enter into an agreement. The agreement must be filed in the office of the commissioner. The agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon.

Sec. 7. Minnesota Statutes 1996, section 289A.65, subdivision 8, is amended to read:

Subd. 8. **APPEAL OF AN ADMINISTRATIVE DETERMINATION.** Following the determination or settlement of an appeal and notwithstanding any period of limitations for making assessments or other determinations to the contrary, the commissioner must issue an order reflecting that disposition. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this section, the order is limited to issues or matters contained in the appealed determination. Except in the case of an agreement determining tax under this section, The order is appealable to the Minnesota tax court under section 271.06.

Sec. 8. Minnesota Statutes 1997 Supplement, section 295.53, subdivision 4a, is amended to read:

Subd. 4a. **CREDIT FOR RESEARCH.** (a) In addition to the exemptions allowed under subdivision 1, a hospital or health care provider may claim an annual credit against the total amount of tax, if any, the hospital or health care provider owes for that calendar year under sections 295.50 to 295.57. The credit shall equal 2.5 percent of revenues for patient services used to fund expenditures for qualifying research conducted by an allowable research program. The amount of the credit shall not exceed the tax liability of the hospital or health care provider under sections 295.50 to 295.57.

(b) For purposes of this subdivision, the following requirements apply:

(1) expenditures must be for program costs of qualifying research conducted by an allowable research program;

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(2) an allowable research program must be a formal program of medical and health care research conducted by an entity which is exempt under section 501(c)(3) of the Internal Revenue Code of 1986 or is owned and operated under authority of a governmental unit;

(3) qualifying research must:

(A) be approved in writing by the governing body of the hospital or health care provider which is taking the deduction under this subdivision;

(B) have as its purpose the development of new knowledge in basic or applied science relating to the diagnosis and treatment of conditions affecting the human body;

(C) be subject to review by individuals with expertise in the subject matter of the proposed study but who have no financial interest in the proposed study and are not involved in the conduct of the proposed study; and

(D) be subject to review and supervision by an institutional review board operating in conformity with federal regulations if the research involves human subjects or an institutional animal care and use committee operating in conformity with federal regulations if the research involves animal subjects. Research expenses are not exempt if the study is a routine evaluation of health care methods or products used in a particular setting conducted for the purpose of making a management decision. Costs of clinical research activities paid directly for the benefit of an individual patient are excluded from this exemption. Basic research in fields including biochemistry, molecular biology, and physiology are also included if such programs are subject to a peer review process.

(c) No credit shall be allowed under this subdivision for any revenue received by the hospital or health care provider in the form of a grant, gift, or otherwise, whether from a government or nongovernment source, on which the tax liability under section 295.52 is not imposed.

(d) The taxpayer shall apply for the credit under this section on the annual return under section 295.55, subdivision 5.

(e) Beginning September 1, 2000 2001, if the actual or estimated amount paid under this section for the calendar year exceeds \$2,500,000, the commissioner of finance shall determine the rate of the research credit for the following calendar year to the nearest one-half percent so that refunds paid under this section will most closely equal \$2,500,000. The commissioner of finance shall publish in the State Register by October 1 of each year the rate of the credit for the following calendar year. A determination under this section is not subject to the rulemaking provisions of chapter 14.

Sec. 9. Minnesota Statutes 1996, section 297E.15, subdivision 8, is amended to read:

Subd. 8. **AGREEMENT DETERMINING TAX LIABILITY.** If it appears to be in the best interests of the state, the commissioner may settle taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer or the taxpayer's representative authorized by the taxpayer to enter into an agreement. An agreement must be filed in the office of the commissioner. The agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon.

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Sec. 10. Minnesota Statutes 1996, section 297E.15, subdivision 9, is amended to read:

Subd. 9. **APPEAL OF AN ADMINISTRATIVE APPEAL DETERMINATION.** Following the determination or settlement of an appeal, the commissioner must issue an order reflecting that disposition. ~~Except in the case of an agreement determining tax under this section,~~ The order is appealable to the Minnesota tax court under section 271.06.

Sec. 11. Minnesota Statutes 1997 Supplement, section 297F.22, subdivision 6, is amended to read:

Subd. 6. **AGREEMENT DETERMINING TAX LIABILITY.** When it appears to be in the best interests of the state, the commissioner may settle any taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer, or the taxpayer's representative authorized by the taxpayer to enter into an agreement. ~~The agreement must be filed in the office of the commissioner.~~ The agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon.

Sec. 12. Minnesota Statutes 1997 Supplement, section 297F.22, subdivision 7, is amended to read:

Subd. 7. **APPEAL OF AN ADMINISTRATIVE DETERMINATION.** Following the determination or settlement of an appeal and notwithstanding any period of limitations for making assessments or other determinations to the contrary, the commissioner must issue an order reflecting that disposition. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this section, the order is limited to issues or matters contained in the appealed determination. ~~Except in the case of an agreement determining tax under this section,~~ The order is appealable to the Minnesota tax court under section 271.06.

Sec. 13. Minnesota Statutes 1997 Supplement, section 297G.21, subdivision 6, is amended to read:

Subd. 6. **AGREEMENT DETERMINING TAX LIABILITY.** When it appears to be in the best interests of the state, the commissioner may settle any taxes, penalties, or interest that the commissioner has under consideration by virtue of an appeal filed under this section. An agreement must be in writing and signed by the commissioner and the taxpayer, or the taxpayer's representative authorized by the taxpayer to enter into an agreement. ~~The agreement must be filed in the office of the commissioner.~~ The agreement shall be final and conclusive and, except upon a showing of fraud or malfeasance, or misrepresentation of a material fact, the case shall not be reopened as to the matters agreed upon.

Sec. 14. Minnesota Statutes 1997 Supplement, section 297G.21, subdivision 7, is amended to read:

Subd. 7. **APPEAL OF AN ADMINISTRATIVE DETERMINATION.** Following the determination or settlement of an appeal and notwithstanding any period of limitations for making assessments or other determinations to the contrary, the commission-

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er shall issue an order reflecting that disposition. If the statute of limitations for making assessments or other determinations would have expired before the issuance of this order, except for this section, the order is limited to issues or matters contained in the appealed determination. ~~Except in the case of an agreement determining tax under this section, The order is appealable to the Minnesota tax court under section 271.06.~~

Sec. 15. EFFECTIVE DATES.

Sections 1 to 4 and 6 to 14 are effective the day following final enactment.

Section 5 is effective for petitions filed on or after July 1, 1998.

Presented to the governor March 17, 1998

Signed by the governor March 18, 1998, 4:40 p.m.

CHAPTER 301—S.F.No. 1076

An act relating to health; requiring health plan coverage for off-label use of drugs; proposing coding for new law in Minnesota Statutes, chapter 62Q.

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

Section 1. [62Q.525] COVERAGE FOR OFF-LABEL DRUG USE.

Subdivision 1. SCOPE OF COVERAGE. This section applies to all health plans, including the coverages described in section 62A.011, subdivision 3, clauses (7) and (10), that are issued or renewed to a Minnesota resident.

Subd. 2. DEFINITIONS. (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Medical literature" means articles from major peer reviewed medical journals that have recognized the drug or combination of drugs' safety and effectiveness for treatment of the indication for which it has been prescribed. Each article shall meet the uniform requirements for manuscripts submitted to biomedical journals established by the international committee of medical journal editors or be published in a journal specified by the United States Secretary of Health and Human Services pursuant to United States Code, title 42, section 1395x, paragraph (t), clause (2), item (B), as amended, as acceptable peer review medical literature. Each article must use generally acceptable scientific standards and must not use case reports to satisfy this criterion.

(c) "Off-label use of drugs" means when drugs are prescribed for treatments other than those stated in the labeling approved by the federal Food and Drug Administration.

(d) "Standard reference compendia" means:

(1) the United States Pharmacopeia Drug Information; or

(2) the American Hospital Formulary Service Drug Information.

Subd. 3. REQUIRED COVERAGE. (a) Every type of coverage included in subdivision 1 that provides coverage for drugs may not exclude coverage of a drug for the treat-

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