

more regional hospital systems and that care for those persons has to be given in temporary care facilities.

(b) During the effective period of the emergency executive order, a responder in any impacted region acting consistent with emergency plans is not liable for any civil damages or administrative sanctions as a result of good-faith acts or omissions by that responder in rendering emergency care, advice, or assistance. This section does not apply in case of malfeasance in office or willful or wanton actions.

Sec. 13. Minnesota Statutes 2004, section 13.3806, subdivision 1a, is amended to read:

Subd. 1a. **DEATH INVESTIGATION DATA.** Data gathered by the commissioner of health to identify the body of a person believed to have died due to a public health declared emergency as defined in section 12.03, subdivision 9a 1e, the circumstances of death, and disposition of the body are classified in and may be released according to section 12.381, subdivision 2.

Sec. 14. Laws 2002, chapter 402, section 21, as amended by Laws 2004, chapter 279, article 11, section 7, is amended to read:

Sec. 21. **SUNSET.**

Sections 1 to 49, 2, 5, 10, and 11 expire August 1, 2005.

Sec. 15. **EFFECTIVE DATE.**

Section 14 is effective the day following final enactment.

Presented to the governor May 31, 2005

Signed by the governor June 3, 2005, 8:05 a.m.

CHAPTER 151—H.F.No. 2228

An act relating to financing and operation of government in this state; recodifying and clarifying the powers of the commissioner of revenue; changing income, corporate franchise, withholding, estate, property, sales and use, mortgage registry, motor fuels, gambling, cigarette and tobacco products, liquor, insurance, and other taxes and tax-related provisions; making technical, clarifying, collection, enforcement, refund, and administrative changes to certain taxes and tax-related provisions, tax-forfeited lands, revenue recapture, unfair cigarette sales, state debt collection, sustainable forest incentive programs, border city development, property tax refund, and metropolitan solid waste landfill fee; changing local government aids and credits; providing for determination of population for certain purposes; changing property tax exemptions, homesteads, assessment, valuation, classification, levies, deferral, review and equalization, appeals, notices and statements, allocation, and distribution provisions; changing provisions relating to manufactured home certificates of title; providing for compliance with streamlined sales tax agreement; authorizing charges for certain emergency services; regulating tax preparers; prohibiting purchases of tax-forfeited lands by certain local officials; providing for

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

data classification and exchange of data; providing and imposing powers and duties on the commissioner of revenue and on certain political subdivisions and officials; changing town spending and taxing provisions; changing and imposing penalties; reducing certain court appropriations; transferring funds; recodifying a criminal penalty; appropriating money; amending Minnesota Statutes 2004, sections 4A.02; 16D.08, subdivision 2; 16D.10; 115B.49, subdivision 4; 168A.05, subdivision 1a; 239.785, subdivision 4; 256.9657, subdivision 7; 256.9792, subdivision 8; 270.11, subdivision 2; 270.16, subdivision 2; 270.30, subdivisions 1, 5, 6, 8, by adding subdivisions; 270.65; 270.67, subdivision 4; 270.69, subdivision 4; 270A.03, subdivision 5; 272.01, subdivision 2; 272.02, subdivisions 1a, 47, 53, 56, by adding subdivisions; 272.0211, subdivisions 1, 2; 272.029, subdivisions 4, 6; 273.11, subdivisions 5, 8; 273.124, subdivisions 3, 6, 8, 13, 14, 21; 273.13, subdivision 25; 273.1315; 273.1384, subdivision 1; 273.19, subdivision 1a; 273.372; 274.014, subdivisions 2, 3; 274.14; 275.07, subdivisions 1, 4; 276.112; 276A.01, subdivision 7; 282.016; 282.08; 282.15; 282.21; 282.224; 282.301; 287.04; 287.37; 289A.08, subdivisions 3, 16; 289A.18, subdivision 1; 289A.19, subdivision 4; 289A.31, subdivision 2; 289A.35; 289A.37, subdivision 5; 289A.38, subdivisions 6, 7, by adding a subdivision; 289A.39, subdivision 1; 289A.40, subdivision 2, by adding subdivisions; 289A.42, subdivision 1; 289A.50, subdivision 1a; 289A.60, subdivisions 2a, 6, 11, 12, 13; 290.01, subdivisions 7b, 19a, 19b, 19c; 290.06, subdivision 22; 290.0671, subdivision 1a; 290.0674, subdivision 1; 290.92, subdivisions 1, 4b; 290A.07, by adding a subdivision; 290B.05, subdivision 3; 290C.05; 290C.10; 291.005, subdivision 1; 291.03, subdivision 1; 295.57, subdivision 1; 295.60, subdivisions 3, 7; 296A.22, by adding a subdivision; 297A.61, subdivisions 3, 4; 297A.64, subdivisions 3, 4; 297A.668, subdivisions 1, 5; 297A.67, subdivisions 2, 7, 9; 297A.68, subdivisions 2, 5, 28, 39; 297A.71, subdivision 12; 297A.75, subdivision 1; 297A.87, subdivisions 2, 3; 297A.99, subdivision 4; 297B.11; 297E.01, subdivisions 5, 7, by adding subdivisions; 297E.06, subdivision 2; 297E.07; 297F.08, subdivision 12, by adding a subdivision; 297F.09, subdivisions 1, 2; 297F.14, subdivision 4; 297G.09, by adding a subdivision; 297H.10, subdivision 1; 297I.01, by adding a subdivision; 297I.05, subdivision 5; 297I.10, by adding a subdivision; 298.24, subdivision 1; 325D.33, subdivision 6; 365.43, subdivision 1; 365.431; 366.011; 366.012; 373.45, subdivision 7; 469.1735, subdivision 3; 473.843, subdivision 5; 473F.02, subdivision 7; 477A.011, subdivisions 3, 34, 36, as amended, 38; 477A.0124, subdivisions 2, 4; 477A.03, subdivision 2b; Laws 1998, chapter 389, article 3, section 42, subdivision 2, as amended; Laws 2001 First Special Session chapter 5, article 3, section 8; Laws 2003, chapter 127, article 5, sections 27; 28; Laws 2003 First Special Session chapter 21, article 5, section 13; Laws 2003 First Special Session, chapter 21, article 6, section 9; Laws 2005, chapter 43, section 1; proposing coding for new law in Minnesota Statutes, chapters 270; 290C; 473; proposing coding for new law as Minnesota Statutes, chapter 270C; repealing Minnesota Statutes 2004, sections 270.01; 270.02; 270.021; 270.022; 270.04; 270.05; 270.052; 270.058; 270.059; 270.06; 270.0601; 270.0602; 270.0603; 270.0604; 270.0605; 270.061; 270.062; 270.063; 270.064; 270.065; 270.066; 270.0665; 270.067; 270.068; 270.0681; 270.0682; 270.069; 270.07; 270.084; 270.09; 270.10; 270.101; 270.102; 270.11, subdivisions 2, 3, 4, 5, 6, 7; 270.13; 270.14; 270.15; 270.16; 270.17; 270.18; 270.19; 270.20; 270.21; 270.22; 270.23; 270.24; 270.25; 270.26; 270.27; 270.271; 270.272; 270.273; 270.274; 270.275; 270.276; 270.277; 270.278; 270.30; 270.485; 270.494; 270.60; 270.65; 270.652; 270.66; 270.67; 270.68; 270.69; 270.691; 270.70; 270.7001; 270.7002; 270.701; 270.702; 270.703; 270.704; 270.705; 270.706; 270.707; 270.708; 270.709; 270.71; 270.72; 270.721; 270.73; 270.74; 270.75; 270.76; 270.771; 270.78; 270.79; 270.85; 270.88; 273.19, subdivision 5; 273.37, subdivision 3; 274.05; 275.15; 275.61, subdivision 2; 283.07; 287.39; 289A.07; 289A.13; 289A.31, subdivisions 3, 4, 6; 289A.36; 289A.37, subdivisions 1, 3, 4, 5; 289A.38, subdivision 13; 289A.43; 289A.65; 290.48, subdivisions 3, 4; 290.92, subdivisions 6b, 22, 23; 290.97; 296A.20; 296A.201; 296A.25; 297A.86; 297A.93; 297D.14; 297E.08; 297E.09; 297E.12, subdivision 10; 297E.15; 297F.15,

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subdivisions 1, 2, 3, 4, 5, 6, 7, 8; 297F.16; 297F.22; 297G.14, subdivisions 1, 2, 3, 4, 5, 6, 7, 8; 297G.15; 297G.21; 297I.45; 297I.50; 297I.55; 297I.95; Laws 1975, chapter 287, section 5; Laws 1998, chapter 389, article 3, section 41; Laws 2003, chapter 127, article 9, section 9, subdivision 4; Minnesota Rules, parts 8093.2000; 8093.3000; 8130.0110, subpart 4; 8130.0200, subparts 5, 6; 8130.0400, subpart 9; 8130.1200, subparts 5, 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1, 2; 8130.4200, subpart 1; 8130.4400, subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; 8130.8800, subpart 4.

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

ARTICLE 1

RECODIFICATION

COMMISSIONER GENERAL POWERS

Section 1. [270C.01] DEFINITIONS.

Subdivision 1. APPLICABILITY. For purposes of this chapter only, the following words, terms, and phrases have the meanings given them in this section unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. COMMISSIONER. "Commissioner" means the commissioner of revenue or a person to whom the commissioner has delegated functions.

Subd. 3. DEPARTMENT. "Department" means the Department of Revenue.

Subd. 4. ELECTRONIC MEANS; ELECTRONICALLY. "Electronic means" and "electronically" mean a method that is electronic, as defined in section 325L.02, paragraph (e), and that is prescribed by the commissioner.

Subd. 5. LAW ADMINISTERED BY THE COMMISSIONER. "Law administered by the commissioner" means a law or rule that vests or imposes a power, duty, responsibility, or authority in the commissioner, except the following laws: (1) the property tax laws, and (2) Minnesota Statutes, chapter 16D.

Subd. 6. PERSON. "Person" means an individual, trust, estate, fiduciary, partnership, company, corporation, limited liability company, association, governmental unit or agency, public or private organization of any kind, or other legal entity.

Subd. 7. PROPERTY TAX LAWS. "Property tax laws" means all laws and rules related to the administration of the tax on property referred to in section 272.01, subdivision 1, and all laws related to the administration of the tax on wind energy production imposed under section 272.029, subdivision 1.

Subd. 8. RETURN. "Return" means a return, information return, or report, required by a law administered by the commissioner.

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Subd. 9. STATE REVENUE LAWS. "State revenue laws" means all laws administered by the commissioner and the property tax laws.

Subd. 10. TAX. "Tax" means a tax or fee imposed by a law administered by the commissioner.

Subd. 11. TAXPAYER. "Taxpayer" means a person subject to, or liable for, a tax or fee imposed by a law administered by the commissioner; a person required to file a return, information return, or report, with respect to, or to pay, or withhold or collect and remit, a tax or fee imposed by a law administered by the commissioner; a person required to obtain a license or a permit under a law administered by the commissioner; or a person required to keep records regarding a tax or fee imposed by a law administered by the commissioner.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 2. [270C.02] DEPARTMENT OF REVENUE; COMMISSIONER.

Subdivision 1. COMMISSIONER; SUPERVISION OF DEPARTMENT AND APPOINTMENT. The Department of Revenue is under the supervision and control of the commissioner. The commissioner shall be appointed by the governor under the provisions of section 15.06. The commissioner shall be selected on the basis of ability and experience in the field of tax administration and without regard to political affiliations. [270.01; 270.02, subd. 8]

Subd. 2. POWER TO APPOINT STAFF. (a) The commissioner may organize the department as the commissioner deems necessary, and appoint one deputy commissioner, a department secretary, directors of divisions, and such other officers, employees, and agents, as the commissioner deems necessary to carry out the duties, responsibilities, and authority entrusted to the commissioner. The commissioner may define the duties of such officers, employees, and agents, and delegate to them any of the commissioner's powers or duties, subject to the commissioner's control and under such conditions as the commissioner may prescribe. Appointments to exercise delegated power to sign documents which require the signature of the commissioner or a delegate by law shall be by written order filed with the secretary of state. [270.02, subd. 3]

(b) The commissioner may 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. [270.06, clause (17)]

Subd. 3. SALARIES. The commissioner shall appoint and employ additional employees and other agents, purchase supplies or materials, or incur other expenditures in the administration and enforcement of state revenue 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 employee relations. [270.06, clause (18)]

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Subd. 4. OFFICE AND SUPPLIES FURNISHED; EXPENSES. The commissioner shall be provided with suitable and necessary office furniture, supplies, stationery, books, periodicals, newspapers, maps, and financial and commercial reports; and all necessary expenses therefor shall be audited and paid as other expenses are audited and paid. The actual necessary expenses of the commissioner, the commissioner's employees and agents, and such experts and assistants as may be employed by the commissioner while traveling on the business of the department, shall be paid by the state. The expenditures must be sworn to by the party who incurred the expense and approved by the commissioner. [270.04]

Subd. 5. FILING OFFICERS. The commissioner is the filing officer and custodian of the books, files, and records of the department. The commissioner may certify copies of the books, files, and records in the custody of the commissioner for all purposes in the same manner as other custodians of public records. The commissioner may authorize other employees of the department to certify books, files, and records in the custody of the commissioner. The authorization must be made by a written order stating the documents that may be certified and must be filed with the secretary of state. [270.022]

Subd. 6. DEPARTMENT SEAL. The department shall have a seal engraved with the words, "State of Minnesota, Department of Revenue." Such seal may be used to authenticate the official acts of the commissioner or any other employees of the department, but the failure to use the seal shall not invalidate any such acts. Duplicate seals may be provided for the use of directors of divisions or other employees of the department. [270.02, subd. 4]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 3. [270C.03] POWERS AND DUTIES.

Subdivision 1. POWERS AND DUTIES. The commissioner shall have and exercise the following powers and duties:

(1) administer and enforce the assessment and collection of taxes; [270.06, clause (14)]

(2) make determinations, corrections, and assessments with respect to taxes, including interest, additions to taxes, and assessable penalties; [289A.35, first sentence]

(3) use statistical or other sampling techniques consistent with generally accepted auditing standards in examining returns or records and making assessments; [289A.35, last sentence]

(4) investigate the tax laws of other states and countries, and formulate and submit to the legislature such legislation as the commissioner may deem expedient to prevent evasions of state revenue laws and to secure just and equal taxation and improvement in the system of state revenue laws; [270.06, clause (10)]

(5) 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, and furnish the governor, from time to time, such assistance and

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information as the governor may require relating to tax matters; [270.06, clause (11)]

(6) 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 state revenue laws; [270.06, clause (19)]

(7) require town, city, county, and other public officers to report information as to the collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the commissioner, in such form as the commissioner may prescribe; [270.06, clause (5)]

(8) authorize the use of unmarked motor vehicles to conduct seizures or criminal investigations pursuant to the commissioner's authority; and [270.06, clause (20)]

(9) exercise other powers and authority and perform other duties required of or imposed upon the commissioner by law. [270.06, clause (21)]

Subd. 2. MISSION; EFFICIENCY. It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;

(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and

(7) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department. [270.02, subd. 3a]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 4. [270C.04] USE OF INFORMATION.

Notwithstanding the provisions of any other law, the commissioner may use any and all information in the commissioner's possession, or to which the commissioner has access, to insure equal and consistent application and enforcement of all state revenue laws. This section shall not be construed as granting to the commissioner any power to release any information outside the department. [270.065]

EFFECTIVE DATE. This section is effective August 1, 2005.

New language is indicated by underline, deletions by strikeout.

Sec. 5. [270C.05] ACCESS TO CRIMINAL JUSTICE DATA.

The commissioner may enter into an agreement with the commissioner of public safety to allow designated employees of the Department of Revenue to have access to the criminal justice data communications network provided in section 299C.46. For purposes of that section, the criminal investigation unit of the Department of Revenue is considered a criminal justice agency. [270.062]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 6. [270C.055] CRIMINAL INVESTIGATIONS, REFERRAL, AND INFORMATION DISCLOSURE.

Subdivision 1. REQUESTING ASSISTANCE. If the commissioner has reason to believe that a criminal violation of the state revenue laws or chapter 349 has occurred, the commissioner may request the attorney general or the prosecuting authority of any county to assist in a criminal investigation. [270.064]

Subd. 2. REFERRAL FOR PROSECUTION. If a proceeding is referred to a prosecuting authority, and the prosecuting authority fails to issue or cause to be issued an indictment or criminal complaint within 30 days after the referral by the commissioner, the attorney general may conduct the proceeding. [270.68, subd. 1, paragraph (c)]

Subd. 3. AUTHORITY TO DISCLOSE INFORMATION. The commissioner may disclose information to the prosecuting authority and attorney general pursuant to section 270B.05, subdivision 2, clause (1). [270.0647]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 7. [270C.06] RULEMAKING AUTHORITY.

The commissioner shall, from time to time, make, publish, and distribute rules for the administration and enforcement of state revenue laws. The rules have the force of law. [270.06, clause (14)]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 8. [270C.07] REVENUE NOTICES.

Subdivision 1. AUTHORITY. The commissioner may make, adopt, and publish interpretive revenue notices. A "revenue notice" is a policy statement that has been published pursuant to subdivision 5 and that provides interpretation, details, or supplementary information concerning the application of state revenue laws or rules promulgated by the commissioner. Revenue notices are published for the information and guidance of taxpayers, local government officials, the department, and others concerned.

Subd. 2. EFFECT. Revenue notices do not have the force and effect of law and have no precedential effect, but may be relied on by taxpayers until revoked or modified. A notice may be expressly revoked or modified by the commissioner, by the issuance of a revenue notice, but may not be revoked or modified retroactively to the detriment of the taxpayers. A change in the law or an interpretation of the law occurring after the revenue notice is issued, whether in the form of a statute, court decision,

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administrative rule, or revenue notice, results in revocation or modification of the notice to the extent that the change affects the notice.

Subd. 3. RETROACTIVITY. Revenue notices are generally interpretive of existing law and therefore are retroactive to the effective date of the applicable law provision unless otherwise stated in the notice.

Subd. 4. ISSUANCE. The issuance of revenue notices is at the discretion of the commissioner. The commissioner shall establish procedures governing the issuance of revenue notices and tax information bulletins. At least one week before publication of a revenue notice in the State Register, the commissioner shall provide a copy of the notice to the chairs of the Taxes Committee of the house of representatives and the Taxes and Tax Laws Committee of the senate.

Subd. 5. PUBLICATION. The commissioner shall publish the revenue notices in the State Register and in any other manner that makes them accessible to the general public. The commissioner may charge a reasonable fee for publications. [270.0604]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 9. [270C.08] TAX INFORMATION BULLETINS.

The commissioner may issue tax information bulletins. "Tax information bulletins" are informational guides to enable taxpayers and local governmental officials to become more familiar with state revenue laws and their rights and responsibilities under these laws. Nothing contained in the tax information bulletins supersedes, alters, or otherwise changes any provisions of the state revenue laws, administrative rules, court decisions, or revenue notices. [270.0605]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 10. [270C.09] OPINION OF ATTORNEY GENERAL; EFFECT.

The commissioner may in writing request the opinion of the attorney general upon any matter regarding the state revenue laws. Any written opinion of the attorney general upon any such matter rendered in response to such request shall have the force and effect of law unless and until overruled by a decision of the Tax Court or a court of competent jurisdiction. [270.09]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 11. [270C.10] EX-EMPLOYEES NOT TO REPRESENT TAXPAYERS; PENALTY.

An employee of the department may not, for a period of one year after the employee's employment has terminated, act as counsel, attorney, or agent for a taxpayer in connection with a claim or proceeding pending in the department. An employee of the department may not act as counsel, attorney, or agent for a taxpayer at any time after termination of employment in connection with a claim or proceeding of which the person has knowledge that was acquired during the term of employment. A violation of this section is a gross misdemeanor. [270.021]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 12. [270C.105] BASIS FOR EVALUATION OF DEPARTMENT OF REVENUE EMPLOYEES.

The department must not use tax enforcement results to impose individual revenue quotas with respect to employees or their immediate supervisors who are directly involved in assessment or collection activities. The department may, however, use individual performance with regard to number of cases completed and, in the case of collections employees, dollars collected, as factors in evaluating an employee and not be considered as failing to comply with this section. [270.0602]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 13. [270C.11] TAX EXPENDITURE BUDGET.

Subdivision 1. STATEMENT OF PURPOSE. State governmental policy objectives are sought to be achieved both by direct expenditure of governmental funds and by the granting of special and selective tax relief or tax expenditures. Both direct expenditures of governmental funds and tax expenditures have an effect on the ability of the state and local governments to lower tax rates or to increase expenditures. As a result, tax expenditures should receive a regular and comprehensive review by the legislature as to (1) their total cost, (2) their effectiveness in achieving their objectives, (3) their effect on the fairness and equity of the distribution of the tax burden, and (4) the public and private cost of administering tax expenditure financed programs. This section is intended to facilitate a regular review of the state and local tax expenditure budget by the legislature by providing for the preparation of a regular biennial tax expenditure budget.

Subd. 2. PREPARATION; SUBMISSION. The commissioner shall prepare a tax expenditure budget for the state. The tax expenditure budget report shall be submitted to the legislature by February 1 of each even-numbered year.

Subd. 3. PERIOD COVERED. The report shall include estimates of annual tax expenditures for, at a minimum, a three-year period including the two-year period covered in the governor's budget submitted in the preceding January pursuant to section 16A.11.

Subd. 4. CONTENTS. The report shall detail for each tax expenditure item the amount of tax revenue foregone, a citation of the statutory or other legal authority for the expenditure, and the year in which it was enacted or the tax year in which it became effective. The report may contain additional information which the commissioner considers relevant to the legislature's consideration and review of individual tax expenditure items. This may include, but is not limited to, statements of the intended purpose of the tax expenditure, analysis of whether the expenditure is achieving that objective, and the effect of the expenditure device on the distribution of the tax burden and administration of the tax system.

Subd. 5. REVENUE ESTIMATES; LEGISLATIVE BILLS. Upon reasonable notice from the chair of the house or senate tax committee that a bill is scheduled for

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hearing, the commissioner shall prepare an estimate of the effect on the state's tax revenues which would result from the passage of a legislative bill establishing, extending, or restricting a tax expenditure. These revenue estimates shall contain the same information as provided in subdivision 4 for expenditure items contained in the tax expenditure budget, as appropriate.

Subd. 6. DEFINITIONS. For purposes of this section, the following terms have the meanings given:

(1) "tax expenditure" means a tax provision which provides a gross income definition, deduction, exemption, credit, or rate for certain persons, types of income, transactions, or property that results in reduced tax revenue; and

(2) "tax" means any tax of statewide application or any tax authorized by state law to be levied by local governments generally. It does not include a special local tax levied pursuant to special law or to a special local tax levied pursuant to general authority that is no longer applicable to local governments generally. [270.067]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 14. [270C.12] TAX INFORMATION SAMPLE DATA.

Subdivision 1. PREPARATION OF SAMPLES. The commissioner shall prepare microdata samples of income tax returns and other information useful for purposes of:

- (1) estimating state revenues;
- (2) simulating the effect of changes or proposed changes in state and federal tax law on the amount of state revenues; and
- (3) analyzing the incidence of present or proposed taxes.

Subd. 2. COORDINATING COMMITTEE. A coordinating committee is established to oversee and coordinate preparation of the microdata samples. The committee consists of:

- (1) the director of the Research Division of the department who shall serve as chair of the committee;
- (2) the state economist;
- (3) the chair of the Committee on Taxes of the house of representatives or the chair's designee; and
- (4) the chair of the Committee on Taxes and Tax Laws of the senate or the chair's designee. The committee shall consider the analysis needs and use of the microdata samples by the finance and revenue departments and the legislature in designing and preparing the samples, including the type of data to be included, the structure of the samples, size of the samples, and other relevant factors.

Subd. 3. CONTENTS OF SAMPLES. The samples must consist of information derived from a random sample of federal and Minnesota individual income tax returns.

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The samples prepared in odd numbered years must be augmented by additional information from other sources as the coordinating committee determines is feasible and appropriate. The coordinating committee shall consider inclusion of:

- (1) information derived from property tax refund returns;
- (2) the estimated market value of the taxpayer's home from the homestead declaration; and
- (3) information from other sources, such as the surveys conducted by the United States Departments of Commerce and Labor.

Subd. 4. CONSULTATION ON ANALYSIS MODELS. The coordinating committee shall facilitate regular consultation among the Department of Revenue, the Department of Finance, and house and senate staffs in development and maintenance of their respective computer models used to analyze the microdata samples. The committee shall encourage efforts to attain more commonality in the models, greater sharing of program development efforts and programming tasks, and more consistency in the resulting analyses. [270.0681]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 15. [270C.13] TAX INCIDENCE REPORTS.

Subdivision 1. BIENNIAL REPORT. The commissioner shall report to the legislature by March 1 of each odd-numbered year on the overall incidence of the income tax, sales and excise taxes, and property tax. The report shall present information on the distribution of the tax burden as follows: (1) for the overall income distribution, using a systemwide incidence measure such as the Suits index or other appropriate measures of equality and inequality; (2) by income classes, including at a minimum deciles of the income distribution; and (3) by other appropriate taxpayer characteristics.

Subd. 2. BILL ANALYSES. At the request of the chair of the house Tax Committee or the senate Committee on Taxes and Tax Laws, the commissioner shall prepare an incidence impact analysis of a bill or a proposal to change the tax system which increases, decreases, or redistributes taxes by more than \$20,000,000. To the extent data is available on the changes in the distribution of the tax burden that are affected by the bill or proposal, the analysis shall report on the incidence effects that would result if the bill were enacted. The report may present information using systemwide measures, such as Suits or other similar indexes, by income classes, taxpayer characteristics, or other relevant categories. The report may include analyses of the effect of the bill or proposal on representative taxpayers. The analysis must include a statement of the incidence assumptions that were used in computing the burdens.

Subd. 3. INCOME MEASURE. The incidence analyses shall use the broadest measure of economic income for which reliable data is available. [270.0682]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 16. [270C.14] AUTHORITY TO PAY LOCAL TAXES; APPROPRIATION.

The commissioner may pay to any local government unit, any locally imposed sales taxes that may be assessed against the department. There is appropriated to the commissioner from the general fund the amount needed to make the payments. [270.058]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 17. [270C.15] 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 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 to reimburse the department for the costs incurred in administering the tax law or providing the data, service, or product. Any money paid to the department as a criminal fine for a violation of state revenue law that is designated by the court to fund enforcement of state revenue law is appropriated to this fund. [270.059]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 18. [270C.16] COLLECTION OF DELINQUENT LIABILITIES; COSTS.

Subdivision 1. APPROPRIATION. For the purpose of collecting delinquent tax liabilities or debts as defined in section 16D.02, subdivision 3, there is appropriated to the commissioner an amount representing the cost of collection by contract with collection agencies, revenue departments of other states, or attorneys to enable the commissioner to reimburse these agencies, departments, or attorneys for this service. The commissioner shall report quarterly on the status of this program to the chair of the house Tax and Appropriation Committees and senate Tax and Finance Committees. [270.063, subd. 1]

Subd. 2. PREPAYMENT. Notwithstanding section 16A.15, subdivision 3, the commissioner may authorize the prepayment of sheriff's fees, attorney fees, fees charged by revenue departments of other states, or court costs to be incurred in connection with the collection of delinquent tax liabilities owed to the commissioner. [270.063, subd. 2]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 19. [270C.17] COMMISSIONER TO COLLECT CERTAIN LOCAL TAXES.

Subdivision 1. COSTS DEDUCTED; APPROPRIATION. If the commissioner agrees to collect a local tax, the local unit of government must agree that all the direct and indirect costs of the department for collecting the tax and any other statewide

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indirect costs will be deducted from the amounts collected and paid to the local unit of government.

Subd. 2. DEVELOPMENT COSTS. If the commissioner determines that a new computer system will be required to collect the local taxes, the costs of development of the system will be charged to the first local units of government to be included in the system. Any additional local units of government that by agreement are added to the system will be charged for a share of the development costs. The charge will be determined by the commissioner who shall then refund to the original local units of government their portion of the development costs recovered from the additional users.
[270.069]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 20. [270C.18] SETOFF OF POLITICAL SUBDIVISION DEBTS.

(a) As used in this section, "political subdivision" means counties and home rule charter or statutory cities, and "debts" means a legal obligation to pay a fixed amount of money, which equals or exceeds \$100 and which is due and payable to the claimant political subdivision.

(b) If one political subdivision owes a debt to another political subdivision, and the debt has not been paid within six months of the date when payment was due, the creditor political subdivision may notify the commissioner of the debt, and shall provide the commissioner with information sufficient to verify the claim. If the commissioner has reason to believe that the claim is valid, and the debt has not been paid, the commissioner shall initiate setoff procedures under this section.

(c) Within ten days of receipt of the notification from the creditor political subdivision, the commissioner shall send a written notice to the debtor political subdivision, advising it of the nature and amount of the claim. This written notice shall advise the debtor of the creditor political subdivision's intention to request setoff of the refund against the debt.

The notice will also advise the debtor that the debt can be setoff against a state aid payment, and will advise the debtor of the right to contest the validity of the claim at a hearing. The debtor must assert this right by written request to the commissioner, which request the commissioner must receive within 45 days of the mailing date of the notice.

(d) If the commissioner receives written notice of a debtor political subdivision's intention to contest at hearing the claim upon which the intended setoff is based, the commissioner shall initiate a hearing according to contested case procedures established in the state Administrative Procedure Act not later than 30 days after receipt of the debtor's request for a hearing. The costs of the hearing shall be paid equally by the political subdivisions that are parties to the hearing. The Office of Administrative Hearings shall separately bill each political subdivision for one-half of the costs.

(e) If the debtor political subdivision does not object to the claim, or does not prevail in an objection to the claim or at a hearing on the claim, the commissioner shall

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deduct the amount of the debt from the next payment scheduled to be made to the debtor under section 273.1398 or chapter 477A. The commissioner shall remit the amount deducted to the claimant political subdivision. [270.66, subd. 4]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 21. [270C.19] TAXES AND FEES; REFUND AND SHARING AGREEMENTS WITH INDIANS.

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

Subd. 2. SALES, USE, AND EXCISE TAXES. (a) The commissioner is authorized to enter into a tax agreement with the governing body of any federally recognized Indian reservation in Minnesota, that provides for the state and the tribal government to share sales, use, and excise tax revenues generated from on reservation activities of non-Indians and off reservation activities of members of the reservation. Every agreement entered into pursuant to this subdivision must require the commissioner to collect all state and tribal taxes covered by the agreement.

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

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

Subd. 3. APPROPRIATION. There is annually appropriated from the general fund to the commissioner the amounts necessary to make the refunds provided in this section.

Subd. 4. PAYMENTS TO COUNTIES. (a) The commissioner shall pay to a county in which an Indian gaming casino is located:

(1) ten percent of the state share of all taxes generated from activities on reservations and collected under a tax agreement under this section with the tribal government for the reservation located in the county; or

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(2) five percent of excise taxes collected by the state that are determined by the department to have been generated from activities on a reservation located in the county, the tribal government of which does not have a tax agreement under this section and did not have a tax agreement on June 30, 2003.

If the tribe has casinos located in more than one county, the payment must be divided equally among the counties in which the casinos are located.

(b) The commissioner shall make the payments required under this subdivision by February 28 of the year following the year the taxes are collected.

(c) An amount sufficient to make the payments authorized by this subdivision is annually appropriated from the general fund to the commissioner.

Subd. 5. FEES; APPROPRIATION. (a) The commissioner may enter into an agreement with the governing body of any federally recognized Indian reservation in Minnesota concerning fees administered by the commissioner that are paid by the tribe, members of the tribe, or persons who conduct business with the tribe, or otherwise imposed on on-reservation activities. The agreement may provide for the refund or sharing of the fee. The commissioner may make any payments required by the agreement from the fees collected.

(b) Each head of an agency, board, or other governmental entity that administers a program that is funded by fees administered by the commissioner may sign an agreement entered into by the commissioner under this subdivision. An agreement is not valid until signed by the head of each agency, board, or other governmental entity that administers a program funded by the particular fee covered in an agreement and by the commissioner.

(c) There is annually appropriated to the commissioner from the funds for which the fees are collected the amounts necessary to make payments as provided in this subdivision. [270.60]

EFFECTIVE DATE. This section is effective August 1, 2005.

TAX ADMINISTRATION

Sec. 22. [270C.25] PROHIBITION OF SUITS TO RESTRAIN ASSESSMENT OR COLLECTION.

Subdivision 1. GENERAL RULE. No suit to restrain assessment or collection of a tax, fee, penalty, or interest, imposed by a law administered by the commissioner, including a declaratory judgment action, can be maintained in any court by any person except pursuant to the express procedures in (1) this chapter, (2) chapter 271, (3) chapter 289A, and (4) any other law administered by the commissioner for contesting the assessment or collection of taxes, fees, penalties, or interest.

Subd. 2. FACIAL CHALLENGE TO CONSTITUTIONALITY. An action, otherwise prohibited under subdivision 1, that asserts a facial challenge to the constitutionality of a tax or fee imposed by a law administered by the commissioner may be maintained only if it is demonstrated to the court by clear and convincing

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evidence that under no circumstances could the commissioner ultimately prevail and that the taxpayer or fee payer will suffer irreparable harm if the relief sought is not granted. [289A.43]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 23. [270C.26] 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 COMMISSIONER OR DEPARTMENT EMPLOYEES. Filing a document, including a nonconsensual common law lien under section 514.99, that purports to create a claim against the commissioner or an employee of the department 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 270C.35 and is appealable to Tax Court under chapter 271. The penalty is collected and paid in the same manner as a tax collected by the commissioner. The penalty is in addition to any other remedy available to the commissioner or to an employee of the department against whom the document has been filed. [270.278]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 24. [270C.27] CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

Subdivision 1. IN GENERAL. (a) A taxpayer may bring a civil action for damages against the commissioner in district court when an employee or the department has knowingly or negligently:

- (1) failed to release a lien as required by section 270C.63, subdivision 11; or
- (2) failed to release a lien within 30 days after satisfaction of the liability on which the lien is based.

(b) An action under paragraph (a), clause (2), must be preceded by 30 days' written notice by the taxpayer to the commissioner and the taxpayer's rights advocate that the lien has not been released. An action under paragraph (a) must be commenced within two years after the date the right of action accrued.

Subd. 2. DAMAGES. On a finding of liability on the part of the defendant in an action brought under subdivision 1, the defendant is liable to the plaintiff in an amount

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equal to the sum of actual, direct economic damages sustained by the plaintiff due to the actions of the defendant, plus the costs of the action. Damages must be paid in accordance with section 3.736, subdivision 7.

Subd. 3. MITIGATION OF DAMAGES. Damages awarded must be reduced by the amount of the damages that could reasonably have been mitigated by the plaintiff. [270.275]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 25. [270C.275] CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS.

Subdivision 1. IN GENERAL. If in connection with the collection of delinquent taxes, an employee of the department recklessly or intentionally disregards a law administered by the commissioner, the taxpayer may bring a civil action for damages against the commissioner in district court within two years after the date the right of action accrues.

Subd. 2. DAMAGES. On a finding of liability on the part of the defendant in an action brought under subdivision 1, the defendant is liable to the plaintiff in an amount equal to the lesser of \$200,000, or the sum of (1) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional actions of the employee and (2) the costs of the action. Damages must be paid in accordance with section 3.736, subdivision 7.

Subd. 3. LIMITATIONS. A judgment for damages must not be awarded under subdivision 2 unless the court determines that the plaintiff has exhausted the administrative remedies available to the plaintiff within the department. Damages awarded must be reduced by the amount of the damages that could reasonably have been mitigated by the plaintiff.

Subd. 4. PENALTIES FOR PROCEDURES INSTITUTED PRIMARILY FOR DELAY. When it appears to the district court that:

(1) proceedings before it under this section have been instituted or maintained by the taxpayer primarily for delay;

(2) the taxpayer's position in such proceeding is frivolous or groundless; or

(3) the taxpayer unreasonably failed to pursue available administrative remedies,

the district court, in its decision, may require the taxpayer to pay to the department a penalty not in excess of \$25,000. The penalty may be collected and paid in the same manner as a tax collected by the commissioner. [270.276]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 26. [270C.28] DISCLOSURE OF RIGHTS OF TAXPAYERS.

Subdivision 1. IN GENERAL. The commissioner shall prepare statements that set forth in simple and nontechnical terms:

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- (1) the rights and obligations of the department and the taxpayer during an audit;
- (2) the procedures by which a taxpayer may appeal an adverse decision of the department, including administrative and judicial appeals;
- (3) the procedures for filing refund claims and filing of taxpayer complaints; and
- (4) the procedures that the department may use in enforcing a law administered by the commissioner, including assessment, jeopardy assessment, levy and distraint, and the filing of liens.

Subd. 2. DISTRIBUTION. The appropriate statement prepared in accordance with subdivision 1 must be distributed by the commissioner to all taxpayers contacted with respect to the determination or collection of a tax, other than the providing of tax forms. Failure to receive the statement does not invalidate the determination or collection action. [270.0603]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 27. [270C.285] PROCEDURES INVOLVING IN-PERSON TAXPAYER INTERVIEWS.

Subdivision 1. RECORDING OF INTERVIEWS. (a) Upon reasonable advance notice from the taxpayer, a taxpayer shall be allowed to make an audio recording, with the taxpayer's equipment and at the taxpayer's expense, of an interview of the taxpayer by the department regarding the audit or collection of a tax.

(b) An employee of the department may record an interview described in paragraph (a) if the taxpayer is informed of the recording before the interview and a transcript or copy of the recording is made available to the taxpayer on the taxpayer's request, provided the department is reimbursed by the taxpayer for the cost of transcribing or copying the recording.

Subd. 2. SAFEGUARDS. (a) Before or at the start of an initial interview, an employee of the department shall provide to the taxpayer in the case of an audit interview an explanation of the audit process and the taxpayer's rights under that process and, in the case of a collection interview, an explanation of the collection process and the taxpayer's rights under that process.

(b) If a taxpayer requests to consult with an attorney, accountant, agent, preparer, or any other person permitted to represent the taxpayer before the department at any time during an interview, except an interview initiated by an administrative subpoena, the interview must be suspended for no more than 30 days.

Subd. 3. REPRESENTATIVES HOLDING POWER OF ATTORNEY. An attorney, accountant, agent, preparer, or any other person permitted to represent the taxpayer before the department who has a written power of attorney executed by the taxpayer may represent the taxpayer in an interview described in subdivision 1. The taxpayer may be required to accompany the representative only if a subpoena is issued. In this instance, with the consent of an immediate supervisor and after ten days' notice to the representative, the department employee may notify the taxpayer directly that the

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employee believes the representative is unreasonably delaying the examination or investigation process.

Subd. 4. NOT TO APPLY TO CERTAIN INVESTIGATIONS. This section does not apply to criminal investigations or investigations relating to the conduct of an employee of the department. [270.272]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 28. [270C.29] NOTICES TO HOLDERS OF POWERS OF ATTORNEY.

If a taxpayer has executed a written power of attorney, in a form prescribed by the commissioner, the commissioner shall allow the taxpayer to elect, in writing, that all notices and correspondence between the department and the taxpayer will be sent to the holder of the power of attorney. [270.277]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 29. [270C.30] RETURNS; FORMAT; FURNISHING.

The commissioner shall prescribe the content and format of all returns, and may furnish them subject to charge on application. [270.07, subd. 1, paragraph (a); 270.06, clause (15)]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 30. [270C.302] RETURNS, OTHER FORMS; WHERE FILED.

Returns and other forms required to be filed under a law administered by the commissioner must be filed at the commissioner's office in St. Paul, or such other place as the commissioner may designate. [289A.13]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 31. [270C.304] ELECTRONICALLY FILED RETURNS; SIGNATURES.

For purposes of a law administered by the commissioner, the name of the taxpayer, the name of the taxpayer's authorized agent, or the taxpayer's identification number, will constitute a signature when transmitted as part of the return information on returns filed by electronic means by the taxpayer or at the taxpayer's direction. "Electronic means" includes, but is not limited to, the use of a touch-tone telephone to transmit return information in a manner prescribed by the commissioner. [289A.07]

EFFECTIVE DATE. This section is effective for returns filed on or after August 1, 2005.

Sec. 32. [270C.306] COMMISSIONER MAY REQUIRE SOCIAL SECURITY OR IDENTIFYING NUMBERS ON FORMS.

Notwithstanding the provisions of any other law, the commissioner may require that a form required to be filed with the commissioner include the Social Security number, federal employer identification number, or Minnesota taxpayer identification number of the taxpayer or applicant. [270.066]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 33. [270C.308] PROHIBITION OF DISPLAY OF SOCIAL SECURITY NUMBERS.

No label, envelope, or other material printed by the department may include the Social Security number of the taxpayer in a place that will be visible to a third party when delivered or mailed to the taxpayer. [270.0665]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 34. [270C.31] EXAMINATIONS AND INVESTIGATIONS.

Subdivision 1. SCOPE. To determine the accuracy of a return, to fix liability under state revenue law, to administer state revenue law, when conducting an investigation or an audit of a taxpayer, for the purpose of collection, and in any matter which the commissioner has the power to investigate or determine, the commissioner has authority to take the actions allowed in this section. [270.06, clauses (6) and (9); 289A.36, subd. 1]

Subd. 2. REASONABLE EXAMINATIONS OR INVESTIGATIONS OF TAXPAYER. The commissioner may make reasonable examinations or investigations of a taxpayer's place of business, tangible personal property, equipment, computer systems, and facilities. The commissioner may inspect and copy the taxpayer's relevant books, records, papers, documents, and other data, in whatever form. [289A.36, subs. 1 and 3, clause (1), regarding taxpayers]

Subd. 3. ACCESS TO RECORDS. The commissioner may examine, except where privileged by law, the relevant records and files of any person, business, institution, financial institution, state agency, agency of the United States government, or agency of any other state where permitted by statute, agreement, or reciprocity. [289A.36, subd. 2]

Subd. 4. EXAMINATIONS UNDER OATH. The commissioner may administer oaths and affirmations and examine taxpayers and other persons under oath or affirmation. [270.15; 289A.36, subd. 3, clauses (1) and (2)]

Subd. 5. DEPOSITIONS. The commissioner may depose witnesses who reside inside or outside the state, or who are absent from the state. Depositions are to be taken, upon notice to the interested party, if any, in the same manner that depositions of witnesses are taken in civil actions in the district court. [270.06, clause (9)]

Subd. 6. WITNESS FEES. The fees of witnesses required by the commissioner to appear are equal to those allowed to witnesses appearing before courts of this state. The fees must be paid in the manner provided for the payment of other expenses incident to the administration of state revenue law. [289A.36, subd. 3, clause (2)]

Subd. 7. LIMITATION OF AUTHORITY. The authority granted in this section to the commissioner does not apply to a matter that has been appealed to Tax Court. [270.0601]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 35. [270C.32] SUBPOENAS.

Subdivision 1. AUTHORITY TO ISSUE SUBPOENAS. In addition to the authority to examine and investigate granted under section 270C.31, and to carry out that authority, the commissioner may issue subpoenas to compel a person, at a time and place reasonable under the circumstances, to appear and give testimony, and to produce relevant books, records, papers, documents, and other data, in whatever form, for inspection and copying. [289A.36, subs. 2 and 3, clause (1); 270.06, clause (7)]

Subd. 2. REQUEST BY TAXPAYER FOR SUBPOENA. When the commissioner has the authority to issue a subpoena, the commissioner shall honor a reasonable request by a taxpayer to issue a subpoena. [289A.36, subd. 6]

Subd. 3. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS KNOWN. (a) An examination or investigation may extend to a person that the commissioner determines has access to information that may be relevant to the examination or investigation. When a subpoena requiring the production of records as described in subdivision 1 is served on a third-party record keeper, written notice of the subpoena must be mailed to the taxpayer and to any other person who is identified in the subpoena. The notices must be given within three days of the day on which the subpoena is served. The notice required by this subdivision is sufficient if it is mailed to the last known address of the addressee.

(b) The provisions of this subdivision regarding notice to the taxpayer or other parties identified in the subpoena do not apply if there is reasonable cause to believe that the giving of notice may lead to attempts to conceal, destroy, or alter records or assets relevant to the examination, to prevent the communication of information from other persons through intimidation, bribery, or collusion, or to flee to avoid prosecution, testifying, or production of records. [289A.36, subd. 4]

Subd. 4. THIRD-PARTY SUBPOENA WHERE TAXPAYER'S IDENTITY IS NOT KNOWN. (a) The commissioner may issue a subpoena that does not identify the person or persons with respect to whose liability the subpoena is issued, but only if:

(1) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons;

(2) there is a reasonable basis to believe that the person or group or class of persons may fail or may have failed to comply with a state revenue law;

(3) 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;

(4) the subpoena is clear and specific as to the information sought to be obtained;
and

(5) the information sought to be obtained is limited solely to the scope of the investigation.

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(b) The party served with a subpoena that does not identify the person or persons with respect to whose tax liability the subpoena is issued shall, within 20 days after service of the subpoena, petition the district court for the judicial district of the county in which that party is located for a determination as to whether the commissioner has complied with all the requirements in paragraph (a), clauses (1) to (5), and thus, whether the subpoena is enforceable. If no petition is made by the party served within the time prescribed, the subpoena shall have the force and effect of a court order. [270.06, clause (8); 289A.36, subd. 5]

Subd. 5. 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 a law administered by the commissioner, the commissioner may examine the relevant records and files of the business. 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.

(b) 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 a law administered by the commissioner. [289A.36, subd. 9]

Subd. 6. DEMAND FOR COURT ADMINISTRATOR'S SUBPOENA. In addition to administrative subpoenas of the commissioner, upon demand of the commissioner or an agent of the commissioner, the court administrator of any district court shall issue a subpoena for a witness to appear before the agent, or for the production of relevant books, records, papers, documents, and other data, in whatever form, to the agent for inspection and copying. [270.06, clause (17)]

Subd. 7. ENFORCEMENT OF SUBPOENAS. Failure to comply with a subpoena shall be punished in the same manner as contempt of the district court in the following venues:

- (1) the district court of the district in which a court administrator's subpoena is issued under subdivision 6; [270.06, clause (17)]
- (2) the district court of the district in which the party served with a subpoena is located, when the subpoena is issued by the commissioner or the commissioner's agent; and [270.06, clause (17); 289A.36, subd. 7, paragraph (a)]
- (3) the District Court for Ramsey County, when a subpoena is issued under subdivision 5. In addition to contempt remedies, the court may issue any order it deems

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reasonable to enforce compliance with a subpoena issued under subdivision 5. [289A.36, subd. 7, paragraph (b)]

Subd. 8. PENALTY FOR VIOLATING COURT ORDER TO COMPLY WITH SUBPOENA. 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. [289A.36, subd. 10]

Subd. 9. COST OF PRODUCTION OF RECORDS. The cost of producing records of a third party required by a subpoena must be paid by the taxpayer, if the taxpayer requests the subpoena to be issued, or if the taxpayer has the records available but has refused to provide them to the commissioner. In other cases where the taxpayer cannot produce records and the commissioner then issues a subpoena for third-party records, the commissioner shall pay the reasonable cost of producing the records. The commissioner may later assess the reasonable costs against the taxpayer if the records contribute to the determination of an assessment of tax against the taxpayer. [289A.36, subd. 8]

Subd. 10. LIMITATION OF AUTHORITY. The authority granted in this section to the commissioner and the commissioner's agents does not apply to a matter that has been appealed to Tax Court. [270.0601]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 36. [270C.33] COMMISSIONER ASSESSMENT PROCEDURES.

Subdivision 1. ORDERS AND DECISIONS. All orders and decisions of the commissioner, or any subordinates, respecting any tax, assessment, or other obligation, must be in writing and entered into the records of the commissioner. [270.10, subd. 1]

Subd. 2. NOTICES. (a) At the same time that notice of an assessment, determination, or order, of the commissioner is given to a taxpayer, the taxpayer must be given a written notice that:

- (1) describes the taxpayer's appeal rights;
- (2) lists the amounts of tax, interest, additions to tax, and penalties due; and
- (3) explains the basis for the assessment.

(b) Failure to provide all the required information does not invalidate the assessment, determination, or order for purposes of satisfying statutory notice requirements if the assessment, determination, or order contains sufficient information to advise the taxpayer that an assessment has been made. [270.10, subd. 1a; 289A.37, subd. 1, paragraph (a)]

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Subd. 3. COMMISSIONER FILED RETURNS. If a taxpayer fails to file a return, the commissioner, from information in the commissioner's possession or obtainable by the commissioner, may make and file a return for the taxpayer, or may issue an order of assessment under subdivision 4. [289A.35]

Subd. 4. ORDERS OF ASSESSMENT. (a) The commissioner may issue an order of assessment in any of the following circumstances:

(1) the commissioner determines that the correct amount of tax is different than that assessed on a return filed with the commissioner; [289A.37, subd. 1]

(2) no return has been filed and the commissioner determines the amount of tax that should have been assessed; [289A.37, subd. 1]

(3) the commissioner determines that the correct amount of a refundable credit is different than the amount claimed by a taxpayer. For purposes of this subdivision, "refundable credit" means a refund benefit or credit due a person that is unrelated to the person's liability for a tax. "Refundable credit" does not include estimated tax payments or withholding taxes. An assessment for an overpayment of a refundable credit may be collected in the same manner as a tax collected by the commissioner; and

(4) the commissioner determines the correct amount of a tax that the taxpayer is not required to assess by a return filed with the commissioner.

(b) An order of assessment must be in writing. [270.10, subd. 1]

(c) An order of assessment must be signed by the commissioner or a delegate, or have their facsimile signature, if the change in tax, excluding penalties and interest, exceeds \$1,000. [270.10, subd. 1]

(d) An order of assessment is final when made but, as applicable, is reviewable administratively under section 270C.35, or appealable to Tax Court under chapter 271. [289A.37, subd. 1, paragraph (a)]

Subd. 5. PROHIBITION AGAINST COLLECTION DURING APPEAL PERIOD OF AN ORDER. No collection action can be taken on an order of assessment, including the filing of liens under section 270C.63, and no late payment penalties may be imposed when a return has been filed for the tax type and period upon which the order is based, during the appeal period of an order. The appeal period of an order ends: (1) 60 days after the order has been mailed to the taxpayer by the commissioner; (2) if an administrative appeal is filed under section 270C.35, 60 days after determination of the administrative appeal; (3) if an appeal to Tax Court is filed under chapter 271, when the decision of the Tax Court is made; or (4) if an appeal to Tax Court is filed and the appeal is based upon a constitutional challenge to the tax, 60 days after final determination of the appeal. This subdivision does not apply to a jeopardy assessment under section 270C.36, or a jeopardy collection under section 270C.36. [289A.37, subd. 1, paragraph (b); 270.10, subd. 5]

Subd. 6. ASSESSMENT PRESUMED VALID. A return or assessment of tax made by the commissioner is prima facie correct and valid. The taxpayer has the

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burden of establishing its incorrectness or invalidity in any related action or proceeding. [289A.37, subd. 3]

Subd. 7. AGGREGATE REFUND OR ASSESSMENT. The commissioner, on examining returns for more than one year or period, may issue one order covering the period under examination that reflects the aggregate refund or additional tax due. [289A.37, subd. 4]

Subd. 8. SUFFICIENCY OF NOTICE. An assessment of tax made by the commissioner, sent postage prepaid by United States mail to the taxpayer at the taxpayer's last known address, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the commissioner has been provided with a new address by a party authorized to receive notices of assessment. [289A.37, subd. 5]

Subd. 9. CONSENT AGREEMENT. A taxpayer shall have the right at any time, whether or not an order has been issued, to sign and deliver to the commissioner a written consent to a change in tax liability that waives the requirement of any additional notice and all rights to an administrative appeal and appeal to Tax Court concerning the assessment and collection of any part or all of the tax liability. [270.67, subd. 3]

EFFECTIVE DATE. This section is effective for assessments made on or after August 1, 2005.

Sec. 37. [270C.34] ABATEMENT OF PENALTY, INTEREST, AND ADDITIONAL TAX CHARGE.

Subdivision 1. AUTHORITY. (a) The commissioner may abate, reduce, or refund any penalty or interest that is imposed by a law administered by the commissioner as a result of the late payment of tax or late filing of a return, if the failure to timely pay the tax or failure to timely file the return is due to reasonable cause, or if the taxpayer is located in a presidentially declared disaster area. [270.07, subd. 1, paragraph (e)]

(b) The commissioner shall abate any part of a penalty or additional tax charge under section 289A.25, subdivision 2, or 289A.26, subdivision 4, attributable to erroneous advice given to the taxpayer in writing by an employee of the department acting in an official capacity, if the advice:

(1) was reasonably relied on and was in response to a specific written request of the taxpayer; and

(2) was not the result of failure by the taxpayer to provide adequate or accurate information. [270.07, subd. 6, paragraph (c)]

Subd. 2. PROCEDURE. (a) A request for abatement of penalty under subdivision 1 or section 289A.60, subdivision 4, must be filed with the commissioner within 60 days of the date the notice was mailed to the taxpayer's last known address, stating that a penalty has been imposed.

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(b) If the commissioner issues an order denying a request for abatement of penalty, the taxpayer may file an administrative appeal as provided in section 270C.35 or appeal to Tax Court as provided in section 271.06.

(c) If the commissioner does not issue an order on the abatement request within 60 days from the date the request is received, the taxpayer may appeal to Tax Court as provided in section 271.06. [270.07, subd. 6, paragraphs (a) and (b)]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 38. [270C.345] DETERMINATION OF MINIMUMS AND CANCELLATION; ADDITIONAL TAX, COLLECTION, REFUNDS.

Notwithstanding any other provision of law, the commissioner may:

(1) based upon the administrative costs of processing, determine minimum standards for the determination of additional tax for which an order shall be issued;

(2) based upon collection costs as compared to the amount of tax involved, determine minimum standards of collection;

(3) based upon the administrative costs of processing, determine the minimum amount of a refund to be made where no claim has been filed; and

(4) cancel any amounts below these minimum standards determined under clauses (1) and (2). [270.07, subd. 3]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 39. [270C.346] ERRONEOUS REMITTANCES.

If a remittance is erroneously made payable to the commissioner and the commissioner had knowledge that the proper payee is a state or local official of this state, the commissioner may endorse such remittance to the proper state or local official. The commissioner is also authorized to return a remittance if the records indicate that it has been erroneously submitted. [270.07, subd. 4]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 40. [270C.347] REBATE CHECKS AND WARRANTS; AUTHORITY TO REISSUE; APPROPRIATION.

Subdivision 1. CHECKS AND WARRANTS, AUTHORITY TO REISSUE. Notwithstanding any other provision of law, the commissioner may, based on a showing of reasonable cause, reissue an uncashed rebate or property tax refund warrant or check that has lapsed under any provision of law relating to rebates or under section 290A.18, subdivision 2. The authority to reissue warrants or checks under this paragraph is limited to five years after the date of issuance of the original warrant or check. [270.07, subd. 3, paragraph (f)]

Subd. 2. APPROPRIATION. An amount sufficient for the reissuance of rebate warrants authorized under subdivision 1 is appropriated to the commissioner from the general fund. [270.07, subd. 3a]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 41. [270C.35] ADMINISTRATIVE REVIEW.

Subdivision 1. TAXPAYER RIGHT TO RECONSIDERATION. A taxpayer may obtain reconsideration by the commissioner of an order assessing tax, a denial of a request for abatement of penalty or interest imposed by a law administered by the commissioner, or a denial of a claim for refund by filing an administrative appeal under subdivision 4. A taxpayer cannot obtain reconsideration under this section if the action taken by the commissioner is the outcome of an administrative appeal.

Subd. 2. APPEAL BY TAXPAYER. A taxpayer who wishes to seek administrative review must follow the procedures in subdivision 4.

Subd. 3. NOTICE DATE. For purposes of this section, the term "notice date" means the date of the order adjusting the tax or order denying a request for abatement, or, in the case of a denied refund, the date of the notice of denial.

Subd. 4. TIME AND CONTENT FOR ADMINISTRATIVE APPEAL. Within 60 days after the notice date, the taxpayer must file a written appeal with the commissioner. The appeal need not be in any particular form but must contain the following information:

- (1) name and address of the taxpayer;
- (2) if a corporation, the state of incorporation of the taxpayer, and the principal place of business of the corporation;
- (3) the Minnesota identification number or Social Security number of the taxpayer;
- (4) the type of tax involved;
- (5) the date;
- (6) the tax years or periods involved and the amount of tax involved for each year or period;
- (7) the findings in the notice that the taxpayer disputes;
- (8) a summary statement that the taxpayer relies on for each exception; and
- (9) the taxpayer's signature or signature of the taxpayer's duly authorized agent.

Subd. 5. EXTENSIONS. When requested in writing and within the time allowed for filing an administrative appeal, the commissioner may extend the time for filing an appeal for a period not more than 30 days from the expiration of the 60 days from the notice date.

Subd. 6. DETERMINATION OF APPEAL. On the basis of applicable law and available information, the commissioner shall determine the validity, if any, in whole or part of the appeal and notify the taxpayer of the decision. This notice must be in writing and contain the basis for the determination.

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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 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.

Subd. 8. ORDER AND APPEAL OF AN ADMINISTRATIVE DETERMINATION. Following the determination 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. The order is appealable to the Minnesota Tax Court under section 271.06.

Subd. 9. APPEAL WHERE NO DETERMINATION. If the commissioner does not make a determination within six months of the filing of an administrative appeal, the taxpayer may elect to appeal to Tax Court.

Subd. 10. EXEMPTION FROM ADMINISTRATIVE PROCEDURE ACT. This section is not subject to chapter 14. [289A.65]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 42. [270C.36] JEOPARDY ASSESSMENT AND COLLECTION.

Subdivision 1. ASSESSMENT. If the commissioner has reasonable grounds to believe that a taxpayer is about to leave, or take property from, this state with the purpose of evading a tax, or that the collection of the tax will be jeopardized by delays incident to other methods of collection, the commissioner may immediately declare the taxpayer's reporting period to be at an end and assess the tax due by issuing an order under section 270C.33, subdivision 4. The commissioner may make the assessment on the basis of knowledge or information available to the commissioner, and notwithstanding the prohibition against collection under section 270C.33, subdivision 5, demand immediate payment of the amount due shown in the assessment. [290.48, subd. 4; 290.92, subd. 6b; 297A.93, paragraph (a)]

Subd. 2. COLLECTION. Notwithstanding the prohibition against collection in section 270C.33, subdivision 5, and the notice provisions in section 270C.67, subdivision 3, if the commissioner has reason to believe that collection of a tax is in jeopardy, notice and demand for immediate payment of the tax may be made. If the tax is not paid, the commissioner may proceed to collect by levy or by filing a lien under section 270C.63. For this purpose, "tax" includes any penalty, interest, and costs, properly payable. [270.70, subs. 1 and 2, paragraph (b)]

Subd. 3. ADMINISTRATIVE REVIEW. Within five days after a jeopardy assessment or jeopardy collection is made to assess or collect a tax, the commissioner

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shall provide the taxpayer with a written statement of the information relied on in making the assessment or levy. Within 30 days after the written statement is provided or, if not provided, within 35 days after the assessment or levy, the taxpayer may request the commissioner to review the action taken. After a request for review, the commissioner shall determine whether the assessment or levy is reasonable and whether the amount assessed or demanded as a result of the action is appropriate under the circumstances.

Subd. 4. JUDICIAL REVIEW. A determination by the commissioner under subdivision 3 is appealable to the Tax Court in the manner provided by law, and the appeal must be expeditiously heard by the court. If the court determines that the making of the assessment or levy is unreasonable, or that the amount assessed or demanded is inappropriate, the court may order the commissioner to release the levy, abate the assessment, redetermine in whole or in part the amount assessed or demanded, or take other action. A determination by the court under this subdivision is final and may not be appealed by either party.

Subd. 5. BURDEN OF PROOF. In a proceeding under subdivision 4, the burden of proving that the assessment or collection of the tax was jeopardized by delay is on the commissioner. Regarding the issue of whether the amount assessed or demanded as a result of the action is appropriate, the commissioner shall provide a written statement explaining the basis for determining the amount, and the burden is on the taxpayer to show that the statement is incorrect or invalid. [270.274]

Subd. 6. DEFENSES. It is not a defense to an assessment or demand made under this section that the tax period has not terminated, that the time otherwise allowed by law to file a return has not expired, that the notices otherwise required by law for making an assessment or demand have not been given, or that the time otherwise allowed by law to appeal or pay the tax has not expired. [297A.93, paragraph (b)]

EFFECTIVE DATE. This section is effective for assessments made and collection action taken on or after August 1, 2005.

Sec. 43. [270C.37] TAXPAYER ASSISTANCE ORDERS; TAXPAYER'S RIGHTS ADVOCATE.

Subdivision 1. AUTHORITY TO ISSUE. On application filed by a taxpayer with the Department of Revenue taxpayer's rights advocate, in the form, manner, and in the time prescribed by the commissioner, and after thorough investigation, the taxpayer's rights advocate may issue a taxpayer assistance order if, in the determination of the taxpayer's rights advocate, the manner in which a law administered by the commissioner is being carried out is creating or will create an unjust and inequitable result for the taxpayer.

Subd. 2. TERMS OF A TAXPAYER ASSISTANCE ORDER. A taxpayer assistance order may require the department within a specified time period to release property of the taxpayer levied on, cease any action, take any action as permitted by law, or refrain from taking any action to enforce a law administered by the commissioner against the taxpayer, until the issue or issues giving rise to the order have been resolved.

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Subd. 3. **AUTHORITY TO MODIFY OR RESCIND.** A taxpayer assistance order issued by the taxpayer's rights advocate under this section may be modified or rescinded by the commissioner.

Subd. 4. **SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.** The running of the period of limitation with respect to an action described in subdivision 2 is suspended from the date of the taxpayer assistance order until the expiration date of the order or, if modified, the expiration date of the modified order or, if rescinded, the date of the rescission.

Subd. 5. **INDEPENDENT ACTION OF TAXPAYER'S RIGHTS ADVOCATE.** This section does not prevent the taxpayer's rights advocate from taking action in the absence of an application under subdivision 1.

Subd. 6. **TAXPAYER'S RIGHTS ADVOCATE.** For purposes of this section, the term "taxpayer's rights advocate" includes a designee of the taxpayer's rights advocate. The taxpayer's rights advocate shall represent the interests of taxpayers who have grievances against the department in connection with an audit or collection activity, and shall report directly to the commissioner. A determination of the taxpayer's rights advocate under this section to issue or to not issue a taxpayer assistance order is final and cannot be appealed to the Tax Court or any other court. [270.273]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 44. [270C.38] NOTICE OF DETERMINATION OR ACTION OF THE COMMISSIONER.

Subdivision 1. **SUFFICIENT NOTICE.** If no method of notification of a written determination or action of the commissioner is otherwise specifically provided for by law, notice of the determination or action sent postage prepaid by United States mail to the taxpayer or other person affected by the determination or action at the taxpayer's or person's last known address, is sufficient. If the taxpayer or person being notified is deceased or is under a legal disability, or, in the case of a corporation being notified that has terminated its existence, notice to the last known address of the taxpayer, person, or corporation is sufficient, unless the department has been provided with a new address by a party authorized to receive notices from the commissioner.

Subd. 2. **SERVICE OF NOTICE BY MAIL.** Notwithstanding any other law to the contrary, the commissioner, if required to serve notices by registered or certified mail, may choose to make such service by regular mail, retaining a record of adequate proof of such service. [270.061]

EFFECTIVE DATE. This section is effective for notices issued on or after August 1, 2005.

Sec. 45. [270C.39] DUE DATE ON SATURDAY, SUNDAY, OR HOLIDAY.

When the last day prescribed by law for the payment of any tax to or the filing of any return, statement, or document with the commissioner or the department falls on Saturday, Sunday, or a legal holiday, the performance of such act shall be considered

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timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday. For purposes of this section, the last day for the performance of the prescribed act shall be determined by including any authorized extension of time; the term "legal holiday" shall mean any day made a holiday in Minnesota by section 645.44, subdivision 5, or by the laws of the United States. [270.27]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 46. [270C.395] TIMELY MAILING TREATED AS TIMELY FILING AND PAYING.

Subdivision 1. DATE OF DELIVERY. When a document, including a return, claim, or statement, is required to be filed, or a payment is required to be made to the commissioner within a prescribed period, or on or before a prescribed date, and if the document or payment is delivered by electronic means or by United States mail after the period or the date to the place prescribed for filing or payment, then the date of delivery or of payment is the date of the confirmation time-and-date stamp of the transaction, if delivered by electronic means, or the date of the United States postmark stamped on the cover in which the document or payment is mailed, if delivered by United States mail, as the case may be.

Subd. 2. MAILING REQUIREMENTS. Subdivision 1 applies only if:

(1) the postmark date falls within the prescribed period or on or before the prescribed date,

(i) for filing (including any extension granted for the filing) of the document, or

(ii) for making the payment (including any extension granted for making the payment); and

(2) the document or payment was within the time prescribed in clause (1), deposited in the mail in the United States in an envelope or other appropriate wrapper, postage prepaid, properly addressed to the office of the Department of Revenue with which the document is required to be filed or to which payment is required to be made.

Subd. 3. CONFIRMATION OF ELECTRONIC FILING AND PAYMENT AND UNITED STATES POSTAL SERVICE POSTMARK. The confirmation numbers and confirmation time-and-date stamps received by the taxpayer following electronic payment or filing are proof of the payment authorization and filing dates. Only the postmark of the United States Postal Service, rather than those of private postage meters, qualifies as proof of timely mailing under this section. If the document or payment is sent by United States registered mail, the date of registration shall be treated as the postmark date. If the document or payment is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the envelope containing such document or payment is presented, the date of the United States postmark on the receipt shall be treated as the postmark date of the document or payment.

Subd. 4. RECEIPT DATE OTHERWISE GOVERNS. In any case in which the document or payment is not treated as timely filed or paid under this section, the date

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of receipt by the commissioner, and not the postmark date, shall govern for purposes of determining the amount of any penalties for late filing or payment.

Subd. 5. PRIVATE DELIVERY SERVICES. A reference in this section to the United States mail shall be treated as including a reference to any designated delivery service, and any reference in this section to a postmark by the United States Postal Service shall be treated as including a reference to any date recorded or marked by any designated delivery service in accordance with section 7502(f) of the Internal Revenue Code. [270.271]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 47. [270C.40] INTEREST PAYABLE TO COMMISSIONER.

Subdivision 1. INTEREST; RATE. If any tax payable to the commissioner or to the department is not paid within the time specified by law for payment, the unpaid tax shall bear interest at the rate for each year determined in subdivision 5 from the date such tax should have been paid until the date that the tax was paid, unless otherwise provided by law.

Subd. 2. EXTENSION OF TIME. When an extension of time has been granted by the commissioner, interest shall be paid at the rate for each year determined in subdivision 5 from the date such payment should have been made, if no extension had been granted, until the date of payment of such tax.

Subd. 3. PENALTY. If any penalty payable to the commissioner shall by law bear interest, such penalty shall bear interest at the rate for each year determined in subdivision 5 from the date the penalty was assessable until the date that such penalty was paid, unless a different rate of interest is otherwise provided by law.

Subd. 4. UNDERPAYMENT OF ESTIMATED TAX. There shall be added to the amount of any underpayment of estimated tax, computed pursuant to chapter 289A, an amount in lieu of interest. The amount in lieu of interest for that taxable year shall be the amount determined in subdivision 5 for January 1 on which begins the taxable year or precedes the beginning of the taxable year. The amount in lieu of interest does not bear interest after the due date of the return for that taxable year.

Subd. 5. ANNUAL INTEREST RATE. The rate of interest or amount in lieu of interest contained in subdivisions 1 to 4 shall be determined by the commissioner not later than October 15 of each year and shall be equal to the prime rate charged by banks during the six-month period ending on September 30 of that year, rounded to the nearest full percent. The rate of interest or amount in lieu of interest becomes effective on January 1 of the immediately succeeding year except as provided in subdivision 4. For purposes of this subdivision, the term "prime rate charged by banks" means the average predominant prime rate quoted by commercial banks to large businesses, as determined by the Board of Governors of the Federal Reserve System. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

Subd. 6. UNPAID JUDGMENT. Notwithstanding section 549.09, if judgment is entered upon any tax payable to the commissioner which has not been paid within the

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time specified by law for payment, the unpaid judgment shall bear interest at the rate specified in this section from the date judgment is entered until the date of payment.
[270.75]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 48. [270C.405] INTEREST ON REFUNDS.

When any tax payable to the commissioner or to the department is overpaid and an amount is due the taxpayer as a refund of the overpayment, the overpayment shall bear interest from the date of payment of the tax until the date the refund is paid or credit is made, unless another period for computing interest is provided by law. The interest rate per annum on overpayments shall be the interest rate contained in section 270C.40, subdivision 5; the rate shall be adjusted annually and become effective as provided in section 270C.40, subdivision 5. The determination of the commissioner pursuant to this subdivision is not a "rule" and is not subject to the Administrative Procedure Act contained in chapter 14. [270.76]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 49. [270C.41] AGREEMENT WITH INTERNAL REVENUE SERVICE.

Pursuant to section 270B.12, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department and liabilities owing to the Internal Revenue Service. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid by the department. For each refund levied upon, the commissioner shall first deduct from the refund a fee of \$20, and then remit the refund or the amount of the levy, whichever is less, to the Internal Revenue Service. The proceeds of fees shall be deposited into the Department of Revenue recapture revolving fund under section 270A.07, subdivision 1. [270.052]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 50. [270C.42] ELECTRONIC PAYMENTS; PENALTY.

Subdivision 1. PAYMENTS REQUIRED TO BE MADE ELECTRONICALLY. (a) If a taxpayer is required to make payment of a tax to the commissioner by electronic means, the taxpayer shall make all payments of all taxes and fees paid to the commissioner by electronic means.

(b) Paragraph (a) does not apply to payments required to be made for individual income taxes under section 289A.20, subdivision 1, paragraph (a), or 289A.25.
[270.771]

Subd. 2. PENALTY FOR FAILURE TO PAY ELECTRONICALLY. In addition to other applicable penalties imposed by law, after notification from the commissioner to the taxpayer that payments for a tax payable to the commissioner are required to be made by electronic means, and the payments are remitted by some other means, there is a penalty in the amount of five percent of each payment that should

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have been remitted electronically. After the commissioner's initial notification to the taxpayer that payments are required to be made by electronic means, the commissioner is not required to notify the taxpayer in subsequent periods if the initial notification specified the amount of tax liability at which a taxpayer is required to remit payments by electronic means. The penalty can be abated under the abatement procedures prescribed in section 270C.34 if the failure to remit the payment electronically is due to reasonable cause. The penalty bears interest at the rate specified in section 270C.40 from the due date of the payment of the tax to the date of payment of the penalty. [270.78]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 51. [270C.425] FINANCIAL TRANSACTION CARDS; PAYMENT OF TAXES; APPROPRIATION.

(a) The commissioner may allow taxpayers to use financial transaction cards, as defined in section 325G.02, subdivision 2, to pay any of the following which are payable to the commissioner:

- (1) taxes;
- (2) estimated tax deposits;
- (3) penalties;
- (4) interest;
- (5) additions to taxes; and
- (6) fees.

(b) The commissioner may impose a fee on each transaction under paragraph (a). The fee is equal to the fee the commissioner is required to pay for the taxpayer's use of the financial transaction card. This fee must be deposited in the general fund and is appropriated to the commissioner for the purpose of paying the transaction card fee.

(c) The types of financial transaction cards that will be accepted shall be determined solely by the commissioner. The selection of transaction card vendors shall be made through a request for proposals process. Before issuing a request for proposals, the commissioner shall review the request for proposals and any specifications with the commissioner of finance. The commissioner shall select the transaction card vendors from among those which meet the operational and cost requirements of the department. The commissioner may limit the number of different types of financial transaction cards that will be accepted.

(d) If the commissioner allows taxpayers to pay taxes with financial transaction cards, the commissioner shall report quarterly on the status of this program to the chairs of the house tax and appropriations committees and the chairs of the senate tax and finance committees. [270.74]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 52. [270C.43] REFUNDS PAYABLE IN INSTALLMENTS.

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

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

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

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

(b) The refunds due shall be paid in five installments. The first installment will be paid during the calendar year following the later of the filing of the refund claim or the final judicial determination and subsequent installments will be paid at any time during each of the four succeeding calendar years.

(c) The commissioner shall compute the annual refund installment due under this subdivision, and notify the taxpayer of the total amount of the claim for refund which has been allowed.

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

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

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

(g) If the commissioner of finance determines that it is in the best interest of the state, refunds payable under this section may be paid in fewer than five installments.
[270.79]

EFFECTIVE DATE. This section is effective for refunds payable on or after August 1, 2005.

Sec. 53. [270C.44] PRACTICE BEFORE THE COMMISSIONER.

The commissioner shall prescribe rules governing the qualification and practice of agents, attorneys, or other persons representing taxpayers before the commissioner.

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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 section 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. [270.06, clause (16)]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 54. [270C.445] TAX PREPARATION SERVICES.

Subdivision 1. SCOPE. (a) This section applies to a person who offers, provides, or facilitates the provision of refund anticipation loans, as part of or in connection with the provision of tax preparation services.

(b) This section does not apply to:

(1) a tax preparer who provides tax preparation services for fewer than six clients in a calendar year;

(2) the provision by a person of tax preparation services to a spouse, parent, grandparent, child, or sibling; and

(3) the provision of services by an employee for an employer.

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

(b) "Client" means an individual for whom a tax preparer performs or agrees to perform tax preparation services.

(c) "Person" means an individual, corporation, partnership, limited liability company, association, trustee, or other legal entity.

(d) "Refund anticipation loan" means a loan, whether provided by the tax preparer or another entity such as a financial institution, in anticipation of, and whose payment is secured by, a client's federal or state income tax refund or both.

(e) "Tax preparation services" means services provided for a fee or other consideration to a client to:

(1) assist with preparing or filing state or federal individual income tax returns;

(2) assume final responsibility for completed work on an individual income tax return on which preliminary work has been done by another; or

(3) offer or facilitate the provision of refund anticipation loans.

New language is indicated by underline, deletions by strikeout.

(f) "Tax preparer" or "preparer" means a person providing tax preparation services subject to this section.

Subd. 3. STANDARDS OF CONDUCT. No tax preparer shall:

(1) without good cause fail to promptly, diligently, and without unreasonable delay complete a client's tax return;

(2) obtain the signature of a client to a tax return or authorizing document that contains blank spaces to be filled in after it has been signed;

(3) fail to sign a client's tax return when payment for services rendered has been made;

(4) fail or refuse to give a client a copy of any document requiring the client's signature within a reasonable time after the client signs the document;

(5) fail to retain for at least four years a copy of individual income tax returns;

(6) fail to maintain a confidential relationship between themselves and their clients or former clients;

(7) fail to take commercially reasonable measures to safeguard a client's nonpublic personal information;

(8) make, authorize, publish, disseminate, circulate, or cause to make, either directly or indirectly, any false, deceptive, or misleading statement or representation relating to or in connection with the offering or provision of tax preparation services;

(9) require a client to enter into a loan arrangement in order to complete a tax return;

(10) claim credits or deductions on a client's tax return for which the tax preparer knows or reasonably should know the taxpayer does not qualify;

(11) charge, offer to accept, or accept a fee based upon a percentage of an anticipated refund for tax preparation services;

(12) under any circumstances, withhold or fail to return to a client a document provided by the client for use in preparing the client's tax return.

Subd. 4. REQUIRED DISCLOSURES; REFUND ANTICIPATION LOANS.

(a) If a tax preparer offers to make or facilitate a refund anticipation loan to the client, the preparer must make the disclosures in this subdivision. The disclosures must be made before or at the same time the preparer offers the refund anticipation loan to the client.

(b) The tax preparer must provide to a client a written notice on a single sheet of paper, separate from any other document or writing, containing:

(1) a legend, centered at the top on the single sheet of paper, in bold, capital letters, and in 28-point type stating "NOTICE";

(2) the following verbatim statements:

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

(i) "This is a loan. The annual percentage rate (APR), based on the estimated payment period, is (fill in the estimated APR)."

(ii) "Your refund will be used to repay the loan. As a result, the amount of your refund will be reduced by (fill in appropriate dollar amount) for fees, interest, and other charges."

(iii) "You can get your refund in about two weeks if you file your return electronically and have the Internal Revenue Service send your refund to your own bank account." and

(3) if the client is subject to additional interest when a refund is delayed, the following verbatim statement must also be included in the notice: "If you choose to take this loan and your refund is delayed, you may have to pay additional interest."

(c) All required statements must be in capital and small font type fonts, in a minimum of 14-point type, with at least a double space between each line in the statement and four spaces between each statement.

(d) The notice must be signed and dated by the tax preparer and the client.

Subd. 5. **ITEMIZED BILL REQUIRED.** A tax preparer must provide an itemized statement of the charges for services, at least separately stating the charges for:

- (1) return preparation;
- (2) electronic filing; and
- (3) providing or facilitating a refund anticipation loan.

Subd. 6. **ENFORCEMENT; PENALTIES.** The commissioner may impose an administrative penalty of not more than \$1,000 per violation of subdivision 3, 4, or 5. The commissioner may terminate a tax preparer's authority to transmit returns electronically to the state, if the commissioner determines the tax preparer engaged in a pattern and practice of violating this section. Imposition of a penalty under this subdivision is subject to the contested case procedure under chapter 14. The commissioner shall collect the penalty in the same manner as a tax collected by the commissioner.

Subd. 7. **ENFORCEMENT; CIVIL ACTIONS.** (a) Any violation of this section is an unfair, deceptive, and unlawful trade practice within the meaning of section 8.31.

(b) A client may bring a civil action seeking redress for a violation of this section in the conciliation or the district court of the county in which unlawful action is alleged to have been committed or where the respondent resides or has a principal place of business.

(c) A district court finding for the plaintiff must award actual damages, including incidental and consequential damages, reasonable attorney fees, court costs, and any other equitable relief as the court considers appropriate.

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Subd. 8. EXEMPTIONS; ENFORCEMENT PROVISIONS. The provisions of subdivisions 6 and 7 do not apply to:

(1) an attorney admitted to practice under section 481.01;

(2) a certified public accountant holding a certificate under section 326A.04 or a person issued a permit to practice under section 326A.05;

(3) a person designated as a registered accounting practitioner under Minnesota Rules, part 1105.6600, or a registered accounting practitioner firm issued a permit under Minnesota Rules, part 1105.7100;

(4) an enrolled agent who has passed the special enrollment examination administered by the Internal Revenue Service; and

(5) any fiduciary, or the regular employees of a fiduciary, while acting on behalf of the fiduciary estate, the testator, trustor, grantor, or beneficiaries of them. [270.30]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 55. [270C.447] LEGAL ACTION TO ENJOIN TAX RETURN PREPARER.

Subdivision 1. COMMENCEMENT OF ACTION. A civil action in the name of the state of Minnesota may be commenced to enjoin any person who is a tax return preparer doing business in this state from further engaging in any conduct described in subdivision 2. An action under this subdivision must be brought by the attorney general in the district court for the judicial district of the tax return preparer's residence or principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over the action separate and apart from any other action brought by the state of Minnesota against the tax return preparer or any taxpayer.

Subd. 2. INJUNCTION PROHIBITING SPECIFIC CONDUCT. In an action under subdivision 1, if the court finds that a tax return preparer has:

(1) engaged in any conduct subject to a civil penalty under section 289A.60 or a criminal penalty under section 289A.63;

(2) misrepresented the preparer's eligibility to practice before the Department of Revenue, or otherwise misrepresented the preparer's experience or education as a tax return preparer;

(3) guaranteed the payment of any tax refund or the allowance of any tax credit;
or

(4) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of a law administered by the commissioner, and injunctive relief is appropriate to prevent the recurrence of that conduct,
the court may enjoin the person from further engaging in that conduct.

Subd. 3. INJUNCTION PROHIBITING ALL BUSINESS ACTIVITIES. If the court finds that a tax return preparer has continually or repeatedly engaged in

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conduct described in subdivision 2, and that an injunction prohibiting that conduct would not be sufficient to prevent the person's interference with the proper administration of a law administered by the commissioner, the court may enjoin the person from acting as a tax return preparer. The court may not enjoin the employer of a tax return preparer for conduct described in subdivision 2 engaged in by one or more of the employer's employees unless the employer was also actively involved in that conduct. [289A.60, subd. 13, paragraphs (b), (c), and (d)]

Subd. 4. TAX RETURN PREPARER. For purposes of this section, the term "tax return preparer" means an individual who prepares for compensation, or who employs one or more individuals to prepare for compensation, a return of tax or a claim for refund of tax. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. An individual is not considered a tax return preparer merely because the individual:

(1) gives typing, reproducing, or other mechanical assistance;

(2) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the individual is regularly and continuously employed;

(3) prepares a return or claim for refund of any person as a fiduciary for that person; or

(4) prepares a claim for refund for a taxpayer in response to a tax order issued to the taxpayer.

EFFECTIVE DATE. This section is effective August 1, 2005.

COLLECTION

Sec. 56. [270C.50] USE OF COLLECTION REMEDIES.

In addition to the remedies provided in the state revenue laws, the commissioner may use any remedy available to nongovernmental creditors to collect taxes. [270.06, clause (14)]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 57. [270C.51] ALLOCATION OF PAYMENT.

In the discretion of the commissioner, payments received for taxes may be credited first to the oldest liability not secured by a judgment or lien. For liabilities to which payments are applied, the commissioner may credit payments first to penalties, next to interest, and then to the tax due. [270.652; 297E.12, subd. 10]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 58. [270C.52] SETTLEMENT AGREEMENTS, PAYMENT AGREEMENTS, AND OFFERS IN COMPROMISE.

Subdivision 1. LIABILITY AGREEMENTS. The commissioner, or any employee of the department authorized in writing by the commissioner, is authorized to

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enter into an agreement in writing with any taxpayer, or duly authorized agent or representative of the taxpayer, relating to the liability of the taxpayer in respect of any tax for any tax period ending prior to the date of the agreement. 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, or the agreement modified, by any employee or agent of the state; and, in any suit, action, or proceeding, the agreement, or any determination, assessment, collection, payment, abatement, refund, or credit, made in accordance with the agreement, shall not be annulled, modified, set aside, or disregarded. [270.67, subd. 1]

Subd. 2. PAYMENT AGREEMENTS. (a) When any portion of any tax payable to the commissioner together with interest and penalty thereon, if any, has not been paid, the commissioner may extend the time for payment for a further period. When the authority of this section is invoked, the extension shall be evidenced by written agreement signed by the taxpayer and the commissioner, stating the amount of the tax with penalty and interest, if any, and providing for the payment of the amount in installments.

(b) The agreement may contain a confession of judgment for the amount and for any unpaid portion thereof. If the agreement contains a confession of judgment, the confession of judgment must provide that the commissioner may enter judgment against the taxpayer in the district court of the county of residence as shown upon the taxpayer's tax return for the unpaid portion of the amount specified in the extension agreement.

(c) The agreement shall provide that it can be terminated, after notice by the commissioner, if information provided by the taxpayer prior to the agreement was inaccurate or incomplete, collection of the tax covered by the agreement is in jeopardy, there is a subsequent change in the taxpayer's financial condition, the taxpayer has failed to make a payment due under the agreement, or the taxpayer has failed to pay any other tax or file a tax return coming due after the agreement.

(d) The notice must be given at least 14 calendar days prior to termination, and shall advise the taxpayer of the right to request a reconsideration from the commissioner of whether termination is reasonable and appropriate under the circumstances. A request for reconsideration does not stay collection action beyond the 14-day notice period. If the commissioner has reason to believe that collection of the tax covered by the agreement is in jeopardy, the commissioner may proceed under section 270C.36 and terminate the agreement without regard to the 14-day period.

(e) The commissioner may accept other collateral the commissioner considers appropriate to secure satisfaction of the tax liability. The principal sum specified in the agreement shall bear interest at the rate specified in section 270C.40 on all unpaid portions thereof until the same has been fully paid or the unpaid portion thereof has been entered as a judgment. The judgment shall bear interest at the rate specified in section 270C.40.

(f) If it appears to the commissioner that the tax reported by the taxpayer is in excess of the amount actually owing by the taxpayer, the extension agreement or the

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judgment entered pursuant thereto shall be corrected. If after making the extension agreement or entering judgment with respect thereto, the commissioner determines that the tax as reported by the taxpayer is less than the amount actually due, the commissioner shall assess a further tax in accordance with the provisions of law applicable to the tax.

(g) The authority granted to the commissioner by this section is in addition to any other authority granted to the commissioner by law to extend the time of payment or the time for filing a return and shall not be construed in limitation thereof. [270.67, subd. 2]

Subd. 3. OFFER-IN-COMPROMISE AND INSTALLMENT PAYMENT PROGRAM. (a) In implementing the authority provided in subdivision 2 or in sections 8.30 and 16D.15 to accept offers of installment payments or offers-in-compromise of tax liabilities, the commissioner shall prescribe guidelines for employees of the department 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

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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 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 270C.63 related to the liability which is the subject of the compromise. [270.67, subd. 4]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 59. [270C.53] COLLECTION; TAXPAYER INABILITY TO PAY.

Notwithstanding any other provision of law, the commissioner may, based upon the inability of a taxpayer to pay a delinquent tax liability, abate the liability if the taxpayer agrees to perform uncompensated public service work for a state agency, a political subdivision or public corporation of this state, or a nonprofit educational, medical, or social service agency. The Department of Corrections shall administer the work program. No benefits under chapter 176 or 268 shall be available, but a claim authorized under section 3.739 may be made by the taxpayer. The state may not enter into any agreement that has the purpose of or results in the displacement of public employees by a delinquent taxpayer under this section. The state must certify to the appropriate bargaining agent or employees, as applicable, that the work performed by a delinquent taxpayer will not result in the displacement of currently employed workers or layoff from a substantially equivalent position, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. [270.07, subd. 3, clause (e)]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 60. [270C.54] COLLECTION OF FINANCIAL INSTITUTION FEES.

The commissioner shall collect from a taxpayer any collection fees or costs charged by financial institutions and incurred by the commissioner. [270.063, subd. 3]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 61. [270C.545] FEDERAL TAX REFUND OFFSET FEES; TIME LIMIT FOR SUBMITTING CLAIMS FOR OFFSET.

For fees charged by the Department of the Treasury of the United States for the offset of federal tax refunds that are deducted from the refund amounts remitted to the commissioner, the unpaid debts of the taxpayers whose refunds are being offset to satisfy the debts are reduced only by the actual amount of the refund payments received by the commissioner. Notwithstanding any other provision of law to the contrary, a claim for the offset of a federal tax refund must be submitted to the Department of the Treasury of the United States within ten years after the date of the assessment of the tax owed by the taxpayer whose refund is to be offset to satisfy the debt. [270.063, subd. 4]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 62. [270C.56] PERSONAL LIABILITY.

Subdivision 1. LIABILITY IMPOSED. A person who, either singly or jointly with others, has the control of, supervision of, or responsibility for filing returns or reports, paying taxes, or collecting or withholding and remitting taxes and who fails to do so, or a person who is liable under any other law, is liable for the payment of taxes, penalties, and interest arising under chapters 295, 296A, 297F, 297A, and 297G, or sections 290.92 and 297E.02.

Subd. 2. PERSON DEFINED. The term "person" includes, but is not limited to, a corporation, estate, trust, organization, or association, whether organized for profit or not, an officer or director of a corporation, a member of a partnership, an employee, a third party (including, but not limited to, a financial institution, lender, or surety), and any other individual or entity. "Person" does not include an unpaid, volunteer member of a board of trustees or directors of an organization exempt from taxation under section 290.05, if the member is solely serving in an honorary capacity, does not participate in the day-to-day or financial operations of the organization, and has no actual knowledge of the failure to file returns or remit taxes.

Subd. 3. PROCEDURE FOR ASSESSMENT. The commissioner may assess liability for the taxes described in subdivision 1 against a person liable under this section. The assessment may be based upon information available to the commissioner. It must be made within the prescribed period of limitations for assessing the underlying tax, or within one year after the date of an order assessing underlying tax, whichever period expires later. An order assessing personal liability under this section is reviewable under section 270C.35 and is appealable to Tax Court.

If a person has been assessed under this section for an amount for a given period and the time for appeal has expired or there has been a final determination that the person is liable, collection action is not stayed pursuant to section 270C.33, subdivision 5, for subsequent assessments of additional amounts for the same person for the same period and tax type.

Subd. 4. RIGHT OF CONTRIBUTION. A person who has paid all or part of a liability assessed under this section has a cause of action against other liable persons to recover the amount paid in excess of that person's share of the liability. A claim for recovery of contribution may be made only in a proceeding which is separate from, and cannot be joined or consolidated with, an administrative or judicial proceeding or investigation involving the commissioner's administration or enforcement of this section. An order assessing liability under this section against the person from whom contribution is being sought is not a prerequisite for bringing an action for recovery of contribution, nor is the issuance of an order binding on the court in which the proceeding is brought. The court can determine whether each person would be liable under this section and the share of liability. The commissioner cannot be made a party to any proceeding for recovery of contribution, nor is a determination in such a proceeding binding on the commissioner for the purpose of administering or enforcing this section. An action for contribution arises when the liability under this section is

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paid in full, or the liability of the person seeking contribution has been determined by agreement between the commissioner and such person and paid, and must be brought within the time period prescribed in section 541.05. [270.101]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 63. [270C.57] SUCCESSOR LIABILITY OF BUSINESSES.

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

(b) "Successor" means a person who directly or indirectly purchases, acquires, is gifted, or succeeds to the business or stock of goods of any person quitting, selling, or otherwise disposing of a business or stock of goods. Successor does not include a personal representative or beneficiary of an estate, a trustee in bankruptcy, a debtor in possession, a receiver, a secured party, a mortgagee, an assignee of rents, or any other lienholder.

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

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

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

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

(g) "Transfer" means every mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with a business or an interest in a business, or a stock of goods, whether by gift or for consideration. Transfer includes a change in the type of business entity or the name of the business, where one business is discontinued and a new one started. Transfer also includes the acquisition by a new corporation of the assets of a prior business in exchange for the stock of the new corporation. Transfer does not include an assignment for the benefit of creditors, foreclosure or enforcement of a mortgage, assignment of rents, security interest or lien, sale or disposition in a bankruptcy proceeding, or sale or disposition by a receiver.

(h) "Transfer in bulk" means a transfer, other than in the ordinary course of the transferor's trade or business, of more than one-half of all the property of a business

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at all locations combined, as measured by the value of the property at the time of the transfer.

Subd. 2. BULK TRANSFERS; LIABILITY OF SUCCESSOR; LIEN. (a) Whenever a business transfers in bulk to a successor the business assets, and an enforceable lien for unpaid sales and withholding taxes has been filed against the business by the commissioner under section 270C.63, at least 20 days before taking possession of the assets or paying the purchase price, the successor shall notify the commissioner of the transfer and the terms and conditions related to it. The notice must include the tax identification number of the transferring business. If an agreement to transfer has been entered into, this notice requirement only applies: (1) if a lien described under this paragraph has been filed prior to the date of the agreement; or (2) if the date of the transfer is more than 30 days after the date of the agreement, and a lien described under this paragraph is filed at least 30 days prior to the date of transfer.

(b) If the successor fails to give the notice required in paragraph (a), the successor is liable for any unpaid sales and withholding taxes, interest, and penalties due from the transferring business to the extent of the purchase price. If the successor provides the notice required in paragraph (a) and, within 20 days after receipt of the notice, the commissioner notifies the successor that tax liabilities exist in addition to those included on the lien or there are sales and withholding tax returns due but not filed, the successor is, in addition to being liable for the amounts included on the lien, liable for all other uncontested sales and withholding taxes, interest, and penalties as stated in the commissioner's notice from the transferring business to the extent of the purchase price if the successor pays the purchase price or takes possession of the assets without withholding and remitting the liability to the commissioner. The successor is liable whether the purchase price is paid or the assets are transferred prior to or after notification from the commissioner. The commissioner may also notify the successor that there are no sales or withholding tax liabilities or returns due from the transferring business other than the liabilities included on the lien, and of the current balance due to satisfy the lien.

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

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

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

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Subd. 3. ASSESSMENT ABATEMENT; REVIEW. The commissioner may assess liability under this section within the time prescribed for collecting the underlying sales and withholding taxes, interest, and penalties. The assessment is presumed to be valid, and the burden is upon the successor to show it is incorrect or invalid. An order assessing successor liability is reviewable administratively under section 270C.35 and is appealable to Tax Court under chapter 271. The commissioner may abate an assessment if the successor's failure to give the notice required under this section is due to reasonable cause. The procedural and appeal provisions under section 270C.34 apply to abatement requests under this subdivision. Collection remedies available against the transferring business are available against the successor from the date of assessment of successor liability.

Subd. 4. DISCLOSURE. Notification by the commissioner to the successor under subdivision 2, paragraph (b), that the transferring business owes sales and withholding taxes, interest, and penalties or has returns that are due, or that there are no outstanding liabilities or returns other than the liabilities included on the lien, or of the current balance due to satisfy the lien, is not a disclosure violation under chapter 270B. [270.102]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 64. [270C.58] LIABILITY OF TRANSFEREES AND FIDUCIARIES.

Subdivision 1. TRANSFEREES AND FIDUCIARIES. The amounts of the following liabilities are, except as otherwise provided in subdivision 3, 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 2, 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. [289A.31, subd. 3]

Subd. 2. TAX AS A PERSONAL DEBT OF A FIDUCIARY. 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. [289A.31, subd. 4]

Subd. 3. TIME LIMIT FOR ASSESSMENT AND COLLECTION FOR TRANSFEREE OR FIDUCIARY. The period of limitation for assessment and

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collection of any liability of a transferee or fiduciary is as follows:

(1) In the case of the liability of an initial transferee of the property of the taxpayer, the tax may be assessed within one year after the expiration of the period of limitation of assessment against the taxpayer. The tax may be collected by action brought within one year after the expiration of the period of limitation for the starting of an action against the taxpayer.

(2) In the case of the liability of the transferee of a transferee of the property of the taxpayer, the tax may be assessed within one year after the expiration of the period of limitation for assessment against the preceding transferee, but only if within 3-1/2 years after the expiration of the period of limitation for assessment against the taxpayer. The tax may be collected by action brought within one year after the expiration of the period of limitation for the starting of an action against the preceding transferee, but only if within four years after the expiration of the period of limitation for bringing an action against the taxpayer; except that if before the expiration of the period of limitation for the assessment of the liability of the transferee a court proceeding for the collection of the tax or liability has been begun against the taxpayer or last preceding transferee, liability of the transferee expires one year after the return of execution in the court proceeding and the period of limitation for collection by action will expire one year after the liability is assessed.

(3) In the case of the liability of a fiduciary, the tax may be assessed up to one year after the liability arises or not later than the expiration of the period for collection of the tax for which the liability arises, whichever is later, and may be collected by action brought within one year after assessment.

(4) For the purposes of this subdivision, if the taxpayer is deceased, or in the case of a corporation, has ended its existence, the period of limitation for assessment against the taxpayer will be the period that would be in effect had death or termination of existence not occurred.

As used in this subdivision, the term "transferee" includes heir, legatee, devisee, and distributee. [289A.38, subd. 13]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 65. [270C.585] TRANSFEREE LIABILITY FOR ESTATE TAX.

The personal representative and person to whom property that is subject to taxation under chapter 291 is transferred, other than a bona fide purchaser, mortgagee, or lessee, is personally liable for that tax, until its payment, to the extent of the value of the property at the time of the transfer. Personal liability also does not extend to subsequent transferees from bona fide purchasers, mortgagees, and lessees. [289A.31, subd. 6]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 66. [270C.59] LIABILITY OF THIRD PARTIES PAYING OR PROVIDING FOR WAGES.

(a) For purposes of section 290.92, if a lender, surety, or other person, who is not an employer with respect to an employee or group of employees, pays wages directly to such an employee or group of employees, employed by one or more employers, or to an agent on behalf of such employee or employees, such lender, surety, or other person shall be liable to the commissioner in a sum equal to the taxes required to be deducted and withheld from such wages by such employer.

(b) If a lender, surety, or other person supplies funds to or for the account of an employer for the specific purpose of paying wages of the employees of such employer, with actual notice or knowledge that such employer does not intend to or will not be able to make timely payment or deposit of the amounts of tax required by section 290.92 to be deducted and withheld by such employer from such wages, such lender, surety, or other person shall be liable personally to the commissioner in a sum equal to the taxes which are not paid over to the commissioner by such employer with respect to such wages.

(c) For purposes of this section, a person shall be deemed for purposes of a particular transaction to have actual notice or knowledge of any fact from the time such fact is brought to the attention of the individual conducting such transaction, and in any event from the time such fact would have been brought to such individual's attention if the person had exercised due diligence. A person exercises due diligence by maintaining reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the person to communicate information unless such communication is part of the individual's regular duties or unless the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(d) Any amounts paid to the commissioner pursuant to this section shall be credited to the liability of the employer. [290.92, subd. 22]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 67. [270C.61] LEGAL ACTION; CONFESSION OF JUDGMENT.

Subdivision 1. LEGAL ACTION. (a) In addition to all other methods authorized by law for the collection of tax, if any tax payable to the commissioner or to the department, including penalties and interest thereon, is not paid within 60 days after it is required by law to be paid, the commissioner may proceed under this subdivision. Within five years after the date of assessment of the tax or at any time a lien filed under section 270C.63 is enforceable, or, if the action is to renew or enforce a judgment, at any time before the judgment's expiration, the commissioner may bring an action in court against the person liable for the payment or collection of the tax, in the name of the state, for the recovery of the tax and interest and penalties due in respect thereof. The action may be commenced by the commissioner in the same manner as any other civil action.

(b) The commissioner may also serve the summons and complaint by mailing a copy to the taxpayer's last known address by certified mail. Service by certified mail

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is complete when mailed in acceptable form with the United States Postal Service or with the central mail system of the state of Minnesota. [270.68, subd. 1]

Subd. 2. COURT-ORDERED RETURNS. In addition to other remedies that may be available, the commissioner may bring an action in equity by the state against a taxpayer for an injunction ordering the taxpayer to file a complete and proper return or amended return. The district courts of this state have jurisdiction over the action and disobedience of an injunction issued under this subdivision will be punished as a contempt of district court. The action may be commenced by the commissioner in the same manner as any other civil action. [289A.36, subd. 3, clause (3)]

Subd. 3. PROSECUTING AUTHORITY. The commissioner may request the county attorney or the attorney general to conduct the proceedings on behalf of the state. [270.68, subd. 1, paragraph (c)]

Subd. 4. APPEALS. Either party to an action or a judgment for the recovery of any taxes, interest, or penalties under subdivision 1 may appeal the judgment as in other civil cases. [270.68, subd. 2]

Subd. 5. TAX PRESUMED VALID. The tax, as assessed by the commissioner, with any penalties included therein, shall be presumed to be valid and correctly determined and assessed, and the burden shall be upon the taxpayer to show its incorrectness or invalidity. A statement filed by the commissioner showing the amount of the tax and penalties as determined or assessed by the commissioner, is admissible in evidence and shall establish prima facie the facts set forth therein. [270.68, subd. 3]

Subd. 6. CONFESSION OF JUDGMENT. (a) The commissioner may, within 3-1/2 years after any return is filed, notwithstanding section 541.09, enter judgment on any confession of judgment contained in the return after ten days' notice served upon the taxpayer by mail at the address shown in the return. The judgment shall be entered by the court administrator of district court upon the filing of a photocopy or similar reproduction of that part of the return containing the confession of judgment along with a statement of the commissioner or an agent that the tax has not been paid. The commissioner may prescribe the words for the confession of judgment statement contained on the return.

(b) Notwithstanding any other provision of the law to the contrary, the commissioner may, within five years after a written agreement is signed by the taxpayer and the commissioner under the provisions of section 270C.52, subdivision 2, enter judgment on the confession of judgment contained within the agreement after ten days' notice served upon the taxpayer at the address shown in the agreement. Such judgment shall be entered by the court administrator of district court upon the filing of the agreement or a certified copy thereof along with a statement of the commissioner or an agent that the tax has not been paid. [270.68, subd. 4]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 68. [270C.62] DATE OF ASSESSMENT; DEFINITION.

For purposes of taxes, the term "date of assessment" means the date a liability reported on a return was entered into the records of the commissioner or the date a

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return should have been filed, whichever is later; or, in the case of taxes assessed by the commissioner, "date of assessment" means the date of the order assessing taxes or date of the return made by the commissioner; or, in the case of an amended return filed by the taxpayer, the assessment date is the date additional liability reported on the return, if any, was entered into the records of the commissioner; or, in the case of a check from a taxpayer that is dishonored and results in an erroneous refund being given to the taxpayer, remittance of the check is deemed to be an assessment and the "date of assessment" is the date the check was received by the commissioner. [270.65]

EFFECTIVE DATE. This section is effective for assessments made on or after August 1, 2005.

· **Sec. 69. [270C.63] LIEN FOR TAXES.**

Subdivision 1. CREATION OF LIEN. Tax, and interest and penalties imposed with respect thereto, including any recording fees, sheriff fees, or court costs that may accrue, shall become a lien upon all the property within this state, both real and personal, of the person liable for the payment or collection of the tax, except property exempt under subdivision 8, from and after the date of assessment of the tax.

Subd. 2. FILING OF LIENS NECESSARY FOR ENFORCEABILITY AGAINST CERTAIN PERSONS. 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 whose interest has been duly perfected or is a conveyance or interest entitled to protection against judgments and attachments under section 507.34 or under any other applicable provisions of state law, until a notice of lien has been filed by the commissioner in the office of the county recorder of the county in which real property is situated, or in the case of personal property in the Office of the Secretary of State.

Subd. 3. METHOD OF FILING. Notices of liens, and lien releases, transcriptions, and renewals, in a form prescribed by the commissioner, may be filed with the county recorder or the secretary of state by mail, personal delivery, or by electronic transmission by the commissioner or an agent of the department into the computerized filing system of the secretary of state. The secretary of state shall transmit the notice electronically to the office of the county recorder, if that is the place of filing, in the county or counties shown on the computer entry. The filing officer, whether the county recorder or the secretary of state, shall endorse and index a printout of the notice in the same manner as if the notice had been mailed or delivered.

Subd. 4. ENTRY OF INFORMATION INTO CENTRAL DATABASE. County recorders and the secretary of state shall enter information relative to lien notices, transcriptions, renewals, and releases filed in their offices into the central database of the secretary of state. For notices filed electronically with the county recorders, the date and time of receipt of the notice and county recorder's file number, and for notices filed electronically with the secretary of state, the secretary of state's recording information, must be entered by the filing officer into the central database before the close of the working day following the day of the original data entry by the department.

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Subd. 5. CONFORMITY WITH FEDERAL LIEN REGISTRATION ACT. The filing and indexing of all notices must be in accordance with the filing and indexing of notices of federal liens, certificates of release, and refiled notices under section 272.483.

Subd. 6. PAYMENT OF RECORDING FEES. Notwithstanding any other law to the contrary, the department is exempt from payment of fees when a lien, lien renewal, or lien transcription is offered for recording. The recording fees must be paid along with the release fee at the end of the month in which the release of lien is recorded, after receipt of a monthly statement from a county recorder or the secretary of state. The department shall add the recording fees to the delinquent tax liability of the taxpayer. Notwithstanding any other law to the contrary, the fee for filing or recording a notice of lien, or lien release, transcription, or renewal is \$15.

Subd. 7. APPROPRIATION. There is appropriated to the commissioner an amount representing the cost of payment of recording fees to the county recorders and the secretary of state. The commissioner shall keep a separate accounting of the costs and of payments for recording fees remitted by taxpayers, and make the records available to the legislature upon request.

Subd. 8. EXEMPT PROPERTY. The lien imposed on personal property by this section, even though properly filed, is not enforceable: (1) against a purchaser with respect to tangible personal property purchased at retail in the ordinary course of the seller's trade or business, unless at the time of purchase the purchaser intends the purchase to or knows the purchase will hinder, evade, or defeat the collection of a tax; or (2) against the personal property listed as exempt in sections 550.37, 550.38, and 550.39.

Subd. 9. PERIOD OF LIMITATIONS. The lien imposed by this section shall, notwithstanding any other provision of law to the contrary, be enforceable from the time the lien arises and for ten years from the date of filing the notice of lien, which must be filed by the commissioner within five years after the date of assessment of the tax or final administrative or judicial determination of the assessment. A notice of lien filed in one county may be transcribed to any other county within ten years after the date of its filing, but the transcription shall not extend the period during which the lien is enforceable. A notice of lien may be renewed by the commissioner before the expiration of the ten-year period for an additional ten years. The taxpayer must receive written notice of the renewal.

Subd. 10. ENFORCEABILITY OF LIEN. The lien imposed by this section shall be enforceable by levy as authorized in section 270C.67, or by judgment lien foreclosure as authorized in chapter 550.

Subd. 11. NOTICE OF MORTGAGE FORECLOSURE OR CONTRACT TERMINATION. In the case of a mortgage foreclosure upon real property commenced under chapter 580, or a termination of contract of sale of real property commenced under section 559.21, if the commissioner has filed a lien under this section before the foreclosure sale or date of termination, notice of the mortgage foreclosure or termination of contract of sale shall be mailed to the commissioner not

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less than 25 days prior to the foreclosure sale or date of termination. Provided, notice need not be given pursuant to this subdivision if the lien of the commissioner has been filed within 30 days or less prior to the foreclosure sale or date of termination. The notice must contain the following information: (1) the name and address of the taxpayer; (2) a copy of the notice of mortgage foreclosure or contract for deed cancellation; (3) a copy of the lien filed by the commissioner; (4) the total unpaid balance of the mortgage or contract for deed; (5) a legal description of the property; and (6) the fair market value of the property.

Subd. 12. FILING ENTITLEMENT. Execution of notices of liens or of other notices affecting state tax liens by the original or facsimile signature of the commissioner entitles them to be filed, and no other attestation, certification, or acknowledgment is necessary. For purposes of this subdivision, transmission of notices under subdivision 3 constitutes execution.

Subd. 13. LIEN SEARCH FEES. Upon request of any person, the filing officer shall issue a certificate showing whether there is recorded in that filing office, on the date and hour stated in the certificate, any notice of lien or certificate or notice affecting any lien filed on or after ten years before the date of the search certificate, naming a particular person, and giving the date and hour of filing of each notice or certificate naming the person. The fee for a certificate shall be as provided by section 336.9-525 or 357.18, subdivision 1, clause (3). Upon request, the filing officer shall furnish a copy of any notice of state lien, or notice or certificate affecting a state lien, for a fee of 50 cents per page.

Subd. 14. LIMITATION FOR HOMESTEAD PROPERTY. A lien imposed under this section upon property defined as homestead property in sections 510.01 and 510.02 may not be enforced against homestead property by levy under section 270C.67, or by judgment lien foreclosure under chapter 550, but notwithstanding section 510.07, is enforceable against the proceeds from the sale, conveyance, or transfer of the homestead.

Subd. 15. ERRONEOUS LIENS. After the filing of a notice of lien under this section on the property or rights to property of a person, the person may appeal to the commissioner, in the form and at the time prescribed by the commissioner, alleging an error in the filing of the lien and requesting its release. If the commissioner determines that the filing of the notice of any lien was erroneous, within 14 days after the determination, the commissioner must issue a certificate of release of the lien. The certificate must include a statement that the filing of the lien was erroneous. In the event that the lien is erroneous and is not released within the 14-day period, reasonable attorney fees shall be paid. Damages must be paid in accordance with section 3.736, subdivision 7. Even if a lien is not erroneous, the commissioner may withdraw the lien if the filing of the lien was premature or not in accordance with administrative procedures of the commissioner, or withdrawal of the lien will facilitate the collection of the tax liability.

Subd. 16. LIEN RELEASE FEE. A fee of \$25 must be paid to the commissioner for each duplicate of an original release of lien.

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Subd. 17. FORTY-FIVE DAY RULE. A notice of tax lien filed under this section has priority over a security interest arising under article 9 of the Uniform Commercial Code that is perfected before the date of filing of the lien imposed by this section, but only if:

(1) the perfected security interest secures property acquired by the taxpayer or advances made by the secured party after the notice of tax lien is filed; and

(2) the property is acquired or the advance is made after the 45th day following the day on which the notice of tax lien is filed, or after the secured party has actual notice or knowledge of the tax lien filing, whichever is earlier.

Subd. 18. REGISTERED LAND. When a lien is filed with a county recorder under subdivisions 2 to 5, the county recorder shall search the registered land records in that county and cause the lien to be memorialized on every certificate of title or certificate of possessory title of registered land in that county which can be reasonably identified as owned by the taxpayer who is named on the lien. The fees for memorializing the lien shall be paid in the manner prescribed by subdivision 6. The county recorders, and their employees and agents, shall not be liable for any loss or damages arising from failure to identify a parcel of registered land owned by the taxpayer who is named on the lien.

Subd. 19. ASSIGNMENT OF LIENS. The commissioner may sell and assign to a third party the right of redemption in specific real property for liens filed under this section. The redemption in the hands of the assignee shall not be enforceable by any of the collection remedies provided to the commissioner by law. The assignee is limited to the same rights of redemption the commissioner would have in any mortgage foreclosure proceeding, but in any bankruptcy proceeding does not obtain the priority of the commissioner as a tax claimant. Should the taxpayer or its assigns exercise the right of redemption the assignment by the commissioner is extinguished.

Subd. 20. 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.
[270.69]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 70. [270C.64] CREDIT OF OVERPAYMENT TO DELINQUENT TAX LIABILITIES.

Notwithstanding any other provision of law to the contrary, in the case of an overpayment of any tax collected by the commissioner, the commissioner may credit the amount of such overpayment against any uncontested delinquent tax liability on the part of the taxpayer who made the overpayment. An overpayment may be credited under this subdivision only if the uncontested delinquent liability has been assessed within ten years of the date on which the overpayment is credited. However, this limitation shall not be applicable if the delinquent liability has been entered into

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judgment or if legal action is pending for collection of the liability or for renewal of the judgment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which such amount was paid. [270.07, subd. 5]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 71. [270C.65] RIGHT OF SETOFF.

Subdivision 1. CERTIFICATION BY COMMISSIONER. The commissioner of revenue is authorized to certify to the commissioner of finance, or to any state agency described in subdivision 3 which disburses its own funds, that a taxpayer has an uncontested delinquent tax liability owed to the commissioner of revenue. The certification must be made within ten years after the date of assessment of the tax. Once certification is made, the commissioner of finance or the state agency shall apply to the delinquent tax liability funds sufficient to satisfy the unpaid tax liability from funds appropriated for payment of an obligation of the state or any of its agencies that are due and owing the taxpayer. No setoff shall be made against any funds exempt under section 550.37 or those funds owed an individual taxpayer who receives assistance under the provisions of chapter 256.

Subd. 2. SETOFF SATISFIES STATE OBLIGATION. All funds, whether general or dedicated, shall be subject to setoff in the manner herein provided. Transfer of funds as herein provided is payment of the obligation of the state or any of its agencies to such taxpayer and any actions for said funds, if any, shall be had against the Department of Revenue on the issue of such tax liability. Nothing in this section shall be construed to limit the previously existing right of the state or any of its agencies to setoff.

Subd. 3. AGENCIES SHALL MAINTAIN RECORDS. Notwithstanding any provision to the contrary, every person, organization, or corporation doing business (hereafter called vendor) with the state of Minnesota or any of its departments, agencies, or educational institutions including the University of Minnesota (all hereafter called agency) shall provide that agency with either their Social Security number, federal taxpayer identification number, or Minnesota tax identification number. The commissioner may verify to the agency the identifying information provided by a vendor. The agency shall maintain records of this information, and shall make these records available, on request, to the commissioner for the sole purpose of identifying people who have not filed state tax returns or who have not paid uncontested tax liabilities (hereafter called delinquent taxpayer). When an agency is notified by the commissioner that a vendor is a delinquent taxpayer, payments shall not be made by the agency to the vendor until the commissioner notifies the agency that the vendor no longer is a delinquent taxpayer. Furthermore, if the vendor has an uncontested delinquent tax liability, the setoff provided in subdivision 1 may be implemented. The commissioner shall determine that a vendor no longer is a delinquent taxpayer when the vendor has filed all delinquent returns and (1) paid all uncontested tax liabilities or (2) entered into an agreement with the commissioner which provides for the payment of these liabilities. [270.66]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 72. [270C.66] CONTRACTS WITH STATE; WITHHOLDING.

No department of the state of Minnesota, nor any political or governmental subdivision of the state shall make final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor and by subcontractors until satisfactory showing is made that said contractor or subcontractor has complied with the provisions of section 290.92. A certificate by the commissioner shall satisfy this requirement with respect to the contractor or subcontractor. If, at the time of final settlement, there are any unpaid withholding taxes, penalties, or interest arising from the government contract, the commissioner shall issue a certification to the contractor or subcontractor upon payment, with certified funds, of any unpaid withholding taxes, penalties, and interest. Payment is received by the commissioner upon delivery of the certified funds to the central office located in St. Paul, or any district or subdistrict office located throughout the state. [290.97]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 73. [270C.67] LEVY AND DISTRRAINT.

Subdivision 1. AUTHORITY. If any tax payable to the commissioner or to the department is not paid when due, such tax may be collected by the commissioner within five years after the date of assessment of the tax, or if a lien has been filed, during the period the lien is enforceable, or if the tax judgment has been filed, within the statutory period of enforcement of a valid tax judgment, by a levy upon all property and rights to property, including any property in the possession of law enforcement officials, of the person liable for the payment or collection of such tax (except that which is exempt from execution pursuant to section 550.37) or property on which there is a lien provided in section 270C.63. For this purpose, "tax" includes any penalty, interest, and costs, properly payable.

Subd. 2. WRIT OF ENTRY. The term "levy" includes the power of distraint and seizure by any means; provided, no entry can be made upon the business premises or residence of a taxpayer in order to seize property without first obtaining a writ of entry listing the property to be seized and signed by a judge of the district court of the district in which the business premises or residence is located.

Subd. 3. NOTICE AND DEMAND; COLLECTION BY LEVY. Before a levy is made, notice and demand for payment of the amount due must be given to the person liable for the payment or collection of the tax at least 30 days prior to the levy. The notice required under this subdivision must be sent to the taxpayer's last known address and must include a brief statement that sets forth in simple and nontechnical terms:

(1) the administrative appeals available to the taxpayer with respect to the levy and sale; and

(2) the alternatives available to the taxpayer that can prevent a levy, including installment payment agreements under section 270C.52, subdivision 2.

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Subd. 4. MANNER OF EXECUTION AND SALE. In making the execution of the levy and in collecting the taxes due, the commissioner shall have all of the powers provided in chapter 550 and in any other law for purposes of effecting an execution against property in this state. The sale of property levied upon, and the time and manner of redemption therefrom, shall, to the extent not provided in sections 270C.7101 to 270C.7109, be governed by chapter 550. The seal of the court, subscribed by the court administrator, as provided in section 550.04, shall not be required. The levy for collection of taxes may be made whether or not the commissioner has commenced a legal action for collection of such taxes.

Subd. 5. STAY OF SALE. (a) Where a jeopardy assessment or any other assessment has been made by the commissioner, the property seized for collection of the tax shall not be sold until the time has expired for filing an appeal of the assessment with the Tax Court pursuant to chapter 271. If an appeal has been filed, no sale shall be made unless the taxes remain unpaid for a period of more than 30 days after final determination of the appeal by the Tax Court or by the appropriate judicial forum.

(b) Notwithstanding paragraph (a), seized property may be sold if:

(1) the taxpayer consents in writing to the sale; or

(2) the commissioner determines that the property is perishable or may become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense.

(c) The Tax Court has jurisdiction to review a determination made under paragraph (b), clause (2). Review is commenced by motion of the commissioner or the taxpayer. The order of the court in response to the motion is reviewable in the same manner as any other decision of the Tax Court.

Subd. 6. PROBATE PROCEEDINGS. Where a levy has been made to collect taxes pursuant to this section and the property seized is properly included in a formal proceeding commenced under sections 524.3-401 to 524.3-505 and maintained under full supervision of the court, such property shall not be sold until the probate proceedings are completed or until the court so orders.

Subd. 7. BOND OR SECURITY TO RELEASE SEIZURE. The property seized shall be returned by the commissioner if the owner gives a surety bond equal to the appraised value of the owner's interest in the property, as determined by the commissioner, or deposits with the commissioner security in such form and amount as the commissioner deems necessary to insure payment of the liability, but not more than twice the liability.

Subd. 8. INJUNCTION. Notwithstanding any other provision to the contrary, if a levy or sale pursuant to this section would irreparably injure rights in property which the court determines to be superior to rights of the state in such property, the district court may grant an injunction to prohibit the enforcement of such levy or to prohibit such sale.

Subd. 9. OPTIONAL REMEDY. Any action taken by the commissioner pursuant to this section shall not constitute an election by the state to pursue a remedy to the exclusion of any other remedy.

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Subd. 10. **EQUITABLE RELIEF.** After the commissioner has seized the property of any person, that person may, upon giving 48 hours notice to the commissioner and to the court, bring a claim for equitable relief before the district court for the release of the property to the taxpayer upon such terms and conditions as the court may deem equitable.

Subd. 11. **LEVY AND SALE BY SHERIFF.** If any tax payable to the commissioner or to the department is not paid as provided in subdivision 3, the commissioner may, within the time periods provided in subdivision 1 for collection of taxes, delegate the authority granted by subdivision 1, by means of issuing a warrant to the sheriff of any county of the state commanding the sheriff, as agent for the commissioner, to levy upon and sell the real and personal property of the person liable for the payment or collection of the tax and to levy upon the rights to property of that person within the county, or to levy upon and seize any property within the county on which there is a lien provided in section 270C.63, and to return the warrant to the commissioner and pay to the commissioner the money collected by virtue thereof by a time to be therein specified not less than 60 days from the date of the warrant. The sheriff shall proceed thereunder to levy upon and seize any property of the person and to levy upon the rights to property of the person within the county (except the person's homestead or that property which is exempt from execution pursuant to section 550.37), or to levy upon and seize any property within the county on which there is a lien provided in section 270C.63. For purposes of the preceding sentence, "tax" includes any penalty, interest, and costs, properly payable. The sheriff shall then sell so much of the property levied upon as is required to satisfy the taxes, interest, and penalties, together with the sheriff's costs; but the sales, and the time and manner of redemption therefrom, shall, to the extent not provided in sections 270C.7101 to 270C.7109, be governed by chapter 550. The proceeds of the sales, less the sheriff's costs, shall be turned over to the commissioner, who shall then apply the proceeds as provided in section 270C.7108.

Subd. 12. **PRIORITY OF LEVY.** Notwithstanding section 52.12, a levy by the commissioner made pursuant to the provisions of this section upon a taxpayer's funds on deposit in a financial institution located in this state, shall have priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the taxpayer to the financial institution. A claim by the financial institution that it exercised its right to setoff prior to the levy by the commissioner must be substantiated by evidence of the date of the setoff, and shall be verified by the sworn statement of a responsible corporate officer of the financial institution. Furthermore, for purposes of determining the priority of any levy made under this section, the levy shall be treated as if it were an execution made pursuant to chapter 550.

Subd. 13. **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 270C.70, subdivision 1) shall be discharged from any obligation or liability to the person liable for the payment

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or collection of the delinquent tax with respect to the property or rights to property so surrendered or paid.

Subd. 14. NOTICE OF LEVY. Notwithstanding any other provision of law to the contrary, the notice of any levy authorized by this section may be served by mail or by delivery by an agent of the department.

Subd. 15. UNECONOMICAL LEVY. No levy may be made on property if the amount of the expenses that the commissioner estimates would be incurred by the department with respect to the levy and sale of the property exceeds the fair market value of the property at the anticipated time of levy.

Subd. 16. LEVY ON APPEARANCE DATE OF SUBPOENA. No levy may be made on the property of a person on the day on which the person, or an officer or employee of the person, is required to appear in response to a subpoena issued by the commissioner to collect unpaid taxes, unless the commissioner determines that the collection of the tax is in jeopardy. [270.70]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 74. [270C.68] CONTINUOUS LEVY.

Subdivision 1. AUTHORITY. The commissioner may, within five years after the date of assessment of the tax, or if a lien has been filed under section 270C.63, within the statutory period for enforcement of the lien, give notice to a person to withhold the amount of any tax, interest, or penalties, due from a taxpayer. The amounts withheld shall be transmitted to the commissioner at the times the commissioner designates.

Subd. 2. LEVY CONTINUOUS. The levy made under subdivision 1 is continuous from the date the notice is received until the amount due stated on the notice has been withheld or the notice has been released by the commissioner under section 270C.7109, whichever occurs first.

Subd. 3. AMOUNT TO BE WITHHELD. The amount required to be withheld under this section is the least of:

- (1) the amount stated on the notice;
- (2) if the taxpayer is not a natural person, 100 percent of the payment; or
- (3) if the taxpayer is an individual, 25 percent of the payment.

Subd. 4. PAYMENTS COVERED. For purposes of this section, the term "payments" does not include wages as defined in section 290.92 or funds in a deposit account as defined in section 336.9-102(a)(29). The term payments does include the following:

- (1) payments due for services of independent contractors, dividends, rents, royalties, residuals, patent rights, and mineral or other natural resource rights;
- (2) payments or credits under written or oral contracts for services or sales whether denominated as wages, salary, commission, bonus, or otherwise, if the payments are not covered by section 270C.69; and

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(3) any other periodic payments or credits resulting from an enforceable obligation to the taxpayer.

Subd. 5. DETERMINATION OF STATUS; EFFECT. A determination of a taxpayer's status as an independent contractor under this section does not affect the determination of the taxpayer's status for the purposes of any other law or rule.
270.7001

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 75. [270C.69] WITHHOLDING BY EMPLOYER OF DELINQUENT TAXES.

Subdivision 1. NOTICE AND PROCEDURES. (a) The commissioner may, within five years after the date of assessment of the tax, or if a lien has been filed under section 270C.63, within the statutory period for enforcement of the lien, give notice to any employer deriving income which has a taxable situs in this state regardless of whether the income is exempt from taxation, that an employee of that employer is delinquent in a certain amount with respect to any taxes, including penalties, interest, and costs. The commissioner can proceed under this section only if the tax is uncontested or if the time for appeal of the tax has expired. The commissioner shall not proceed under this section until the expiration of 30 days after mailing to the taxpayer, at the taxpayer's last known address, a written notice of (1) the amount of taxes, interest, and penalties due from the taxpayer and demand for their payment, and (2) the commissioner's intention to require additional withholding by the taxpayer's employer pursuant to this section. The effect of the notice shall expire one year after it has been mailed to the taxpayer provided that the notice may be renewed by mailing a new notice which is in accordance with this section. The renewed notice shall have the effect of reinstating the priority of the original claim. The notice to the taxpayer shall be in substantially the same form as that provided in section 571.72. The notice shall further inform the taxpayer of the wage exemptions contained in section 550.37, subdivision 14. If no statement of exemption is received by the commissioner within 30 days from the mailing of the notice, the commissioner may proceed under this section. The notice to the taxpayer's employer may be served by mail or by delivery by an agent of the department and shall be in substantially the same form as provided in section 571.75. Upon receipt of notice, the employer shall withhold from compensation due or to become due to the employee, the total amount shown by the notice, subject to the provisions of section 571.922. The employer shall continue to withhold each pay period until the notice is released by the commissioner under section 270C.7109. Upon receipt of notice by the employer, the claim of the state of Minnesota shall have priority over any subsequent garnishments or wage assignments. The commissioner may arrange between the employer and the employee for withholding a portion of the total amount due the employee each pay period, until the total amount shown by the notice plus accrued interest has been withheld.

(b) The "compensation due" any employee is defined in accordance with the provisions of section 571.921. The maximum withholding allowed under this section for any one pay period shall be decreased by any amounts payable pursuant to a

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garnishment action with respect to which the employer was served prior to being served with the notice of delinquency and any amounts covered by any irrevocable and previously effective assignment of wages; the employer shall give notice to the commissioner of the amounts and the facts relating to such assignments within ten days after the service of the notice of delinquency on the form provided by the commissioner as noted in this section.

(c) Within ten days after the expiration of such pay period, the employer shall remit to the commissioner, on a form and in the manner prescribed by the commissioner, the amount withheld during each pay period under this section.

Subd. 2. TERMINATION OF EMPLOYMENT. If the employee ceases to be employed by the employer before the full amount set forth in a notice of delinquency plus accrued interest has been withheld, the employer shall immediately notify the commissioner in writing of the termination date of the employee and the total amount withheld. No employer may discharge any employee by reason of the fact that the commissioner has proceeded under subdivision 1. If an employer discharges an employee in violation of this provision, the employee shall have the same remedy as provided in section 571.927, subdivision 2.

Subd. 3. APPLICATION TO GOVERNMENT EMPLOYER. Subdivisions 1 and 2 apply to cases in which the employer is the United States or any instrumentality thereof or this state or any municipality or other subordinate unit thereof. The provisions imposing liability on the employer for failure to withhold or remit under section 270C.70 do not apply to such government employers.

Subd. 4. REFUND TO EMPLOYEE. The commissioner shall refund to the employee excess amounts withheld from the employee under this section. If any excess results from payments by the employer because of payments made under section 270C.70, the excess attributable to the employer's payment shall be refunded to the employer.

Subd. 5. ADDITIONAL INTEREST, COSTS, CHARGES. Employers required to withhold delinquent taxes, penalties, interest, and costs under this section shall not be required to compute any additional interest, costs or other charges to be withheld.

Subd. 6. LEGAL EFFECT. The collection remedy provided to the commissioner by this section shall have the same legal effect as if it were a levy made pursuant to section 270C.67. [290.92, subd. 23]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 76. [270C.70] PERSONAL LIABILITY FOR FAILURE TO HONOR A LEVY.

Subdivision 1. SURRENDER OF PROPERTY SUBJECT TO LEVY. A person who fails or refuses to surrender property or rights to property subject to a levy served on the person under section 270C.67, 270C.68, or 270C.69 is liable in an amount equal to the value of the property or rights not surrendered, or the amount of taxes, penalties, and interest for the collection of which the levy was made, whichever is less. A

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financial institution need not surrender funds on deposit until ten days after service of the levy.

Subd. 2. PENALTY. In addition to the personal liability imposed by subdivision 1, if a person required to surrender property or rights to property fails to do so without reasonable cause, the person is liable for a penalty equal to 25 percent of the amount under subdivision 1.

Subd. 3. PERSON DEFINED. The term "person" as used in this section includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to surrender the property or rights to property or to respond to the levy.

Subd. 4. ORDER ASSESSING LIABILITY. The liability imposed by this section may, after demand to honor a levy has been made, be assessed by the commissioner within 60 days after service of the demand. The assessment may be based on information available to the commissioner. The assessment is presumed to be valid, and the burden is on the person assessed to show it is incorrect or invalid. An order assessing liability for failure to honor a levy is reviewable administratively under section 270C.35, and is appealable to Tax Court under chapter 271. The amount assessed, plus interest at the rate specified in section 270C.40, may be collected by any remedy available to the commissioner for the collection of taxes. The proceeds collected are applied first to the liability of the original taxpayer to the extent of the liability under subdivision 1 plus interest, and then to the penalty under subdivision 2. [270.7002]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 77. [270C.7101] SALE OF SEIZED PROPERTY.

Subdivision 1. NOTICE OF SEIZURE. As soon as practicable after seizure of property, notice in writing shall be given by the commissioner to the owner of the property (or, in the case of personal property, the possessor thereof), and shall be served in like manner as a summons in a civil action in the district court. If the owner cannot be readily located, or has no dwelling or place of business within this state, the notice may be mailed to the last known address. The notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.

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 ten 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 ten 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

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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 270C.67, subdivision 3, public notice of sale of the property seized shall not be made within the 30-day period unless section 270C.7102 (relating to sale of perishable goods) is applicable.

Subd. 3. SALE OF INDIVISIBLE PROPERTY. If any property liable to levy is not divisible, so as to enable the commissioner by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of the property shall be sold.

Subd. 4. TIME AND PLACE OF SALE. The time of sale shall be after the expiration of the notice periods prescribed in subdivision 2. The place of sale shall be within the county in which the property is seized, except by special order of the commissioner.

Subd. 5. MANNER AND CONDITIONS OF SALE. (a) Before the sale the commissioner shall determine a minimum price for which the property shall be sold, and if no person offers for the property at the sale the amount of the minimum price, the property shall be declared to be purchased at the minimum price for the state of Minnesota; otherwise the property shall be declared to be sold to the highest bidder. In determining the minimum price, the commissioner shall take into account the expense of making the levy and sale. The announcement of the minimum price determined by the commissioner may be delayed until the receipt of the highest bid.

(b) The sale shall not be conducted in any manner other than:

(1) by public auction;

(2) by public sale under sealed bids; or

(3) in the case of items which individually or in usually marketable units have a value of \$50 or less, by public or private proceedings as a unit or in parcels at any time and place and on any terms, but every aspect of the disposition including the method, manner, time, place, and terms must be commercially reasonable.

(c) In the case of seizure of several items of property, the items may be offered separately, in groups, or in the aggregate, and shall be sold under whichever method produces the highest aggregate amount, except that sales under paragraph (b), clause (3), must produce a reasonable amount under the circumstances.

(d) Payment in full shall be required at the time of acceptance of a bid, except that a part of the payment may be deferred by the commissioner for a period not to exceed 30 days.

(e) Other methods (including advertising) in addition to those prescribed in subdivision 2 may be used in giving notice of the sale.

(f) The commissioner may adjourn the sale from time to time for a period not to exceed 30 days.

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(g) If payment in full is required at the time of acceptance of a bid and is not then and there paid, the commissioner shall forthwith proceed to again sell the property in the manner provided in this section. If the conditions of the sale permit part of the payment to be deferred, and if the part is not paid within the prescribed period, suit may be instituted against the purchaser for the purchase price or that part thereof as has not been paid, together with interest at the rate specified in section 549.09 from the date of the sale; or, in the discretion of the commissioner, the sale may be declared by the commissioner to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. In the event of a readvertisement and sale, any new purchaser shall receive the property or rights to property free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by the defaulting purchaser shall be forfeited.

Subd. 6. RIGHT TO REQUEST SALE OF SEIZED PROPERTY WITHIN 60 DAYS. The owner of property seized by levy may request that the commissioner offer to sell the property within 60 days after the request, or within a longer period requested by the owner. The request must be complied with unless the commissioner determines and notifies the owner within that period that compliance is not in the best interests of the state of Minnesota. A determination by the commissioner not to comply with the request is appealable to the Tax Court in the manner provided by law.

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 commissioner'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. 270.701

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

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Sec. 78. [270C.7102] SALE OF PERISHABLE GOODS.

If the commissioner determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that the property cannot be kept without great expense, the commissioner shall appraise the value of the property, and if the owner of the property can be readily found, the commissioner shall give the owner notice of the determination of the appraised value of the property. The property shall be returned to the owner if, within the time specified in the notice, the owner (a) pays to the commissioner an amount equal to the appraised value, or (b) gives bond in the form, with the sureties, and in the amount as the commissioner prescribes to pay the appraised amount at the time the commissioner determines to be appropriate in the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this section, the commissioner shall as soon as practicable make public sale of the property in accordance with section 270C.7101. [270.702]

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

Sec. 79. [270C.7103] REDEMPTION OF PROPERTY.

Subdivision 1. BEFORE SALE. Any person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the commissioner at any time prior to the sale thereof, and upon payment the commissioner shall restore the property to the person, and all further proceedings in connection with the levy on the property shall cease from the time of payment.

Subd. 2. REDEMPTION OF REAL ESTATE AFTER SALE. The owners of any real property sold as provided in this section, their heirs, executors, or administrators, or any person having any interest therein, or a lien thereon, or any person in their behalf, shall be permitted to redeem the property sold, or any particular tract of the property, at any time within six months, or in case the real property sold exceeds ten acres in size, at any time within 12 months, after the sale thereof. The property or tract of property shall be permitted to be redeemed upon payment to the purchaser (or if not found in the county in which the property to be redeemed is situated, then to the commissioner, for the use of the purchaser, or the purchaser's heirs or assigns) of the amount paid by the purchaser together with interest at the rate of 20 percent per annum.

Subd. 3. RECORD. When any lands sold are redeemed as provided in this section, the commissioner shall cause entry of the fact to be made upon the record required by section 270C.7106 and the entry shall be evidence of the redemption. [270.703]

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

Sec. 80. [270C.7104] CERTIFICATE OF SALE.

In the case of property sold as provided in section 270C.7101, the commissioner shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property the certificate shall set forth the real property purchased, for whose taxes the property was sold, the name of the purchaser, and the

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price paid. If real property is declared purchased by the state of Minnesota, the commissioner shall within ten days from the sale cause the certificate of sale to be duly recorded by the county recorder of the county in which the real property is located.
[270.704]

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

Sec. 81. [270C.7105] EFFECT OF CERTIFICATE OF SALE.

Subdivision 1. PERSONAL PROPERTY. (a) In all cases of sale pursuant to section 270C.7101 of personal property, the certificate of sale given pursuant to section 270C.7104 shall be prima facie evidence of the right of the commissioner to make the sale, and conclusive evidence of the regularity of the proceedings in making the sale. The certificate shall transfer to the purchaser all right, title, and interest of the party delinquent in and to the property sold.

(b) If the property consists of stocks, the certificate of sale shall be notice, when received, to any corporation, company, or association of the transfer, and shall be authority to the corporation, company, or association to record the transfer on its books and records in the same manner as if the stocks were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

(c) If the subject of sale is securities or other evidences of debt, the certificate of sale shall be a good and valid receipt to the person holding the same, as against any person holding or claiming to hold possession of the securities or other evidences of debt.

(d) If the property consists of a motor vehicle, the certificate of sale shall be notice, when received, to the registrar of motor vehicles of this state of the transfer, and shall be authority to the registrar to record the transfer on the books and records in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the party holding the same, in lieu of any original or prior certificate, which shall be void, whether canceled or not.

Subd. 2. REAL PROPERTY. In the case of the sale of real property pursuant to section 270C.7101, the certificate of sale given pursuant to section 270C.7104 shall be prima facie evidence of the facts therein stated, and shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real property thus sold at the time the lien of the state of Minnesota attached thereto.

Subd. 3. JUNIOR ENCUMBRANCES. A certificate of sale of personal property or real property given pursuant to section 270C.7104 shall discharge the property from all liens, encumbrances, and titles over which the lien of the state of Minnesota with respect to which the levy was made had priority. [270.705]

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

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Sec. 82. [270C.7106] RECORDS OF SALE.

The commissioner shall maintain a record of all sales of property under section 270C.7101 and of redemptions of real property. The record shall set forth the tax for which the sale was made, the dates of seizure and sale, the name of the party assessed and all proceedings in making the sale, the amount of expenses, the names of the purchasers, and the date of the certificate of sale. A copy of the record, or any part thereof, certified by the commissioner shall be evidence in any court of the truth of the facts therein stated. [270.706]

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

Sec. 83. [270C.7107] EXPENSE OF LEVY AND SALE.

The commissioner shall determine the expenses to be allowed in all cases of levy and sale. [270.707]

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

Sec. 84. [270C.7108] APPLICATION OF PROCEEDS OF LEVY.

Subdivision 1. COLLECTION OF LIABILITY. Any money realized by proceedings under this chapter, whether by seizure, by surrender under section 270C.67, by sale of seized property, by sale of property redeemed by the state of Minnesota (if the interest of the state of Minnesota in the property was a lien arising under the provisions of section 270C.63), or by agreement, arrangement, or any other means shall be applied as follows:

(a) First, against the expenses of the proceedings; then

(b) If the property seized and sold is subject to a tax that has not been paid, the amount remaining after applying clause (a) shall next be applied against the tax liability (and, if the tax was not previously assessed, it shall then be assessed); and

(c) The amount, if any, remaining after applying clauses (a) and (b) shall be applied against the tax liability in respect of which the levy was made or the sale was conducted.

Subd. 2. SURPLUS PROCEEDS. Any surplus proceeds remaining after the application of subdivision 1 shall, upon application and satisfactory proof in support thereof, be credited or refunded by the commissioner to the person or persons legally entitled thereto. [270.708].

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

Sec. 85. [270C.7109] AUTHORITY TO RELEASE LEVY AND RETURN PROPERTY.

Subdivision 1. RELEASE OF LEVY. The commissioner shall release a levy on all or part of the property or rights to property levied on and shall promptly notify the person on whom the levy was made that the levy has been released if: (1) the liability

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for which the levy was made is satisfied or has become unenforceable by lapse of time; (2) release of the levy will facilitate collection of the liability; (3) the taxpayer has entered into an installment payment agreement under section 270C.52, subdivision 2, unless the agreement provides otherwise, or unless release of the levy will jeopardize the status of the department as a secured creditor; or (4) the fair market value of the property exceeds the liability, and release of the levy on a part of the property can be made without hindering collection. In the case of tangible personal property essential in carrying on the trade or business of the taxpayer, the commissioner shall provide for an expedited determination under this subdivision. A release of levy under this subdivision does not prevent a subsequent levy on the property released.

Subd. 2. RETURN OF PROPERTY. If the commissioner determines that property has been wrongfully levied upon, it shall be lawful for the commissioner to return:

- (a) The specific property levied upon, at any time;
- (b) An amount of money equal to the amount of money levied upon, at any time before the expiration of nine months from the date of the levy; or
- (c) An amount of money equal to the amount of money received by the state of Minnesota from a sale of the property, at any time before the expiration of nine months from the date of the sale.

For purposes of clause (c), if property is declared purchased by the state of Minnesota at a sale pursuant to section 270C.7101, subdivision 5 (relating to manner and conditions of sale), the state of Minnesota shall be treated as having received an amount of money equal to the minimum price determined pursuant to section 270C.7101, subdivision 5, or, if larger, the amount received by the state of Minnesota from the resale of the property. [270.709]

EFFECTIVE DATE. This section is effective for levies made on or after August 1, 2005.

Sec. 86. [270C.711] ACQUISITION AND RESALE OF SEIZED PROPERTY.

For the purpose of enabling the commissioner to purchase or redeem seized property in which the state of Minnesota has an interest arising from a lien for unpaid taxes, or to provide for the operating costs of collection activities of the department, there is appropriated to the commissioner an amount representing the cost of such purchases, redemptions, or collection activities. Seized property acquired by the state of Minnesota to satisfy unpaid taxes shall be resold by the commissioner. The commissioner shall preserve the value of seized property while controlling it, including but not limited to the procurement of insurance. For the purpose of refunding the proceeds from the sale of levied or redeemed property which are in excess of the actual tax liability plus costs of acquiring the property, there is hereby created a levied and redeemed property refund account in the agency fund. All amounts deposited into this account are appropriated to the commissioner. The commissioner shall report quarterly on the status of this program to the chairs of the house Taxes and Ways and Means Committees and senate Taxes and Tax Laws and Finance Committees. [270.71]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 87. [270C.72] TAX CLEARANCE; ISSUANCE OF LICENSES.

Subdivision 1. TAX CLEARANCE REQUIRED. The state or a political subdivision of the state may not issue, transfer, or renew, and must revoke, a license for the conduct of a profession, occupation, trade, or business, if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes payable to the commissioner, penalties, or interest. The commissioner may not notify the licensing authority unless the applicant taxpayer owes \$500 or more in delinquent taxes, penalties, or interest, or has not filed returns. If the applicant taxpayer does not owe delinquent taxes, penalties, or interest, but has not filed returns, the commissioner may not notify the licensing authority unless the taxpayer has been given 90 days' written notice to file the returns or show that the returns are not required to be filed. A licensing authority that has received a notice from the commissioner may issue, transfer, renew, or not revoke the applicant's license only if (a) the commissioner issues a tax clearance certificate and (b) the commissioner or the applicant forwards a copy of the clearance to the authority. The commissioner may issue a clearance certificate only if the applicant does not owe the state any uncontested delinquent taxes, penalties, or interest and has filed all required returns.

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

(a) "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.

(b) "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.

(c) "License" 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.

(d) "Licensing authority" includes the Minnesota State Fair Board and county and local boards or governing bodies.

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Subd. 3. NOTICE AND HEARING. (a) The commissioner, on notifying a licensing authority pursuant to subdivision 1 not to issue, transfer, or renew a license, must send a copy of the notice to the applicant. If the applicant requests, in writing, within 30 days of the date of the notice a hearing, a contested case hearing must be held. The hearing must be held within 45 days of the date the commissioner refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the applicant. The notice may be served personally or by mail.

(b) Prior to notifying a licensing authority pursuant to subdivision 1 to revoke a license, the commissioner must send a notice to the applicant of the commissioner's intent to require revocation of the license and of the applicant's right to a hearing under paragraph (a). A license is subject to revocation when 30 days have passed following the date of the notice in this paragraph without the applicant requesting a hearing, or, if a hearing is timely requested, upon final determination of the hearing under section 14.62, subdivision 1. A license shall be revoked by the licensing authority within 30 days after receiving notice from the commissioner to revoke.

(c) A hearing under this subdivision is in lieu of any other hearing or proceeding provided by law arising from any action taken under subdivision 1.

Subd. 4. LICENSING AUTHORITY; DUTIES. All licensing authorities must require the applicant to provide the applicant's Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner, the licensing authority must provide the commissioner with a list of all applicants, including the name, address, business name and address, Social Security number, and business identification number of each applicant. The commissioner may request from a licensing authority a list of the applicants no more than once each calendar year. [270.72]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 88. [270C.721] REVOCATION OF CERTIFICATES OF AUTHORITY TO DO BUSINESS IN THIS STATE.

When a foreign corporation authorized to do business in this state under chapter 303, or a foreign limited liability company or partnership authorized to do business in this state under chapter 322B, fails to comply with a law administered by the commissioner that imposes a tax, the commissioner may serve the secretary of state with a certified copy of an order finding such failure to comply. The secretary of state, upon receipt of the order, shall revoke the certificate of authority to do business in this state, and shall reinstate the certificate under section 303.19 or 322B.960, subdivision 6, only when the corporation or limited liability company or partnership has obtained from the commissioner an order finding that the corporation or limited liability company or partnership is in compliance with such law. An order requiring revocation of a certificate shall not be issued unless the commissioner gives the corporation or limited liability company or partnership 30 days' written notice of the proposed order,

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specifying the violations of law, and affording an opportunity to request a contested case hearing under chapter 14. [270.721]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 89. [270C.722] REVOCATION OF SALES TAX PERMITS.

Subdivision 1. NOTICE OF REVOCATION; HEARINGS. (a) If: (1) a person fails to comply with chapter 297A or the sales and use tax provisions of chapter 289A or the rules related to sales tax, or (2) any retailer purchases for resale from an unlicensed seller more than 20,000 cigarettes or \$500 or more worth of tobacco products, without reasonable cause, the commissioner may give the person 30 days' notice in writing, specifying the violations, and stating that based on the violations the commissioner intends to revoke the person's permit issued under section 297A.84. The notice must also advise the person of the right to contest the revocation under this subdivision. It must also explain 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.

(b) If the person does not request a hearing within 30 days after the date of the notice of intent, the commissioner may serve a notice of revocation of permit upon the person, and the permit is revoked. If a hearing is timely requested, and held, the permit is revoked after the commissioner serves an order of revocation of permit under section 14.62, subdivision 1.

Subd. 2. NEW PERMITS AFTER REVOCATION. (a) The commissioner shall not issue a new permit after revocation or reinstate a revoked permit unless the taxpayer applies for a permit and provides reasonable evidence of intention to comply with the sales and use tax laws and rules. The commissioner may require the applicant to provide security, in addition to that authorized by section 297A.92, in an amount reasonably necessary to ensure compliance with the sales and use tax laws and rules. If the commissioner issues or reinstates a permit not in conformance with the requirements of this subdivision or applicable rules, the commissioner may cancel the permit upon notice to the permit holder. The notice must be served by first class and certified mail at the permit holder's last known address. The cancellation shall be effective immediately, subject to the right of the permit holder to show that the permit was issued in conformance with the requirements of this subdivision and applicable rules. Upon such showing, the permit must be reissued.

(b) If a taxpayer has had a permit or permits revoked three times in a five-year period, the commissioner shall not issue a new permit or reinstate the revoked permit until 24 months have elapsed after revocation and the taxpayer has satisfied the conditions for reinstatement of a revoked permit or issuance of a new permit imposed by this section and rules adopted under this section.

(c) For purposes of this subdivision, "taxpayer" means:

(1) an individual, if a revoked permit was issued to or in the name of an individual, or a corporation or partnership, if a revoked permit was issued to or in the name of a corporation or partnership; and

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(2) an officer of a corporation, a member of a partnership, or an individual who is liable for delinquent sales taxes, either for the entity for which the new or reinstated permit is at issue, or for another entity for which a permit was previously revoked, or personally as a permit holder. [297A.86]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 90. [270C.725] POSTING OF TAX DELINQUENCY; SALE OF LIQUOR OR BEER.

Subdivision 1. POSTING, NOTICE. Pursuant to the authority to disclose under section 270B.12, subdivision 4, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all taxpayers who are required to pay, withhold, or collect the tax imposed by section 290.02, 290.0922, 290.92, 290.9727, 290.9728, 290.9729, or 297A.62, or local sales and use tax payable to the commissioner, or a local option tax administered and collected by the commissioner, and who are ten days or more delinquent in either filing a tax return or paying the tax.

The commissioner is under no obligation to list a taxpayer whose business is inactive. At least ten days before notifying the commissioner of public safety, the commissioner shall notify the taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a taxpayer previously listed files all returns and pays all taxes specified in this subdivision then due, the commissioner shall notify the commissioner of public safety within two business days.

Subd. 2. SALES PROHIBITED. Beginning the third business day after the list is posted, no wholesaler, manufacturer, or brewer may sell or deliver any product to a taxpayer included on the posted list.

Subd. 3. PENALTY. A wholesaler, manufacturer, or brewer of intoxicating liquor or 3.2 percent malt liquor who violates subdivision 2 is subject to the penalties provided in section 340A.304. [270.73]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 91. [270C.728] PUBLICATION OF NAMES OF DELINQUENT TAXPAYERS.

Subdivision 1. COMMISSIONER MAY PUBLISH. (a) Notwithstanding any other law, the commissioner may publish a list or lists of taxpayers who owe delinquent taxes, and who meet the requirements of paragraph (b).

(b) For purposes of this section, a taxpayer may be included on a list if:

(1) the taxes owed remain unpaid at least 180 days after the dates they were due;

(2) the taxpayer's total liability for the taxes, including penalties, interest, and other charges, is at least \$5,000; and

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(3) a tax lien has been filed or a judgment for the liability has been entered against the taxpayer before notice is given under subdivision 3.

(c) In the case of listed taxpayers that are business entities, the commissioner may also list the names of responsible persons assessed pursuant to section 270C.56 for listed liabilities, who are not protected from publication by subdivision 2, and for whom the requirements of paragraph (b) are satisfied with regard to the personal assessment.

(d) Before any list is published under this section, the commissioner must certify in writing that each of the conditions for publication as provided in this section has been satisfied, and that procedures were followed to ensure the accuracy of the list and notice was given to the affected taxpayers.

Subd. 2. REQUIRED AND EXCLUDED TAXPAYERS. (a) The commissioner may publish lists of some or all of the taxpayers described in subdivision 1. A list must include the taxpayers with the largest unpaid liabilities of the kind used to define the list, subject to the limitations of paragraphs (b) and (c).

(b) For the purposes of this section, a tax is not delinquent if:

(1) an administrative or court action contesting the amount or validity of the taxpayer's liability has been filed or served and is unresolved at the time when notice would be given under subdivision 3;

(2) an appeal period to contest the liability has not expired; or

(3) the liability is subject to a payment agreement and there is no delinquency in the payments required under the agreement.

(c) Unpaid liabilities are not subject to publication if:

(1) the commissioner is in the process of reviewing or adjusting the liability;

(2) the taxpayer is a debtor in a bankruptcy proceeding and the automatic stay is in effect;

(3) the commissioner has been notified that the taxpayer is deceased; or

(4) the time period for collecting the taxes has expired.

Subd. 3. NOTICE TO TAXPAYER. (a) At least 30 days before publishing the name of a delinquent taxpayer, the commissioner shall mail a written notice to the taxpayer, detailing the amount and nature of each liability and the intended publication of the information listed in subdivision 4 related to the liability. The notice must be mailed by first class and certified mail addressed to the last known address of the taxpayer. The notice must include information regarding the exceptions listed in subdivision 2 and must state that the taxpayer's information will not be published if the taxpayer pays the delinquent obligation, enters into an agreement to pay, or provides information establishing that subdivision 2 prohibits publication of the taxpayer's name.

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(b) After at least 30 days has elapsed since the notice was mailed and the delinquent tax has not been paid and the taxpayer has not proved to the commissioner that subdivision 2 prohibits publication, the commissioner may publish in a list of delinquent taxpayers the information about the taxpayer that is listed in subdivision 4.

Subd. 4. FORM OF LIST. The list may be published by any medium or method. The list must contain the name, address, type of tax, and period for which payment is due for each liability, including penalties, interest, and other charges owed by each listed delinquent taxpayer.

Subd. 5. REMOVAL FROM LIST. The commissioner shall remove the name of a taxpayer from the list of delinquent taxpayers after the commissioner receives written notice of and verifies any of the following facts about the liability in question:

- (1) the taxpayer has contacted the commissioner and arranged resolution of the liability;
- (2) an active bankruptcy proceeding has been initiated for the liability;
- (3) a bankruptcy proceeding concerning the liability has resulted in discharge of the liability; or
- (4) the commissioner has written off the liability.

Subd. 6. NAMES PUBLISHED IN ERROR. If the commissioner publishes a name under subdivision 1 in error, the taxpayer whose name was erroneously published has a right to request a retraction and apology. If the taxpayer so requests, the commissioner shall publish a retraction and apology acknowledging that the taxpayer's name was published in error. The retraction and apology must appear in the same medium and the same format as the original list that contained the name listed in error.

Subd. 7. PAYMENT OF DAMAGES. Actions against the commissioner or the state of Minnesota arising out of the implementation of this program must be brought under section 270C.275. If an action results in damages awarded to a taxpayer, the damages must be paid out of the department's operating budget rather than in accordance with section 3.736, subdivision 7. [270.691]

EFFECTIVE DATE. This section is effective August 1, 2005.

OVERSIGHT AND ADMINISTRATION OF PROPERTY TAX SYSTEM

Sec. 92. [270C.85] ADMINISTRATION OF PROPERTY TAX LAWS; POWERS AND DUTIES.

Subdivision 1. GENERAL SUPERVISION. The commissioner shall have and exercise general supervision over the administration of the property tax laws, 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. [270.06(1)]

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Subd. 2. **POWERS AND DUTIES.** The commissioner shall have and exercise the following powers and duties in administering the property tax laws.

(a) 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. [270.06(2)]

(b) 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 property tax laws, 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. [270.06(3)]

(c) Require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture, and punishment, for violation of the property tax laws in their respective districts or counties. [270.06(4)]

(d) Require town, city, county, and other public officers to report information as to the assessment of property, and such other information as may be needful in the work of the commissioner, in such form as the commissioner may prescribe. [270.06(5)]

(e) 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 for the preceding years, showing all the taxable property subject to the property tax laws and the value of the same, in tabulated form. [270.06(12)]

(f) Inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties. [270.06(13)]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 93. [270C.86] POWER TO ABATE; CORRECTION OF ERRORS.

Subdivision 1. POWERS OF COMMISSIONER; APPLICATION FOR ABATEMENT; ORDERS. (a) Except for matters delegated to the various boards of county commissioners under section 375.192, and except as otherwise provided by law, the commissioner shall have power to grant such reduction or abatement of net tax capacities, taxes imposed by the property tax laws, or special assessments, and of any costs, penalties, or interest thereon as the commissioner may deem just and equitable, and to order the refundment, in whole or in part, of any taxes or special assessments, and costs, penalties, or interest thereon which have been erroneously or unjustly paid. Application therefor shall be submitted with a statement of facts in the case and the favorable recommendation of the county board or of the board of abatement of any city where any such board exists, and the county auditor of the county wherein such tax was levied or paid. No reduction, abatement, or refundment of any special assessments made or levied by any municipality for local improvements shall be made unless it is also approved by the board of review or similar taxing authority of such municipality.

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(b) The commissioner shall forward to the county auditor a copy of the order made by the commissioner in all cases in which the approval of the county board is required. [270.07, subd. 1(c)]

(c) An appeal may not be taken to the Tax Court from any order of the commissioner made in the exercise of the discretionary authority granted in paragraph (a) with respect to the reduction or abatement of real or personal property taxes in response to an application for an abatement, reduction, or refund of taxes, net tax capacities, costs, penalties, or interest. [270.07, subd. 1(f)]

Subd. 2. EXAMINATION OF APPLICATION; REDUCTIONS; APPEALS.

(a) The commissioner shall examine all applications submitted by a county board pursuant to section 375.192, subdivision 3. If the applicant has previously submitted a claim for property tax relief pursuant to chapter 290A based on the property taxes payable prior to receiving the abatement, the commissioner may approve the application in an amount reduced by the relief provided pursuant to chapter 290A.

(b) An appeal may be taken to the Tax Court from an order of the commissioner made pursuant to this subdivision. [270.07, subd. 1a]

Subd. 3. CORRECTION OF ERRORS. On application of the county auditor with the approval of the county board, the commissioner may order the correction of any administrative and clerical errors in the assessment, levy, and extension of taxes under the property tax laws, other than valuation. [270.07, subd. 2]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 94. [270C.87] REVISION OF MINNESOTA ASSESSORS' MANUAL.

In accordance with the provisions of section 270C.06, the commissioner shall periodically revise the Minnesota assessors' manual. [270.068]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 95. [270C.88] ORDERS; DECISIONS.

Subdivision 1. IN WRITING. Any order or decision of the commissioner increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$1,000 on real or personal property, or the net tax capacity thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable under the property tax laws, including penalties and interest, by a sum exceeding \$1,000, must bear the written signature or facsimile signature of the commissioner or the commissioner's delegate. Written approval of the commissioner or a delegate shall not be required with respect to orders reducing net tax capacity of property by reason of its classification as a homestead.

Subd. 2. ONLY OFFICIAL ACTIONS OF COUNTY BOARD OR OTHER AGENCY ACTED UPON. No action requiring the recommendation or approval of any county board or other public agency shall be taken by the commissioner, or any other employees or agents of the department, unless such recommendation or approval shall have been made upon official action by such county board or other agency,

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entered upon the minutes or record of its proceedings as a public record, showing the names of the taxpayers and other persons concerned and the amounts involved, and so certified by the recording officer of such board or agency. [270.10]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 96. [270C.89] COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.

Subdivision 1. INITIAL REPORT. Each county assessor shall file by April 1 with the commissioner a copy of the abstract that will be acted upon by the local and county boards of review. The abstract must list the real and personal property in the county itemized by assessment districts. The assessor of each county in the state shall file with the commissioner, within ten working days following final action of the local board of review or equalization and within five days following final action of the county board of equalization, any changes made by the local or county board. The information must be filed in the manner prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the appropriate board. [270.11, subd. 2]

Subd. 2. FINAL REPORT. The final abstract of assessments after adjustments by the State Board of Equalization and inclusion of any omitted property shall be submitted to the commissioner on or before September 1 of each calendar year. The final abstract must separately report the captured tax capacity of tax increment financing districts under section 469.177, subdivision 2, the metropolitan revenue contribution value under section 473F.07, and the value subject to the power line credit under section 273.42. [270.11, subd. 2]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 97. [270C.90] COUNTY AUDITOR TO CALCULATE TAX RATE.

The county auditor shall calculate the tax rate necessary to raise the required amount of the various taxes on the net tax capacity of all property as returned by the commissioner and the State Board of Equalization. [270.14]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 98. [270C.91] RECORD OF PROCEEDINGS CHANGING NET TAX CAPACITY; DUTIES OF COUNTY AUDITOR.

A record of all proceedings of the commissioner affecting any change in the net tax capacity of any property, as revised by the State Board of Equalization, shall be kept by the commissioner and a copy thereof, duly certified, shall be mailed each year to the auditor of each county wherein such property is situated, on or before June 30 or 30 days after submission of the abstract required by section 270C.89, whichever is later. This record shall specify the amounts or amount, or both, added to or deducted from the net tax capacity of the real property of each of the several towns and cities, and of the real property not in towns or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns and cities, and also the amount added to or deducted from the assessment of any person.

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The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in the county the required percent or amount, or both, on the net tax capacity thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no net tax capacity of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in the county the required percent or amount, or both, on the net tax capacity thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no net tax capacity of any separate class of personal property shall contain a fraction of a dollar, and add to or deduct from assessment of any person, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner. [270.13]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 99. [270C.92] IMPROPER OR NEGLIGENT ADMINISTRATION OF PROPERTY TAX LAWS.

Subdivision 1. EXAMINATION OF COMPLAINTS; PROCEEDINGS. The commissioner shall receive complaints and examine all cases where it is alleged that property subject to taxation has not been assessed or has been fraudulently or for any reason improperly or unequally assessed, or the law in any manner evaded or violated, and cause to be instituted such proceedings as will remedy improper or negligent administration of the property tax laws. [270.11, subd. 5]

Subd. 2. CHANGE OF MARKET VALUES. In administering the property tax laws, the commissioner shall raise or lower the market value of any real or personal property, including the power to raise or lower the market value of the real or personal property of any person; provided, that before any such assessment against the property of any person is so raised, notice of an intention to raise such market value and of the time and place at which a hearing thereon will be held shall be given to such person, by mail, addressed to the person at the place of residence listed upon the assessment book, at least five days before the day of such hearing.

All relevant and material evidence concerning the market value of the real or personal property shall be submitted at the hearing, and the hearing shall not be a "contested case" within the meaning of section 14.02, subdivision 3. The person notified of the hearing, or any other person having an interest in the property, may present evidence and argument bearing upon the market value of the property. [270.11, subd. 6]

Subd. 3. APPEARANCES BEFORE THE COMMISSIONER. A property owner, other than a public utility or mining company, for which the original assessments are determined by the commissioner, may not appear before the commissioner for the purposes provided in subdivision 1 or 2 unless a timely appearance in person, by counsel, or by written communication has been made before the county board of equalization as provided in section 274.13, to appeal the assessment of the property, or that the property owner can establish not receiving

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notice of market value at least five days before the local board of review meeting.

The commissioner may refuse to hear an appeal that is within the jurisdiction of the Small Claims Division of the Tax Court as stated in section 271.21, subdivision 2. The property owner shall be notified by the commissioner of the right to appeal to the Small Claims Division whenever an appeal to the commissioner is denied. [270.11, subd. 7]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 100. [270C.921] MUNICIPALITY MAY BE PARTY TO TAX HEARING.

Any city, town, school district, or county (all of which governmental subdivisions shall be embraced in the word "municipality" as used in sections 270C.921 to 270C.928) may appear at and become a party to any proceedings before the commissioner under section 270C.92 held for the purpose of equalizing or assessing any real or personal property in the municipality, or reducing the net tax capacity of any such property. For that purpose the municipality may employ counsel and disburse money for other expenses in connection with the proceedings, on duly itemized, verified claims, which shall be audited and allowed as now provided by law for the allowance of claims against a municipality. It shall be the duty of the commissioner, at the time of a hearing, to grant the municipality, at its request, any further reasonable time as may be necessary for the municipality to prepare for further hearing. Before granting any reduction in net tax capacity exceeding \$100,000, it shall be the duty of the commissioner, when any taxpayer or property owner has applied to the commissioner after June 30, 1983, for a reduction of the net tax capacity of any real or personal property in an amount exceeding \$100,000, to give written notice to the officials of the municipality where the property is located and to permit the municipality to have reasonable opportunity to be heard at any proceedings concerning such reduction. [270.19]

Sec. 101. [270C.922] MUNICIPALITY MAY REQUEST TAX HEARING.

Any municipality may, at any time within ten days after the final adjournment of the county board of equalization of the county in which the municipality is located or within ten days after the filing with the auditor of such county of any order of the commissioner reducing the net tax capacity of any property in the municipality, file a written request with the commissioner for a hearing under section 270C.92 upon the equalization or assessment of any property within the municipality, specifying the property and the name and address of the owner thereof, as they appear from the assessment books. The commissioner shall then order a hearing and mail a notice stating the time and place of the hearing to the municipality and to the owner of the property. It shall be the duty of the commissioner, at the time of a hearing, to grant the municipality, at its request, such further reasonable time as may be necessary for the municipality to prepare for further hearing. [270.20]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 102. [270C.923] WITNESSES SUMMONED.

In any hearing before the commissioner under section 270C.92, the commissioner shall, upon the request of a municipality or any other party to the proceedings, issue subpoenas and summon witnesses to appear and give testimony, and to produce books, records, papers, and documents. For the purpose of preparing for and participating in a hearing the municipality shall have access to, and use of, all the data, records, and files of the commissioner pertaining to the property in question. Upon demand of any party a record shall be kept by the commissioner of all evidence offered or received at a hearing, the cost thereof to be paid by the party making such demand. [270.21]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 103. [270C.924] FINDINGS OF FACT AND ORDER; APPEALS.

Subdivision 1. FINDINGS OF FACT. For hearings held under section 270C.92, the commissioner shall determine the controversy upon the evidence produced at the hearing and shall make and file written findings of fact and an order determining the controversy. In the equalization and determination of net tax capacities, the findings and net tax capacities as given by the assessor of the local assessment district shall be considered as prima facie correct. Copies of the order and findings shall be mailed to all parties appearing at the hearing and to the auditor of the county in which the property is located.

Subd. 2. APPEAL BY MUNICIPALITY. Any municipality which has appeared in the proceedings, and which is aggrieved by the order of the commissioner reducing the net tax capacity of any of the property, or failing to increase the net tax capacity, may have the order of the commissioner reviewed by appeal to the Court of Appeals, on either of the following grounds: (1) that the determination of the commissioner was not in accordance with the property tax laws, or that the commissioner committed any other error of law; or (2) that the findings of fact and determination of net tax capacity were unwarranted by or were contrary to the weight of the evidence.

Subd. 3. APPEAL BY PROPERTY OWNER. Any owner of property who has appeared in the proceedings and who is aggrieved by the order of the commissioner raising the net tax capacity of the property, or failing to reduce the net tax capacity, may have the order of the commissioner reviewed on appeal to the Court of Appeals in like manner and upon the same grounds as provided for review on the appeal of any municipality. [270.22]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 104. [270C.925] NOTICE OF APPEAL.

To secure review of a determination made by the commissioner under section 270C.924, the municipality shall, within 30 days after mailing of notice of the determination, serve upon the commissioner a notice of appeal to the Court of Appeals from the order of the commissioner and file the original, with proof of service, with the clerk of the appellate courts, paying the filing fee provided by law for appeals in civil actions. The filing of the notice of appeal shall vest the court with jurisdiction and the appeal shall be heard and disposed of as in other civil cases.

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The court shall reverse or affirm the order of the commissioner or remand the cause to the commissioner for a new hearing or further proceedings or for other disposition, with further directions as the court deems proper. [270.23]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 105. [270C.926] APPEAL DOES NOT STAY COLLECTION.

The institution of any appeal under sections 270C.924 and 270C.925 from the order of the commissioner does not stay any proceedings for the assessment or collection of taxes against the property involved therein. Notwithstanding such appeal, the commissioner shall file with the auditor of the county in which such property is situated an order confirming, increasing, decreasing, or determining the net tax capacity thereof, and the county auditor shall extend and levy against such property, or the owner thereof, the taxes thereupon for such year according to such assessment, and all subsequent proceedings for the determination of the taxes and the collection thereof shall be taken as if no appeal from such order were pending. When the matter is finally determined on review a properly authenticated copy of the findings, order, or judgment shall be filed with the auditor of the county in which the land or property referred to in the proceedings is situated. If such order or judgment lowers the net tax capacity of the land or property referred to in the proceedings, the commissioner, upon petition of the owner, approved by the county board, shall abate so much of the taxes against such property as is attributable to the excessive net tax capacity thereof. If such tax has been paid, the county auditor, upon petition of the owner, approved by the county board and the commissioner, shall refund so much of such payment as is attributable to such excess net tax capacity. Upon such refund being made the county auditor shall charge the same to the state and the various governmental subdivisions thereof that participated in such excessive payment, in proportion to their respective shares therein, and deduct the same in the next tax apportionment. [270.24]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 106. [270C.927] INCREASE IN NET TAX CAPACITY; ADDITIONAL TAXES.

If the final order and judgment in a hearing before the commissioner under section 270C.92, or any appeal thereof, result in raising the net tax capacity of the property affected by the proceedings, the county officers shall, for the next ensuing year, in addition to the regular taxes levied for such ensuing year, levy, extend, and spread against such property, if real property, or against the owner thereof, if personal property, a tax equal to the difference between the taxes actually levied and extended against such property, or owner, for the year in question and the taxes which should have been levied or extended against such property, or owner, at the increased net tax capacity as finally determined. [270.25]

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 107. [270C.928] PROCEEDINGS TO DETERMINE NET TAX CAPACITY.

The proceedings provided in sections 270C.92 to 270C.927 are for determining the net tax capacity upon the basis of which taxes are spread against property, or its owner, in the first instance. The order of the commissioner, or the final order for judgment of the Court of Appeals on it, shall not be a bar to any defense against the taxes interposed at the time of the proceedings for judgment on them. All defenses which may be set up against the proceedings for judgment upon the taxes may be asserted notwithstanding the determination of the commissioner or the court. If the taxes are levied or extended pending review of the order of the commissioner by the court, a judgment entered upon the taxes in the tax delinquency proceedings shall not be a bar to the spreading of further taxes against the property for that year, in the event the net tax capacity of the property is raised as herein provided. In the proceedings for the collection of any taxes which include an additional levy because of the raising of the net tax capacity of any property, the owner may answer separately to the proceedings to obtain judgment for the excess levy. [270.26]

EFFECTIVE DATE. This section is effective August 1, 2005.

REASSESSMENT OF OMITTED OR UNDERVALUED PROPERTIES

Sec. 108. [270C.94] PROPERTY OMITTED OR UNDERVALUED; REASSESSMENT; APPOINTMENT OF SPECIAL ASSESSOR.

Subdivision 1. PROPERTY OMITTED OR UNDERVALUED. When it shall be made to appear to the commissioner, by complaint or by the finding of a court or of the legislature, or either body of the legislature, or any committee of the legislature, or any city council or county board, that any considerable amount of property has been improperly omitted from the tax list or assessment roll of any district or county for any year, or, if assessed, that the same has been undervalued or overvalued, as compared with like property in the same county or in the state so that the assessment for such year in such district or county is grossly unfair and inequitable, whether or not the same has been equalized by the county board of equalization or the commissioner, the commissioner shall examine into the facts in the matter and, if satisfied that it would be for the best interests of the state that a reassessment of such property be made, the commissioner shall appoint a special assessor and such deputy assessors as may be necessary and cause a reassessment to be made of all or any of the real and personal property, or either, in any such district or county as the commissioner may deem best, to the end that all property in such district or county shall be assessed equitably as compared with like property in such district or county. [270.16, subd. 1]

Subd. 2. SPECIAL ASSESSORS, DEPUTIES; REASSESSMENTS. The commissioner shall appoint a special assessor and deputies and cause to be made, in any year, a reassessment of all or any real and personal property, or either, in any assessment district, when in the commissioner's judgment such reassessment is desirable or necessary, to the end that any and all property in such district shall be assessed equitably as compared with like property in the county wherein such district is situated. [270.11, subd. 3]

Subd. 3. FAILURE TO APPRAISE. When an assessor has failed to properly appraise at least one-quarter of the parcels of property in a district or county as

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provided in section 273.01, the commissioner shall appoint a special assessor and deputy assessor as necessary and cause a reappraisal to be made of the property due for reassessment in accordance with law. [270.16, subd. 2]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 109. [270C.95] QUALIFICATION OF ASSESSORS; REASSESSMENT, HOW MADE.

Every special assessor and deputy appointed under the provisions of section 270C.94 shall subscribe and file with the commissioner an oath to faithfully and fairly perform the duties of office. Such special assessor, assisted by deputies, shall thereupon proceed to carefully examine and reassess the property so to be reassessed and prepare duplicate lists of such reassessment in such form as the commissioner may prescribe, showing the property or person so reassessed, the amount of the original assessment thereof made in such year, and opposite the same the reassessment so made by such special assessor. The special assessor shall file both copies of such list with the commissioner; and the commissioner shall thereupon examine, equalize, and correct such reassessment so as to substantially conform with the assessment of like property throughout the state and transmit to the auditor of the county wherein such reassessment was so made one copy of such reassessment by the commissioner so corrected and equalized. Such list shall for all purposes supersede and be in place of the original assessment made for such year upon such property and the county auditor, upon receipt thereof, shall extend and levy against such property so reassessed the taxes thereon for such year according to such reassessment in the same manner as though such list was the original assessment list of such property. Any person feeling aggrieved by an assessment so made against the person, or upon any property at that time owned by the person, may appeal therefrom to the district court of the county in which such assessment is made. To render the appeal effective for any purpose, the appellant shall file a notice of the appeal with the auditor of such county within 30 days after the making of the assessment, which notice shall specify the ground upon which the appeal was taken, and no other or different service shall be required to perfect it. Upon the filing of the notice the county auditor shall make and file in the office of the court administrator of the district court a certified copy of the notice and of the particular assessment appealed from and notify the county attorney of such county of the pendency of the appeal. Thereupon the district court shall be deemed to have acquired jurisdiction of the matter and proceed to hear and determine it in like manner as other tax matters are tried and determined in the district courts of this state. The county attorney of such county shall appear for and defend the interests of the state in such matter. [270.17]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 110. [270C.96] REASSESSMENT; COMPENSATION; REIMBURSEMENT BY COUNTIES.

The compensation of each special assessor and deputies, appointed under the provisions of section 270C.94 and the expenses as such, shall be fixed by the commissioner and paid out of money appropriated for operation of the department. The

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commissioner on August 1 shall notify the auditor of each affected county of the amount thereof paid on behalf of such county since August 1 of the preceding year, whereupon the county auditor shall levy a tax upon the taxable property in the assessment district or districts wherein such reassessment was made sufficient to pay the same. One-half of such tax shall be levied in the year in which the commissioner so notifies the county auditor and the remaining one-half shall be levied in the following year. The respective counties shall reimburse the state by paying one-half of the tax so assessed on or before July 1 and the remaining one-half on or before December 1 in the year in which the tax is payable by owner, whether or not the tax was collected by the county. The reimbursement shall be credited to the general fund. If any county fails to reimburse the state within the time specified herein, the commissioner is empowered to order withholding of state aids or distributions to such county equal to the amount delinquent. [270.18]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 111. [270C.97] OMITTED PROPERTY.

The commissioner shall require the county auditor to place upon the assessment rolls omitted property which may be discovered to have escaped assessment and taxation in previous years. [270.11, subd. 4]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 112. [270C.98] SENIOR ACCREDITATION.

The legislature finds that the property tax system would be enhanced by requiring that every senior appraiser in the Property Tax Division of the department obtain senior accreditation from the State Board of Assessors. Every senior appraiser, including the department's regional representatives, and every county assessor within two years of the first appointment under section 273.061, must obtain senior accreditation from the state Board of Assessors. The board shall provide the necessary courses or training. If a department senior appraiser or regional representative fails to obtain or maintain senior accreditation, the failure shall be grounds for dismissal, disciplinary action, or corrective action. Except as provided in section 273.061, subdivision 2, paragraph (c), the commissioner must not approve the appointment of a county assessor who is not senior accredited by the State Board of Assessors. No employee hired by the commissioner as a senior appraiser or regional representative shall attain permanent status until the employee obtains senior accreditation. [270.485]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 113. [270C.99] CERTAIN TOWNSHIPS AND CITIES OPTION TO ELECT TO REINSTATE THE OFFICE OF ASSESSOR.

Notwithstanding the provisions of section 273.05, subdivision 1, a city or township in which the office of assessor has been eliminated because of failure to fill a vacancy in the office within 90 days pursuant to section 273.05, subdivision 1, may elect, with the approval of the commissioner, to have the office of assessor reinstated by hiring a certified or accredited assessor. This section shall not apply to Ramsey

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county or to cities and townships located in counties which have elected a county assessment system in accordance with section 273.055. [270.494]

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 114. RULES; EFFECT OF RECODIFICATION.

Notwithstanding Minnesota Statutes, section 14.05, subdivision 1, Minnesota Rules, chapters 8001, 8002, 8007, 8009, 8017, 8019, 8020, 8031, 8034, 8038, 8043, 8050, 8052, 8092, 8093, 8100, 8106, 8110, 8120, 8121, 8122, 8125, 8130, 8160, 8165, 8170, and 8175, shall continue under the authority granted in Minnesota Statutes, section 270C.06. Furthermore, Minnesota Statutes, section 14.125, does not apply, and the Department of Revenue may subsequently amend or repeal these rules from time to time without additional legislative authorization.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 115. PURPOSE AND EFFECT.

Subdivision 1. PURPOSE. It is the intent of the legislature to simplify Minnesota's tax laws by consolidating and recodifying tax administration and compliance provisions now contained in Minnesota Statutes, chapter 270, and several other chapters of Minnesota Statutes. The provisions of this act may not be used to determine the law in effect prior to the effective dates in this act.

Subd. 2. EFFECT. Due to the complexity of the recodification, prior provisions are repealed on the effective date of the new provisions. The repealed provisions, however, continue to remain in effect until superseded by the analogous provision in the new law.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 116. REVISOR INSTRUCTION.

(a) To the extent practicable, the revisor shall publish the statutory derivations of the laws repealed and recodified in this article in Laws of Minnesota.

(b) The revisor shall correct cross-references in Minnesota Statutes and Minnesota Rules to sections that are repealed and recodified by this article.

(c) Notwithstanding any law to the contrary, if a provision of a section of Minnesota Statutes repealed by this article is amended or repealed during the same legislative session, the amendment or repealer shall supersede the provisions of this article, and the revisor shall codify the amendment or repealer consistent with the recodification of the affected section by this article. In addition, the revisor shall code new sections or subdivisions enacted during the legislative session consistent with the recodification.

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 117. REPEALER.

Minnesota Statutes 2004, sections 270.01; 270.02; 270.021; 270.022; 270.04; 270.05; 270.052; 270.058; 270.059; 270.06; 270.0601; 270.0602; 270.0603; 270.0604; 270.0605; 270.061; 270.062; 270.063; 270.064; 270.065; 270.066; 270.0665; 270.067; 270.068; 270.0681; 270.0682; 270.069; 270.07; 270.084; 270.09; 270.10; 270.101; 270.102; 270.11, subdivisions 2, 3, 4, 5, 6, and 7; 270.13; 270.14; 270.15; 270.16; 270.17; 270.18; 270.19; 270.20; 270.21; 270.22; 270.23; 270.24; 270.25; 270.26; 270.27; 270.271; 270.272; 270.273; 270.274; 270.275; 270.276; 270.277; 270.278; 270.30; 270.485; 270.494; 270.60; 270.65; 270.652; 270.66; 270.67; 270.68; 270.69; 270.691; 270.70; 270.7001; 270.7002; 270.701; 270.702; 270.703; 270.704; 270.705; 270.706; 270.707; 270.708; 270.709; 270.71; 270.72; 270.721; 270.73; 270.74; 270.75; 270.76; 270.771; 270.78; 270.79; 287.39; 289A.07; 289A.13; 289A.31, subdivisions 3, 4, and 6; 289A.36; 289A.37, subdivisions 1, 3, 4, and 5; 289A.38, subdivision 13; 289A.43; 289A.65; 290.48, subdivisions 3 and 4; 290.92, subdivisions 6b, 22, and 23; 290.97; 296A.20; 296A.201; 296A.25; 297A.86; 297A.93; 297D.14; 297E.08; 297E.09; 297E.12, subdivision 10; 297E.15; 297F.15, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 297F.16; 297F.22; 297G.14, subdivisions 1, 2, 3, 4, 5, 6, 7, and 8; 297G.15; 297G.21; 297I.45; 297I.50; 297I.55; and 297I.95, are repealed.

EFFECTIVE DATE. This section is effective August 1, 2005.

ARTICLE 2
CONFORMING PROVISIONS

Section 1. Minnesota Statutes 2004, section 16D.08, subdivision 2, is amended to read:

Subd. 2. **POWERS.** (a) In addition to the collection remedies available to private collection agencies in this state, the commissioner, with legal assistance from the attorney general, may utilize any statutory authority granted to a referring agency for purposes of collecting debt owed to that referring agency. The commissioner may also use the tax collection remedies in sections 270.06, 270.66, 270.67, subdivisions 2 and 4, 270.69, 270.70, 270.7001 to 270.72, and 290.92, subdivision 23 270C.03, subdivision 1, clause (8), 270C.31, 270C.32, 270C.52, subdivisions 2 and 3, 270C.63, 270C.65, and 270C.67 to 270C.72. A debtor may take advantage of any administrative or appeal rights contained in the listed sections. For administrative and appeal rights for nontax debts, references to administrative appeals or to the taxpayer rights advocate shall be construed to be references to the case reviewer, references to Tax Court shall be construed to mean district court, and offers in compromise shall be submitted to the referring agency. A debtor who qualifies for cancellation of collection costs under section 16D.11, subdivision 3, clause (1), can apply to the commissioner for reduction or release of a continuous wage levy, if the debtor establishes that the debtor needs all or a portion of the wages being levied upon to pay for essential living expenses, such

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as food, clothing, shelter, medical care, or expenses necessary for maintaining employment. The commissioner's determination not to reduce or release a continuous wage levy is appealable to district court. The word "tax" or "taxes" when used in the tax collection statutes listed in this subdivision also means debts referred under this chapter.

(b) Before using the tax collection remedies listed in this subdivision, notice and demand for payment of the amount due must be given to the person liable for the payment or collection of the debt at least 30 days prior to the use of the remedies. The notice must be sent to the person's last known address and must include a brief statement that sets forth in simple and nontechnical terms the amount and source of the debt, the nature of the available collection remedies, and remedies available to the debtor.

Sec. 2. Minnesota Statutes 2004, section 115B.49, subdivision 4, is amended to read:

Subd. 4. **REGISTRATION; FEES.** (a) The owner or operator of a dry cleaning facility shall register on or before October 1 of each year with the commissioner of revenue in a manner prescribed by the commissioner of revenue and pay a registration fee for the facility. The amount of the fee is:

- (1) \$500, for facilities with a full-time equivalence of fewer than five;
- (2) \$1,000, for facilities with a full-time equivalence of five to ten; and
- (3) \$1,500, for facilities with a full-time equivalence of more than ten.

(b) A person who sells dry cleaning solvents for use by dry cleaning facilities in the state shall collect and remit to the commissioner of revenue in a manner prescribed by the commissioner of revenue, on or before the 20th day of the month following the month in which the sales of dry cleaning solvents are made, a fee of:

- (1) \$3.50 for each gallon of perchloroethylene sold for use by dry cleaning facilities in the state;
- (2) 70 cents for each gallon of hydrocarbon-based dry cleaning solvent sold for use by dry cleaning facilities in the state; and
- (3) 35 cents for each gallon of other nonaqueous solvents sold for use by dry cleaning facilities in the state.

(c) The audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A apply to the fee imposed by this subdivision. To enforce this subdivision, the commissioner of revenue may ~~examine documents, assess and collect fees, conduct investigations, issue subpoenas, grant extensions to file returns and pay fees, impose penalties and interest on the annual registration fee under paragraph (a) and the monthly fee under paragraph (b), and abate penalties and interest, and administer appeals,~~ in the manner provided in chapters ~~270~~ 270C and 289A. The penalties and interest imposed on taxes under chapter 297A apply to the fees imposed under this subdivision. Disclosure of data collected by the commissioner of revenue under this subdivision is governed by chapter 270B.

EFFECTIVE DATE. This section is effective August 1, 2005.

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Sec. 3. Minnesota Statutes 2004, section 239.785, subdivision 4, is amended to read:

Subd. 4. ~~COMMISSIONER'S AUTHORITY ADMINISTRATION AND ENFORCEMENT.~~ The provisions of chapter 296A relating to the commissioner's authority to audit, assess, and collect the tax imposed by that chapter assessment, appeal, collection, and administrative provisions of chapters 270C and 296A, that apply to the taxes imposed by chapter 296A, apply to the fee imposed by this section.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 4. Minnesota Statutes 2004, section 256.9657, subdivision 7, is amended to read:

Subd. 7. **COLLECTION; CIVIL PENALTIES.** The provisions of sections 270C.31, except subdivisions 5 and 7; 270C.32, except subdivisions 6 and 10; 270C.33; 270C.61, subdivision 2; and 289A.35 to 289A.50 relating to the authority to audit, assess, collect, and pay refunds of other state taxes may be implemented by the commissioner of human services with respect to the tax, penalty, and interest imposed by this section. The commissioner of human services shall impose civil penalties for violation of this section as provided in section 289A.60, and the tax and penalties are subject to interest at the rate provided in section ~~270.75~~ 270C.40. The commissioner of human services shall have the power to abate penalties and interest when discrepancies occur resulting from, but not limited to, circumstances of error and mail delivery. The commissioner of human services shall bring appropriate civil actions to collect provider payments due under this section.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 5. Minnesota Statutes 2004, section 256.9792, subdivision 8, is amended to read:

Subd. 8. **REMEDIES.** (a) The commissioner of revenue is authorized to use the tax collection remedies in sections 270.06, clause (7); 270.69 to 270.72, and 290.92, subdivision 23 270C.32, subdivision 1, 270C.63, 270C.67, 270C.68, 270C.69, 270C.70 to 270C.72, and 270C.728, and tax return information to collect arrearages.

(b) Liens arising under paragraph (a) shall be perfected under the provisions of section ~~270.69~~ 270C.63. The lien may be filed as long as the time period allowed by law for collecting the arrearages has not expired. The lien shall attach to all property of the debtor within the state, both real and personal under the provisions of section ~~270.69~~ 270C.63. The lien shall be enforced under the provisions in section ~~270.69~~ 270C.63 relating to state tax liens.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 6. Minnesota Statutes 2004, section 273.11, subdivision 5, is amended to read:

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Subd. 5. **BOARDS OF REVIEW AND EQUALIZATION.** Notwithstanding any other provision of law to the contrary, the limitation contained in subdivisions 1 and 1a shall also apply to the authority of the local board of review as provided in section 274.01, the county board of equalization as provided in section 274.13, the State Board of Equalization and the commissioner of revenue as provided in sections 270.11, subdivision 1, 270.12, 270C.92, and ~~270.16~~ 270C.94.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 7. Minnesota Statutes 2004, section 287.37, is amended to read:

287.37 INVESTIGATIONS AND ASSESSMENTS.

The commissioner of revenue may investigate and examine persons and transactions that are subject to this chapter using the powers and authorities granted in chapters ~~270~~ 270C and 289A. ~~The commissioner may issue orders of assessment under chapter 289A, and enforce collection of unpaid tax or penalty amounts, including interest, under the authority of chapter 270.~~ The audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A apply to the taxes imposed by this chapter. All tax amounts collected by the commissioner must be apportioned under section 287.12. The commissioner's expenses under this section are not expenses of administration under section 287.33. All data and information made available to the commissioner under this section is public except for investigative data covered by section 270B.03, subdivision 6.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 8. Minnesota Statutes 2004, section 289A.35, is amended to read:

289A.35 ASSESSMENTS; COMMISSIONER FILED ON RETURNS.

~~The commissioner has the authority to make determinations, corrections, and assessments with respect to state taxes, including interest, additions to taxes, and assessable penalties. The commissioner may audit and adjust the taxpayer's computation of federal taxable income, items of federal tax preferences, or federal credit amounts to make them conform with the provisions of chapter 290 or section 298.01. If a taxpayer fails to file a required return, the commissioner, from information in the commissioner's possession or obtainable by the commissioner, may make a return for the taxpayer. The return will be prima facie correct and valid. If a return has been filed, the commissioner shall enter the liability reported on the return and may make any audit or investigation that is considered necessary. The commissioner may use statistical or other sampling techniques consistent with generally accepted auditing standards in examining returns or records and making assessments.~~

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 9. Minnesota Statutes 2004, section 289A.42, subdivision 1, is amended to read:

Subdivision 1. **EXTENSION AGREEMENT.** If before the expiration of time prescribed in sections 270C.58, subdivision 13, 289A.38, and 289A.40 for the

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assessment of tax or the filing of a claim for refund, both the commissioner and the taxpayer have consented in writing to the assessment or filing of a claim for refund after that time, the tax may be assessed or the claim for refund filed at any time before the expiration of the agreed upon period. The period may be extended by later agreements in writing before the expiration of the period previously agreed upon. The taxpayer and the commissioner may also agree to extend the period for collection of the tax.

Sec. 10. Minnesota Statutes 2004, section 289A.60, subdivision 13, is amended to read:

Subd. 13. **PENALTIES FOR TAX RETURN PREPARERS.** (a) If an understatement of liability with respect to a return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is a tax return preparer with respect to the return or claim, the person shall pay to the commissioner a penalty of \$500. If a part of a property tax refund claim is excessive due to a willful attempt in any manner to overstate the claim for relief allowed under chapter 290A by a person who is a tax refund or return preparer, the person shall pay to the commissioner a penalty of \$500 with respect to the claim. These penalties may not be assessed against the employer of a tax return preparer unless the employer was actively involved in the willful attempt to understate the liability for a tax or to overstate the claim for refund. These penalties are income tax liabilities and may be assessed at any time as provided in section 289A.38, subdivision 5.

(b) A civil action in the name of the state of Minnesota may be commenced to enjoin any person who is a tax return preparer doing business in this state from further engaging in any conduct described in paragraph (e). An action under this paragraph must be brought by the attorney general in the district court for the judicial district of the tax return preparer's residence or principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over the action separate and apart from any other action brought by the state of Minnesota against the tax return preparer or any taxpayer as provided in section 270C.447.

(c) In an action under paragraph (b), if the court finds that a tax return preparer has:

(1) engaged in any conduct subject to a civil penalty under section 289A.60 or a criminal penalty under section 289A.63;

(2) misrepresented the preparer's eligibility to practice before the Department of Revenue, or otherwise misrepresented the preparer's experience or education as a tax return preparer;

(3) guaranteed the payment of any tax refund or the allowance of any tax credit; or

(4) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of state tax law, and injunctive relief is appropriate to prevent the recurrence of that conduct;

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the court may enjoin the person from further engaging in that conduct.

(d) If the court finds that a tax return preparer has continually or repeatedly engaged in conduct described in paragraph (c), and that an injunction prohibiting that conduct would not be sufficient to prevent the person's interference with the proper administration of state tax laws, the court may enjoin the person from acting as a tax return preparer. The court may not enjoin the employer of a tax return preparer for conduct described in paragraph (c) engaged in by one or more of the employer's employees unless the employer was also actively involved in that conduct.

(e) For purposes of this subdivision, the term "understatement of liability" means an understatement of the net amount payable with respect to a tax imposed by state tax law, or an overstatement of the net amount creditable or refundable with respect to a tax. The determination of whether or not there is an understatement of liability must be made without regard to any administrative or judicial action involving the taxpayer. For purposes of this subdivision, the amount determined for underpayment of estimated tax under either section 289A.25 or 289A.26 is not considered an understatement of liability.

(f) (d) For purposes of this subdivision, the term "overstatement of claim" means an overstatement of the net amount refundable with respect to a claim for property tax relief provided by chapter 290A. The determination of whether or not there is an overstatement of a claim must be made without regard to administrative or judicial action involving the claimant.

(g) (e) For purposes of this section, the term "tax refund or return preparer" means an individual who prepares for compensation, or who employs one or more individuals to prepare for compensation, a return of tax, or a claim for refund of tax. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. An individual is not considered a tax return preparer merely because the individual:

- (1) gives typing, reproducing, or other mechanical assistance;
- (2) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the individual is regularly and continuously employed;
- (3) prepares a return or claim for refund of any person as a fiduciary for that person; or
- (4) prepares a claim for refund for a taxpayer in response to a tax order issued to the taxpayer.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 295.57, subdivision 1, is amended to read:

Subdivision 1. **APPLICATION OF OTHER CHAPTERS.** Unless specifically provided otherwise by sections 295.50 to 295.59, the ~~enforcement~~, interest, appeal,

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criminal penalties, and refunds provisions in chapter 289A, the civil penalty provisions applicable to withholding and sales taxes under section 289A.60, and ~~collection and rulemaking provisions under chapter 270~~ the audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A, apply to taxes imposed under sections 295.50 to 295.59.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 12. Minnesota Statutes 2004, section 295.60, subdivision 7, is amended to read:

Subd. 7. **APPLICATION OF OTHER CHAPTERS.** Unless specifically provided otherwise by this section, the ~~enforcement, interest, appeal, criminal penalties, and refunds provisions in chapter 289A,~~ the civil penalty provisions applicable to withholding and sales taxes under section 289A.60, and collection and rulemaking provisions under chapter 270 the audit, assessment, appeal, collection, enforcement, and administrative provisions of chapters 270C and 289A, apply to taxes imposed under this section.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 13. Minnesota Statutes 2004, section 297A.64, subdivision 3, is amended to read:

Subd. 3. **ADMINISTRATION.** The retailer shall report and pay the tax imposed in subdivision 1 to the commissioner of revenue with the taxes imposed in this chapter. The tax imposed in subdivision 1 and the fee imposed in subdivision 2 are subject to the same interest, penalty, and other provisions provided for sales and use taxes under this chapter and chapter 289A and this chapter. ~~The commissioner has the same powers to assess and collect the tax and fee that are given the commissioner in chapters 270 and 289A and this chapter to assess and collect sales and use tax.~~ The audit, assessment, appeal, collection, enforcement, and administrative provisions of this chapter and chapters 270C and 289A, that apply to sales and use taxes, apply to the tax and fee.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 14. Minnesota Statutes 2004, section 297B.11, is amended to read:

297B.11 REGISTRAR AS AGENT OF COMMISSIONER OF REVENUE; POWERS.

The state commissioner of revenue is charged with the administration of the sales tax on motor vehicles. The commissioner may prescribe all rules not inconsistent with the provisions of this chapter, necessary and advisable for the proper and efficient administration of the law. The collection of this sales tax on motor vehicles shall be carried out by the motor vehicle registrar who shall act as the agent of the commissioner and who shall be subject to all rules not inconsistent with the provisions of this chapter; that may be prescribed by the commissioner.

The provisions of chapters 270C, 289A, and 297A relating to the commissioner's authority to audit, assess, and collect the tax, and to issue refunds and to hear appeals,

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are applicable to the sales tax on motor vehicles. The commissioner may impose civil penalties as provided in chapters 289A and 297A, and the additional tax and penalties are subject to interest at the rate provided in section ~~270.75~~ 270C.40.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 15. Minnesota Statutes 2004, section 297H.10, subdivision 1, is amended to read:

Subdivision 1. **ADMINISTRATION AND ENFORCEMENT.** The audit, assessment, appeal, collection, refund, penalty, interest, enforcement, ~~collection remedies~~, ~~appeal~~, and administrative provisions of chapters ~~270~~ 270C and 289A that are applicable to taxes imposed ~~under~~ by chapter 297A apply to this chapter.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 16. Minnesota Statutes 2004, section 297I.10, is amended by adding a subdivision to read:

Subd. 4. **COLLECTION AND ADMINISTRATION.** The commissioner shall administer the surcharge imposed by this section in the same manner as the taxes imposed by this chapter.

EFFECTIVE DATE. This section is effective August 1, 2005.

Sec. 17. **REVISOR'S INSTRUCTION.**

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B and insert the reference in column C.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>13.4961, subd 2</u>	<u>270.062</u>	<u>270C.05</u>
	<u>270.064</u>	<u>270C.055, subd 1</u>
	<u>270.21</u>	<u>270C.923</u>
<u>16D.11, subd 2</u>	<u>270.06, clause (7)</u>	<u>270C.32</u>
	<u>270.66</u>	<u>270C.65</u>
<u>16D.13, subd 2</u>	<u>270.75</u>	<u>270C.40</u>
<u>115C.09, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>126C.46</u>	<u>270.07</u>	<u>270C.86</u>
<u>126C.65, subd 4</u>	<u>270.13</u>	<u>270C.91</u>
<u>127A.49, subd 2</u>	<u>270.07</u>	<u>270C.86</u>
<u>144.1501, subd 5</u>	<u>270.75</u>	<u>270C.40</u>
<u>144.1502, subd 5</u>	<u>270.75</u>	<u>270C.40</u>
<u>239.785, subd 5</u>	<u>270.75</u>	<u>270C.40</u>
<u>256.9657, subd 7</u>	<u>270.75</u>	<u>270C.40</u>
<u>256B.064, subd 1c</u>	<u>270.75</u>	<u>270C.40</u>
<u>256B.431, subd 2d</u>	<u>270.75</u>	<u>270C.40</u>
<u>270.072, subd 6</u>	<u>270.65</u>	<u>270C.62</u>
	<u>270.69</u>	<u>270C.63</u>
<u>270.075, subd 2</u>	<u>270.75</u>	<u>270C.40</u>

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<u>270A.07, subd 5</u>	<u>270.76</u>	<u>270C.405</u>
<u>270B.03, subd 1</u>	<u>270.102 (twice)</u>	<u>270C.57 (twice)</u>
	<u>289A.31, subd 3</u>	<u>270C.58, subd 1</u>
<u>270B.08</u>	<u>297A.86</u>	<u>270C.722</u>
<u>270B.085, subd 1</u>	<u>270.70</u>	<u>270C.67</u>
<u>270B.085, subd 2</u>	<u>270.69</u>	<u>270C.63</u>
<u>270B.07, subd 1</u>	<u>270.72</u>	<u>270C.72</u>
<u>270B.09</u>	<u>270.66 (twice)</u>	<u>270C.65 (twice)</u>
	<u>290.97</u>	<u>270C.66</u>
<u>270B.12, subd 4</u>	<u>270.73</u>	<u>270C.725</u>
<u>270B.12, subd 7</u>	<u>270.72</u>	<u>270C.72</u>
<u>270B.12, subd 10</u>	<u>270.60</u>	<u>270C.19</u>
<u>271.06, subd 1</u>	<u>270.07, subd 1,</u>	<u>270C.86</u>
	para (a)	
<u>271.09, subd 1</u>	<u>270.07, subd 1</u>	<u>270C.86</u>
<u>271.12</u>	<u>270.76</u>	<u>270C.405</u>
<u>272.115, subd 1</u>	<u>270.066</u>	<u>270C.306</u>
<u>273.124, subd 13</u>	<u>270.0681</u>	<u>270C.12</u>
<u>273.16</u>	<u>270.19 to 270.26</u>	<u>270C.921 to 270C.928</u>
<u>273.372</u>	<u>270.11, subd 6</u>	<u>270C.92, subd 2</u>
<u>273.41</u>	<u>270.75</u>	<u>270C.40</u>
<u>274.13, subd 1a</u>	<u>270.11, subds 5</u>	<u>270C.92, subds 1</u>
	and 6	and 2
<u>274.16</u>	<u>270.11, subd 2</u>	<u>270C.89</u>
<u>275.025, subd 1</u>	<u>270.11, subd 2</u>	<u>270C.89</u>
<u>275.48</u>	<u>270.07</u>	<u>270C.86</u>
<u>277.20, subd 2</u>	<u>270.69</u>	<u>270C.63</u>
<u>277.21, subd 3</u>	<u>270.7001, 270.7002,</u>	<u>270C.68, 270C.69,</u>
	and 290.92, subd 23	and 270C.70
	<u>270.70 to 270.709</u>	<u>270C.67 to 270C.72</u>
<u>277.21, subd 13</u>	<u>270.701 to 270.709</u>	<u>270C.7101 to 270C.7109</u>
	<u>270.708</u>	<u>270C.7108</u>
<u>279.01, subd 2</u>	<u>270.07</u>	<u>270C.86</u>
<u>279.03, subd 1a</u>	<u>270.75 (twice)</u>	<u>270C.40 (twice)</u>
<u>279.34</u>	<u>270.07</u>	<u>270C.86</u>
<u>287.12</u>	<u>270.771</u>	<u>270C.42</u>
<u>287.29, subd 1</u>	<u>270.771</u>	<u>270C.42</u>
<u>287.385, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>287.385, subd 5</u>	<u>270.75</u>	<u>270C.40</u>
<u>287.385, subd 6</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.08, subd 1</u>	<u>289A.38, subd 13</u>	<u>270C.58, subd 3</u>
<u>289A.19, subd 2</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.25, subd 2</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.26, subd 4</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.31, subd 1</u>	<u>289A.38, subd 13</u>	<u>270C.58, subd 3</u>

New language is indicated by underline, deletions by strikeout.

<u>289A.31, subd 3</u>	<u>289A.38, subd 13</u>	<u>270C.58, subd 3</u>
<u>289A.31, subd 5</u>	<u>270.101</u>	<u>270C.56</u>
	<u>290.92, subd 22</u>	<u>270C.59</u>
<u>289A.31, subd. 7</u>	<u>270.101</u>	<u>270C.56</u>
<u>289A.38, subd 12</u>	<u>289A.31, subd 4</u>	<u>270C.58, subd 2</u>
	<u>(twice)</u>	<u>(twice)</u>
<u>289A.40, subd 1</u>	<u>289A.37, subd 1</u>	<u>270C.33</u>
	<u>289A.65</u>	<u>270C.35</u>
	<u>289A.35</u>	<u>270C.33, subd 3</u>
<u>289A.50, subd 1</u>	<u>270.10, subd 1</u>	<u>270C.33</u>
<u>289A.50, subd 7</u>	<u>289A.65</u>	<u>270C.35</u>
<u>289A.50, subd 8</u>	<u>270.07, subd 5</u>	<u>270C.64</u>
<u>289A.55, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.55, subd 7</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.55, subd 8</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.56, subd 1</u>	<u>270.76</u>	<u>270C.405</u>
<u>289A.60, subd 4</u>	<u>270.75</u>	<u>270C.40</u>
<u>289A.60, subd 5a</u>	<u>270.07, subds 1,</u>	
	<u>para (e), and 6</u>	<u>270C.34</u>
<u>289A.60, subd 16</u>	<u>297A.86</u>	<u>270C.722</u>
<u>289A.60, subd 21</u>	<u>270.07, subd 6</u>	<u>270C.34, subd 2</u>
<u>289A.63, subd 3</u>	<u>297A.86</u>	<u>270C.722</u>
<u>290.05, subd 8</u>	<u>289A.65</u>	<u>270C.35</u>
<u>290.06, subd 23</u>	<u>270.76</u>	<u>270C.405</u>
<u>290.30</u>	<u>289A.31, subd 3</u>	<u>270C.58, subd 1</u>
<u>290.92, subd 4b</u>	<u>270.69</u>	<u>270C.63</u>
	<u>270.70</u>	<u>270C.67</u>
<u>290.92, subd 30</u>	<u>289A.37 (twice)</u>	<u>270C.33 (twice)</u>
	<u>289A.65 (twice)</u>	<u>270C.35 (twice)</u>
<u>290.9201, subd 7</u>	<u>270.06, para (16)</u>	<u>270C.02, subd 2,</u>
		<u>para (b)</u>
<u>290B.04, subd 5</u>	<u>289A (twice)</u>	<u>270C (twice)</u>
<u>290B.07</u>	<u>270.75</u>	<u>270C.40</u>
<u>290C.08, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>295.55, subd 2</u>	<u>270.75</u>	<u>270C.40</u>
<u>295.55, subd 3</u>	<u>270.75</u>	<u>270C.40</u>
<u>295.57, subd 1</u>	<u>270</u>	<u>270C</u>
<u>295.60, subd 3</u>	<u>270.75</u>	<u>270C.40</u>
<u>295.60, subd 7</u>	<u>270</u>	<u>270C</u>
<u>296A.02, subd 2</u>	<u>section 270.06</u>	<u>chapter 270C</u>
	<u>section</u>	<u>chapter</u>
<u>296A.13</u>	<u>270.101</u>	<u>270C.56</u>
<u>296A.21, subd 2</u>	<u>270.68</u>	<u>270C.61</u>
<u>296A.22, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>296A.22, subd 2</u>	<u>270</u>	<u>270C</u>

New language is indicated by underline, deletions by strikeout.

<u>296A.22, subd 3</u>	<u>270.75</u>	<u>270C.40</u>
<u>297A.72, subd 2</u>	<u>289A.07</u>	<u>270C.304</u>
<u>297A.75, subd 4</u>	<u>270.76</u>	<u>270C.405</u>
<u>297A.85</u>	<u>297A.86</u>	<u>270C.722</u>
<u>297A.92, subd 2</u>	<u>289A.37, subd 5</u>	<u>270C.33, subd 8</u>
<u>297D.12, subd 1</u>	<u>270.70</u>	<u>270C.36</u>
	<u>270 (twice)</u>	<u>270C (twice)</u>
<u>297E.02, subd 4</u>	<u>270.76</u>	<u>270C.405</u>
<u>297E.02, subd 7</u>	<u>270.70</u>	<u>270C.36</u>
	<u>270 (twice)</u>	<u>270C (twice)</u>
<u>297E.03, subd 7</u>	<u>270.70</u>	<u>270C.36</u>
	<u>270 (twice)</u>	<u>270C (twice)</u>
<u>297E.03, subd 8</u>	<u>270.064</u>	<u>270C.055, subd 1</u>
<u>297E.11, subd 4</u>	<u>270.76</u>	<u>270C.405</u>
<u>297E.12, subd 6</u>	<u>270.07, subds 1,</u>	
	<u>para (e), and 6</u>	<u>270C.34</u>
<u>297E.14, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>297E.14, subd 6</u>	<u>270.75</u>	<u>270C.40</u>
<u>297E.02, subd 2</u>	<u>section 270.06</u>	<u>chapter 270C</u>
	<u>section</u>	<u>chapter</u>
<u>297F.04, subd 2</u>	<u>270.72</u>	<u>270C.72</u>
<u>297F.08, subd 4</u>	<u>270.60</u>	<u>270C.19</u>
<u>297F.09, subd 5</u>	<u>270.75</u>	<u>270C.40</u>
<u>297F.09, subd 9</u>	<u>270.75</u>	<u>270C.40</u>
<u>297F.18, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>297F.18, subd 6</u>	<u>270.75</u>	<u>270C.40</u>
<u>297F.185</u>	<u>297A.86</u>	<u>270C.722</u>
<u>297F.19, subd 6</u>	<u>270.07, subds 1,</u>	
	<u>para (e), and 6</u>	<u>270C.34</u>
<u>297G.02, subd 3</u>	<u>section 270.06</u>	<u>chapter 270C</u>
	<u>section</u>	<u>chapter</u>
<u>297G.09, subd 8</u>	<u>270.75</u>	<u>270C.40</u>
<u>297G.17, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>297G.17, subd 6</u>	<u>270.75</u>	<u>270C.40</u>
<u>297G.18, subd 6</u>	<u>270.07, subds 1,</u>	
	<u>para (e), and 6</u>	<u>270C.34</u>
<u>297I.40, subd 4</u>	<u>270.75</u>	<u>270C.40</u>
<u>297I.60, subd 2</u>	<u>297I.95</u>	<u>270C.35</u>
<u>297I.80, subd 1</u>	<u>270.75</u>	<u>270C.40</u>
<u>297I.80, subd 2</u>	<u>270.76</u>	<u>270C.405</u>
<u>297I.85, subd 7</u>	<u>270.07, subd 6</u>	<u>270C.34, subd 2</u>
<u>299L.07, subd 8</u>	<u>270.72</u>	<u>270C.72</u>
<u>325D.33, subd 8</u>	<u>270 (three times)</u>	<u>270C (three times)</u>
	<u>270.75 (three</u>	<u>270C.40 (three</u>
	<u>times)</u>	<u>times)</u>

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

<u>336.9-531</u>	<u>270.69, subd 2, para</u> <u>(b), clause (2)</u>	<u>270C.63, subd 4</u>
<u>349.155, subd 3</u>	<u>270.72</u>	<u>270C.72</u>
<u>349A.06, subd 2</u>	<u>270.72</u>	<u>270C.72</u>
<u>357.18, subd 2</u>	<u>270.69, subd 2,</u> <u>para (c)</u>	<u>270C.63, subd 6</u>
<u>559.21, subd 5</u>	<u>270.69, subd 7</u>	<u>270C.63, subd 11</u>
<u>469.171, subd 10</u>	<u>270.76</u>	<u>270C.405</u>
<u>469.1734, subd 6</u>	<u>270.76</u>	<u>270C.405</u>
<u>469.178, subd 7</u>	<u>270.75 (twice)</u>	<u>270C.40 (twice)</u>
<u>469.319, subd 4</u>	<u>270</u>	<u>270C</u>
	<u>270.75</u>	<u>270C.40</u>
<u>469.340, subd 4</u>	<u>270</u>	<u>270C</u>
	<u>270.75</u>	<u>270C.40</u>
<u>580.15</u>	<u>270.69, subd 7</u>	<u>270C.63, subd 11</u>
<u>588.21</u>	<u>289A.36, subd 3</u>	<u>270C.61, subd 2</u>

ARTICLE 3

PROPERTY TAXES

Section 1. Minnesota Statutes 2004, 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, 2003, and before December 31, ~~2003~~ 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.

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

Sec. 2. Minnesota Statutes 2004, section 272.02, subdivision 53, is amended to read:

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

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~~ December 31, 2004, and before ~~January 1, 2005~~ 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 taxes levied in 2005, payable in 2006 and thereafter.

Sec. 3. Minnesota Statutes 2004, section 272.02, subdivision 56, is amended 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~~ 300 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, except that property eligible for this exemption includes any expansion of the facility that also meets the requirements of paragraph (a), clauses (1) to (5), without regard to the date that construction of the expansion commences. 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.

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

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

Sec. 4. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 68. **ELECTRIC GENERATION FACILITY; PERSONAL PROPERTY.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-cycle combustion-turbine electric generation facility that exceeds 290 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 15 miles of an existing natural gas pipeline and within five miles of an existing electrical transmission substation;
- (4) be located outside the metropolitan area as defined under section 473.121, subdivision 2;
- (5) be designed to provide peaking capacity energy and ancillary services and have satisfied all of the requirements under section 216B.243; and
- (6) have received, by resolution, the approval from the governing body of the county, city, and school district 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, 2005, 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.

EFFECTIVE DATE. This section is effective for assessment year 2006, taxes payable in 2007, and thereafter.

Sec. 5. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 69. **ELECTRIC GENERATION FACILITY PERSONAL PROPERTY.** (a) Notwithstanding subdivision 9, clause (a), and section 453.54, subdivision 20, attached machinery and other personal property which is part of an electric generation facility that exceeds 150 megawatts of installed capacity and 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) be owned and operated by a municipal power agency as defined in section 453.52, subdivision 8;
- (3) have received the certificate of need under section 216B.243;

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

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

(5) be designed to be a combined-cycle facility, although initially the facility will be operated as a simple-cycle combustion turbine.

(b) To qualify under this subdivision, an agreement must be negotiated between the municipal power agency and the host city, for a payment in lieu of property taxes to the host city.

(c) Construction of the facility must be commenced after January 1, 2004, and before January 1, 2006. 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. 6. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 70. ELECTRIC GENERATION FACILITY; PERSONAL PROPERTY. Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of an existing simple-cycle, combustion-turbine electric generation facility that exceeds 300 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of the construction, the facility must:

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

(2) be owned by a public utility as defined in section 216B.02, subdivision 4, and be located at or interconnected with an existing generating plant of the utility;

(3) be designed to provide peaking, emergency backup, or contingency services;

(4) satisfy a resource need identified in an approved integrated resource plan filed under section 216B.2422; and

(5) have received, by resolution, the approval from the governing body of the county and the city for the exemption of personal property under this subdivision.

Construction of the facility expansion must be commenced after January 1, 2004, and before January 1, 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.

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

Sec. 7. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

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

Subd. 71. **ELECTRIC GENERATION FACILITY; PERSONAL PROPERTY.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of a simple-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 five miles of parallel existing 12-inch and 16-inch natural gas pipelines and a 69-kilovolt high-voltage electric transmission line;
- (4) be designed to provide peaking, emergency backup, or contingency services;
- (5) have received a certificate of need under section 216B.243 demonstrating demand for its capacity; and
- (6) have received by resolution the approval from the governing body of the county and township 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 July 1, 2005, 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.

EFFECTIVE DATE. This section is effective for assessment year 2006 and thereafter, for taxes payable in 2007 and thereafter.

Sec. 8. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 72. **ELECTRIC GENERATION FACILITY PERSONAL PROPERTY.** (a) Notwithstanding subdivision 9, clause (a), attached machinery and other personal property which is part of either a simple-cycle, combustion-turbine electric generation facility, or a combined-cycle, combustion-turbine electric generation facility that does not exceed 325 megawatts of installed capacity and that meets the requirements of this subdivision is exempt. At the time of construction, the facility must:

- (1) utilize either a simple-cycle or a combined-cycle combustion-turbine generator fueled by natural gas;
- (2) be connected to an existing 115-kilovolt high-voltage electric transmission line that is within two miles of the facility;
- (3) be located on an underground natural gas storage aquifer;
- (4) be designed as either a peaking or intermediate load facility; and
- (5) have received, by resolution, the approval from the governing body of the county for the exemption of personal property under this subdivision.

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

(b) Construction of the facility must be commenced after January 1, 2006, and before January 1, 2008. 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 2004, section 272.0211, subdivision 1, is amended to read:

Subdivision 1. **EFFICIENCY DETERMINATION AND CERTIFICATION.** An owner or operator of a new or existing electric power generation facility, excluding wind energy conversion systems, may apply to the commissioner of revenue for a market value exclusion on the property as provided for in this section. This exclusion shall apply only to the market value of the equipment of the facility, and shall not apply to the structures and the land upon which the facility is located. The commissioner of revenue shall prescribe the forms and procedures for this application. Upon receiving the application, the commissioner of revenue shall request the commissioner of commerce to make a determination of the efficiency of the applicant's electric power generation facility. In calculating the efficiency of a facility, The commissioner of commerce shall use a definition of calculate efficiency which calculates efficiency as the sum of:

- (1) the useful electrical power output; plus
- (2) the useful thermal energy output; plus
- (3) the fuel energy of the useful chemical products,

all divided by the total energy input to the facility, expressed as a percentage as the ratio of useful energy outputs to energy inputs, expressed as a percentage, based on the performance of the facility's equipment during normal full load operation. The commissioner must include in this formula the energy used in any on-site preparation of materials necessary to convert the materials into the fuel used to generate electricity, such as a process to gasify petroleum coke. The commissioner shall use the high Higher Heating Value (HHV) for all substances in the commissioner's efficiency calculations, except for wood for fuel in a biomass-eligible project under section 216B.2424; for these instances, the commissioner shall adjust the heating value to allow for energy consumed for evaporation of the moisture in the wood. The applicant shall provide the commissioner of commerce with whatever information the commissioner deems necessary to make the determination. Within 30 days of the receipt of the necessary information, the commissioner of commerce shall certify the findings of the efficiency determination to the commissioner of revenue and to the applicant. The commissioner of commerce shall determine the efficiency of the facility and certify the findings of that determination to the commissioner of revenue every two years thereafter from the date of the original certification.

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

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

Sec. 10. Minnesota Statutes 2004, section 272.0211, subdivision 2, is amended to read:

Subd. 2. **SLIDING SCALE EXCLUSION.** Based upon the efficiency determination provided by the commissioner of commerce as described in subdivision 1, the commissioner of revenue shall subtract five eight percent of the taxable market value of the qualifying property for each percentage point that the efficiency of the specific facility, as determined by the commissioner of commerce, is above ~~35~~ 40 percent. The reduction in taxable market value shall be reflected in the taxable market value of the facility beginning with the assessment year immediately following the determination. For a facility that is assessed by the county in which the facility is located, the commissioner of revenue shall certify to the assessor of that county the percentage of the taxable market value of the facility to be excluded.

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

Sec. 11. Minnesota Statutes 2004, 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:

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(1) the owner, the owner's spouse, or the son or daughter of the owner or owner's spouse, or the grandson or granddaughter of the owner or the 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:

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(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;

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(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 assessment year 2005 and thereafter, for taxes payable in 2006 and thereafter.

Sec. 12. Minnesota Statutes 2004, 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

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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 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 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 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 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

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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,

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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) postsecondary 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) a 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 abuts a public airport; and

(ii) the owner of the aircraft storage hangar provides the assessor with a signed agreement restricting the use of the premises, prohibiting commercial use or activity performed at the hangar; and

(9) 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:

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(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.

EFFECTIVE DATE. This section is effective for taxes payable in 2006 and subsequent years.

Sec. 13. Minnesota Statutes 2004, section 290A.07, is amended by adding a subdivision to read:

Subd. 5. **EARLY PAYMENT; E-FILE CLAIMS.** The commissioner may pay a claim up to 30 days earlier than the first permitted date under subdivision 2a or 3 if the claim is submitted by electronic means.

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

Sec. 14. Minnesota Statutes 2004, section 365.43, subdivision 1, is amended to read:

Subdivision 1. ~~LEVIED AMOUNT IS SPENDING LIMIT TOTAL REVENUE DEFINED.~~ A town must not contract debts or spend more money in a year than the taxes levied for the year its total revenue without a favorable vote of a majority of the town's electors. In this section, "total revenue" means property taxes payable in that year as well as amounts received from all other sources and amounts carried forward from the last year.

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Sec. 15. Minnesota Statutes 2004, section 365.431, is amended to read:
365.431 AMOUNT VOTED AT MEETING IS TAX LIMIT.

Except as otherwise authorized by law, the tax for town purposes must not be more than the amount voted to be raised at the annual town meeting.

Sec. 16. Minnesota Statutes 2004, section 366.011, is amended to read:
366.011 CHARGES FOR EMERGENCY SERVICES; COLLECTION.

A town may impose a reasonable service charge for emergency services, including fire, rescue, medical, and related services provided by the town or contracted for by the town. If the service charge remains unpaid 30 days after a notice of delinquency is sent to the recipient of the service or the recipient's representative or estate, the town or its contractor on behalf of the town may use any lawful means allowed to a private party for the collection of an unsecured delinquent debt. The town may also use the authority of section 366.012 to collect unpaid service charges of this kind from delinquent recipients of services who are owners of taxable real property in the ~~town~~ state.

The powers conferred by this section are in addition and supplemental to the powers conferred by any other law for a town to impose a service charge or assessment for a service provided by the town or contracted for by the town.

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

Sec. 17. Minnesota Statutes 2004, section 366.012, is amended to read:

366.012 COLLECTION OF UNPAID SERVICE CHARGES.

If a town is authorized to impose a service charge ~~on the owner, lessee, or occupant of property, or any of them,~~ for a governmental service provided by the town, the town board may certify to the county auditor of the county in which the recipient of the services owns real property, on or before October 15 for each year, any unpaid service charges which shall then be collected together with property taxes levied against the property. The county auditor shall remit to the town all service charges collected by the auditor on behalf of the town. A charge may be certified to the auditor only if, on or before September 15, the town has given written notice to the property owner of its intention to certify the charge to the auditor. The service charges shall be subject to the same penalties, interest, and other conditions provided for the collection of property taxes. This section is in addition to other law authorizing the collection of unpaid costs and service charges.

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

Sec. 18. Laws 1998, chapter 389, article 3, section 42, subdivision 2, as amended by Laws 2002, chapter 377, article 4, section 24, is amended to read:

Subd. 2. **RECAPTURE.** (a) Property or any portion thereof qualifying under section 38 is subject to additional taxes if:

(1) ownership of the property is transferred to anyone other than the spouse or child of the current owner;

(2) the current owner or the spouse or child of the current owner has not conveyed or entered into a contract before July 1, 2007, to convey for ownership or public

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easement rights, (i) a portion of the property to a one or more nonprofit foundation foundations or corporation operating corporations; and (ii) a portion of the property to one or more local governments; and those entities shall separately or jointly operate the property as an art park providing the services included in section 38, clauses (2) to (5), and may also use some of the property for other public purposes as determined by the local governments; or

(3) the nonprofit foundation or corporation to which a portion of the property was transferred ceases to provide the services included in section 38, clauses (2) to (5), earlier than ten years following the effective date of the conveyance conveyances or of the execution of the contract contracts to convey.

(b) The additional taxes are imposed at the earlier of (1) the year following transfer of ownership to anyone other than the spouse or child of the current owner or a nonprofit foundation or corporation or local government operating the property as an art park and used for other public purposes, or (2) for taxes payable in 2008, or (3) in the event the nonprofit foundation or corporation to which a portion of the property was conveyed ceases to provide the required services within ten years after the conveyance, for taxes payable in the year following the year when it ceased to do so.

The county board, with the approval of the city council, shall determine the amount of the additional taxes due on the portion of property which is no longer utilized as an art park; provided, however, that the additional taxes are equal to must not be greater than the difference between the taxes determined on that portion of the property utilized as an art park under sections 39 and 40 and the amount determined under subdivision 1 for all years that the property qualified under section 38. The additional taxes must be extended against the property on the tax list for the current year; provided, however, that No interest or penalties may be levied on the additional taxes if timely paid amount provided that it is paid within 30 days of the county's notice.

EFFECTIVE DATE. This section is effective March 1, 2005.

Sec. 19. Laws 2001, First Special Session chapter 5, article 3, section 8, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for taxes levied in 2002, payable in 2003, through taxes levied in ~~2007~~ 2009, payable in ~~2008~~ 2010.

Sec. 20. Laws 2005, chapter 43, section 1, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for taxes levied in ~~2005~~ 2004, payable in ~~2006~~ 2005, and thereafter.

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

Sec. 21. **SCHOOL PROPERTY; EXEMPTION 2005 ONLY.**

Notwithstanding Minnesota Statutes, section 272.02, subdivision 38, paragraph (b), the following property is exempt from taxation for assessment year 2004, for taxes payable in 2005, if it meets all the following criteria:

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- (1) is used to provide direct educational instruction for grades 7 through 10;
- (2) is located in a city of the first class that has a population greater than 250,000 and less than 350,000;
- (3) was purchased after July 1, 2004, by a nonprofit that is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and
- (4) is leased and operated by two nonprofit corporations organized under Minnesota Statutes, chapter 317A.

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

Sec. 22. REPEALER.

Laws 1998, chapter 389, article 3, section 41, is repealed.

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

ARTICLE 4

PROPERTY TAX AIDS AND CREDITS

Section 1. Minnesota Statutes 2004, section 4A.02, is amended to read:

4A.02 STATE DEMOGRAPHER.

(a) The director shall appoint a state demographer. The demographer must be professionally competent in demography and must possess demonstrated ability based upon past performance.

(b) The demographer shall:

- (1) continuously gather and develop demographic data relevant to the state;
- (2) design and test methods of research and data collection;
- (3) periodically prepare population projections for the state and designated regions and periodically prepare projections for each county or other political subdivision of the state as necessary to carry out the purposes of this section;
- (4) review, comment on, and prepare analysis of population estimates and projections made by state agencies, political subdivisions, other states, federal agencies, or nongovernmental persons, institutions, or commissions;
- (5) serve as the state liaison with the United States Bureau of the Census, coordinate state and federal demographic activities to the fullest extent possible, and aid the legislature in preparing a census data plan and form for each decennial census;
- (6) compile an annual study of population estimates on the basis of county, regional, or other political or geographical subdivisions as necessary to carry out the

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purposes of this section and section 4A.03;

(7) by January 1 of each year, issue a report to the legislature containing an analysis of the demographic implications of the annual population study and population projections;

(8) prepare maps for all counties in the state, all municipalities with a population of 10,000 or more, and other municipalities as needed for census purposes, according to scale and detail recommended by the United States Bureau of the Census, with the maps of cities showing precinct boundaries;

(9) prepare an estimate of population and of the number of households for each governmental subdivision for which the Metropolitan Council does not prepare an annual estimate, and convey the estimates to the governing body of each political subdivision by May June 1 of each year;

(10) direct, under section 414.01, subdivision 14, and certify population and household estimates of annexed or detached areas of municipalities or towns after being notified of the order or letter of approval by the director;

(11) prepare, for any purpose for which a population estimate is required by law or needed to implement a law, a population estimate of a municipality or town whose population is affected by action under section 379.02 or 414.01, subdivision 14; and

(12) prepare an estimate of average household size for each statutory or home rule charter city with a population of 2,500 or more by May June 1 of each year.

(c) A governing body may challenge an estimate made under paragraph (b) by filing their specific objections in writing with the state demographer by ~~June 24~~. If the challenge does not result in an acceptable estimate by ~~June 24~~, the governing body may have a special census conducted by the United States Bureau of the Census. The political subdivision must notify the state demographer by July 1 of its intent to have the special census conducted. The political subdivision must bear all costs of the special census. Results of the special census must be received by the state demographer by the next April 15 to be used in that year's May June 1 estimate to the political subdivision under paragraph (b).

(d) The state demographer shall certify the estimates of population and household size to the commissioner of revenue by July 15 each year, including any estimates still under objection.

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

Sec. 2. Minnesota Statutes 2004, section 273.1384, subdivision 1, is amended to read:

Subdivision 1. **RESIDENTIAL HOMESTEAD MARKET VALUE CREDIT.** Each county auditor shall determine a homestead credit for each class 1a, 1b, 1c, and 2a homestead property within the county equal to 0.4 percent of the first \$76,000 of market value of the property. ~~The amount of homestead credit for a homestead may not exceed \$304 and is reduced by minus .09 percent of the market value in excess of~~

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\$76,000. The credit amount may not be less than zero. In the case of an agricultural or resort homestead, only the market value of the house, garage, and immediately surrounding one acre of land is eligible in determining the property's homestead credit. In the case of a property which is classified as part homestead and part nonhomestead, (i) the credit shall apply only to the homestead portion of the property, but (ii) if a portion of a property is classified as nonhomestead solely because not all the owners occupy the property, or solely because both spouses do not occupy the property, the credit amount shall be initially computed as if that nonhomestead portion were also in the homestead class and then prorated to the owner-occupant's percentage of ownership or prorated to one-half if both spouses do not occupy the property.

EFFECTIVE DATE. This section is effective for taxes payable in 2006 and thereafter.

Sec. 3. Minnesota Statutes 2004, section 276A.01, subdivision 7, is amended to read:

Subd. 7. **POPULATION.** "Population" means the most recent estimate of the population of a municipality made by the state demographer and filed with the commissioner of revenue as of July 15 of the year in which a municipality's distribution net tax capacity is calculated. The state demographer shall annually estimate the population of each municipality and, in the case of a municipality which is located partly within and partly without the area, the proportion of the total which resides within the area, and shall file the estimates with the commissioner of revenue.

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

Sec. 4. **[473.24] POPULATION ESTIMATES.**

(a) The Metropolitan Council shall annually prepare an estimate of population for each county, city, and town in the metropolitan area and an estimate of the number of households and average household size for each city in the metropolitan area with a population of 2,500 or more, and an estimate of population over age 65 for each county in the metropolitan area, and convey the estimates to the governing body of each county, city, or town by June 1 each year. In the case of a city or town that is located partly within and partly without the metropolitan area, the Metropolitan Council shall estimate the proportion of the total population and the average size of households that reside within the area. The Metropolitan Council may prepare an estimate of the population and of the average household size for any other political subdivision located in the metropolitan area.

(b) A governing body may challenge an estimate made under this section by filing its specific objections in writing with the Metropolitan Council by June 24. If the challenge does not result in an acceptable estimate, the governing body may have a special census conducted by the United States Bureau of the Census. The political subdivision must notify the Metropolitan Council on or before July 1 of its intent to have the special census conducted. The political subdivision must bear all costs of the special census. Results of the special census must be received by the Metropolitan Council by the next April 15 to be used in that year's June 1 estimate under this section.

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The Metropolitan Council shall certify the estimates of population and the average household size to the state demographer and to the commissioner of revenue by July 15 each year, including any estimates still under objection.

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

Sec. 5. Minnesota Statutes 2004, section 473F.02, subdivision 7, is amended to read:

Subd. 7. **POPULATION.** "Population" means the most recent estimate of the population of a municipality made by the Metropolitan Council under section 473.24 and filed with the commissioner of revenue as of July 15 of the year in which a municipality's distribution net tax capacity is calculated. ~~The council shall annually estimate the population of each municipality as of a date which it determines and, in the case of a municipality which is located partly within and partly without the area, the proportion of the total which resides within the area, and shall promptly thereafter file its estimates with the commissioner of revenue.~~

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

Sec. 6. Minnesota Statutes 2004, section 477A.011, subdivision 3, is amended to read:

Subd. 3. **POPULATION.** "Population" means the population estimated or established as of July 15 in an aid calculation year by the most recent federal census, by a special census conducted under contract with the United States Bureau of the Census, by a population estimate made by the Metropolitan Council pursuant to section 473.24, or by a population estimate of the state demographer made pursuant to section 4A.02, whichever is the most recent as to the stated date of the count or estimate for the preceding calendar year, and which has been certified to the commissioner of revenue on or before July 15 of the aid calculation year. The term "per capita" refers to population as defined by this subdivision. A revision of an estimate or count is effective for these purposes only if it is certified to the commissioner on or before July 15 of the aid calculation year. Clerical errors in the certification or use of the estimates and counts established as of July 15 in the aid calculation year are subject to correction within the time periods allowed under section 477A.014.

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

Sec. 7. Minnesota Statutes 2004, section 477A.011, subdivision 34, is amended to read:

Subd. 34. **CITY REVENUE NEED.** (a) For a city with a population equal to or greater than 2,500, "city revenue need" is the sum of (1) 5.0734098 times the pre-1940 housing percentage; plus (2) 19.141678 times the population decline percentage; plus (3) 2504.06334 times the road accidents factor; plus (4) 355.0547; minus (5) the metropolitan area factor; minus (6) 49.10638 times the household size.

(b) For a city with a population less than 2,500, "city revenue need" is the sum of (1) 2.387 times the pre-1940 housing percentage; plus (2) 2.67591 times the commercial industrial percentage; plus (3) 3.16042 times the population decline

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percentage; plus (4) 1.206 times the transformed population; minus (5) 62.772.

(c) For a city with a population of 2,500 or more and a population in one of the most recently available five years that was less than 2,500, "city revenue need" is the sum of (1) its city revenue need calculated under paragraph (a) multiplied by its transition factor; plus (2) its city revenue need calculated under the formula in paragraph (b) multiplied by the difference between one and its transition factor. For purposes of this paragraph, a city's "transition factor" is equal to 0.2 multiplied by the number of years that the city's population estimate has been 2,500 or more. This provision only applies for aids payable in calendar years 2006 to 2008 to cities with a 2002 population of less than 2,500. It applies to any city for aids payable in 2009 and thereafter.

(d) The city revenue need cannot be less than zero.

(d) (e) For calendar year 2005 and subsequent years, the city revenue need for a city, as determined in paragraphs (a) to (e) (d), is multiplied by the ratio of the annual implicit price deflator for government consumption expenditures and gross investment for state and local governments as prepared by the United States Department of Commerce, for the most recently available year to the 2003 implicit price deflator for state and local government purchases.

EFFECTIVE DATE. This section is effective beginning with aids payable in 2006.

Sec. 8. Minnesota Statutes 2004, section 477A.011, subdivision 36, as amended by Laws 2005, chapter 38, section 1, is amended to read:

Subd. 36. **CITY AID BASE.** (a) Except as otherwise provided in this subdivision, "city aid base" is zero.

(b) The city aid base for any city with a population less than 500 is increased by \$40,000 for aids payable in calendar year 1995 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$40,000 for aids payable in calendar year 1995 only, provided that:

(i) the average total tax capacity rate for taxes payable in 1995 exceeds 200 percent;

(ii) the city portion of the tax capacity rate exceeds 100 percent; and

(iii) its city aid base is less than \$60 per capita.

(c) The city aid base for a city is increased by \$20,000 in 1998 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$20,000 in calendar year 1998 only, provided that:

(i) the city has a population in 1994 of 2,500 or more;

(ii) the city is located in a county, outside of the metropolitan area, which contains a city of the first class;

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(iii) the city's net tax capacity used in calculating its 1996 aid under section 477A.013 is less than \$400 per capita; and

(iv) at least four percent of the total net tax capacity, for taxes payable in 1996, of property located in the city is classified as railroad property.

(d) The city aid base for a city is increased by \$200,000 in 1999 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 1999 only, provided that:

(i) the city was incorporated as a statutory city after December 1, 1993;

(ii) its city aid base does not exceed \$5,600; and

(iii) the city had a population in 1996 of 5,000 or more.

(e) The city aid base for a city is increased by \$450,000 in 1999 to 2008 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$450,000 in calendar year 1999 only, provided that:

(i) the city had a population in 1996 of at least 50,000;

(ii) its population had increased by at least 40 percent in the ten-year period ending in 1996; and

(iii) its city's net tax capacity for aids payable in 1998 is less than \$700 per capita.

(f) The city aid base for a city is increased by \$150,000 for aids payable in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2000 only, provided that:

(1) the city has a population that is greater than 1,000 and less than 2,500;

(2) its commercial and industrial percentage for aids payable in 1999 is greater than 45 percent; and

(3) the total market value of all commercial and industrial property in the city for assessment year 1999 is at least 15 percent less than the total market value of all commercial and industrial property in the city for assessment year 1998.

(g) The city aid base for a city is increased by \$200,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2000 only, provided that:

(1) the city had a population in 1997 of 2,500 or more;

(2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$650 per capita;

(3) the pre-1940 housing percentage of the city used in calculating 1999 aid under section 477A.013 is greater than 12 percent;

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(4) the 1999 local government aid of the city under section 477A.013 is less than 20 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent; and

(5) the city aid base of the city used in calculating aid under section 477A.013 is less than \$7 per capita.

(h) The city aid base for a city is increased by \$102,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$102,000 in calendar year 2000 only, provided that:

(1) the city has a population in 1997 of 2,000 or more;

(2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$455 per capita;

(3) the net levy of the city used in calculating 1999 aid under section 477A.013 is greater than \$195 per capita; and

(4) the 1999 local government aid of the city under section 477A.013 is less than 38 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent.

(i) The city aid base for a city is increased by \$32,000 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$32,000 in calendar year 2001 only, provided that:

(1) the city has a population in 1998 that is greater than 200 but less than 500;

(2) the city's revenue need used in calculating aids payable in 2000 was greater than \$200 per capita;

(3) the city net tax capacity for the city used in calculating aids available in 2000 was equal to or less than \$200 per capita;

(4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$65 per capita; and

(5) the city's formula aid for aids payable in 2000 was greater than zero.

(j) The city aid base for a city is increased by \$7,200 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$7,200 in calendar year 2001 only, provided that:

(1) the city had a population in 1998 that is greater than 200 but less than 500;

(2) the city's commercial industrial percentage used in calculating aids payable in 2000 was less than ten percent;

(3) more than 25 percent of the city's population was 60 years old or older according to the 1990 census;

(4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$15 per capita; and

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(5) the city's formula aid for aids payable in 2000 was greater than zero.

(k) The city aid base for a city is increased by \$45,000 in 2001 and thereafter and by an additional \$50,000 in calendar years 2002 to 2011, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$45,000 in calendar year 2001 only, and by \$50,000 in calendar year 2002 only, provided that:

(1) the net tax capacity of the city used in calculating its 2000 aid under section 477A.013 is less than \$810 per capita;

(2) the population of the city declined more than two percent between 1988 and 1998;

(3) the net levy of the city used in calculating 2000 aid under section 477A.013 is greater than \$240 per capita; and

(4) the city received less than \$36 per capita in aid under section 477A.013, subdivision 9, for aids payable in 2000.

(l) The city aid base for a city with a population of 10,000 or more which is located outside of the seven-county metropolitan area is increased in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (b) or (c), is also increased in calendar year 2002 only, by an amount equal to the lesser of:

(1)(i) the total population of the city, as determined by the United States Bureau of the Census, in the 2000 census, (ii) minus 5,000, (iii) times 60; or

(2) \$2,500,000.

(m) The city aid base is increased by \$50,000 in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$50,000 in calendar year 2002 only, provided that:

(1) the city is located in the seven-county metropolitan area;

(2) its population in 2000 is between 10,000 and 20,000; and

(3) its commercial industrial percentage, as calculated for city aid payable in 2001, was greater than 25 percent.

(n) The city aid base for a city is increased by \$150,000 in calendar years 2002 to 2011 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2002 only, provided that:

(1) the city had a population of at least 3,000 but no more than 4,000 in 1999;

(2) its home county is located within the seven-county metropolitan area;

(3) its pre-1940 housing percentage is less than 15 percent; and

(4) its city net tax capacity per capita for taxes payable in 2000 is less than \$900 per capita.

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(o) The city aid base for a city is increased by \$200,000 beginning in calendar year 2003 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2003 only, provided that the city qualified for an increase in homestead and agricultural credit aid under Laws 1995, chapter 264, article 8, section 18.

(p) The city aid base for a city is increased by \$200,000 in 2004 only and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, is also increased by \$200,000 in calendar year 2004 only, if the city is the site of a nuclear dry cask storage facility.

(q) The city aid base for a city is increased by \$10,000 in 2004 and thereafter and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$10,000 in calendar year 2004 only, if the city was included in a federal major disaster designation issued on April 1, 1998, and its pre-1940 housing stock was decreased by more than 40 percent between 1990 and 2000.

(r) The city aid base for a city is increased by \$25,000 in 2006 only and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$25,000 in calendar year 2006 only if the city had a population in 2003 of at least 1,000 and has a state park for which the city provides rescue services and which comprised at least 14 percent of the total geographic area included within the city boundaries in 2000.

EFFECTIVE DATE. This section is effective for aids payable in 2006 and thereafter.

Sec. 9. Minnesota Statutes 2004, section 477A.011, subdivision 38, is amended to read:

Subd. 38. **HOUSEHOLD SIZE.** "Household size" means the average number of persons per household in the jurisdiction as most recently estimated and reported by the state demographer and Metropolitan Council as of July 15 of the aid calculation year. A revision to an estimate or enumeration is effective for these purposes only if it is certified to the commissioner on or before July 15 of the aid calculation year. Clerical errors in the certification or use of estimates and counts established as of July 15 in the aid calculation year are subject to correction within the time periods allowed under section 477A.014.

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

Sec. 10. Minnesota Statutes 2004, section 477A.0124, subdivision 2, is amended to read:

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

(b) "County program aid" means the sum of "county need aid," "county tax base equalization aid," and "county transition aid."

(c) "Age-adjusted population" means a county's population multiplied by the county age index.

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(d) "County age index" means the percentage of the population over age 65 within the county divided by the percentage of the population over age 65 within the state, except that the age index for any county may not be greater than 1.8 nor less than 0.8.

(e) "Population over age 65" means the population over age 65 established as of July 1 15 in an aid calculation year by the most recent federal census, by a special census conducted under contract with the United States Bureau of the Census, by a population estimate made by the Metropolitan Council, or by a population estimate of the state demographer made pursuant to section 4A.02, whichever is the most recent as to the stated date of the count or estimate for the preceding calendar year and which has been certified to the commissioner of revenue on or before July 15 of the aid calculation year. A revision to an estimate or count is effective for these purposes only if certified to the commissioner on or before July 15 of the aid calculation year. Clerical errors in the certification or use of estimates and counts established as of July 15 in the aid calculation year are subject to correction within the time periods allowed under section 477A.014.

(f) "Part I crimes" means the three-year average annual number of Part I crimes reported for each county by the Department of Public Safety for the most recent years available. By July 1 of each year, the commissioner of public safety shall certify to the commissioner of revenue the number of Part I crimes reported for each county for the three most recent calendar years available.

(g) "Households receiving food stamps" means the average monthly number of households receiving food stamps for the three most recent years for which data is available. By July 1 of each year, the commissioner of human services must certify to the commissioner of revenue the average monthly number of households in the state and in each county that receive food stamps, for the three most recent calendar years available.

(h) "County net tax capacity" means the net tax capacity of the county, computed analogously to city net tax capacity under section 477A.011, subdivision 20.

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

Sec. 11. Minnesota Statutes 2004, section 477A.0124, subdivision 4, is amended to read:

Subd. 4. **COUNTY TAX-BASE EQUALIZATION AID.** (a) For ~~2005~~ 2006 and subsequent years, the money appropriated to county tax-base equalization aid each calendar year, after the payment under paragraph (f), shall be apportioned among the counties according to each county's tax-base equalization aid factor.

(b) A county's tax-base equalization aid factor is equal to the amount by which (i) \$185 times the county's population, exceeds (ii) 9.45 percent of the county's net tax capacity.

(c) In the case of a county with a population less than 10,000, the factor determined in paragraph (b) shall be multiplied by a factor of three.

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(d) In the case of a county with a population greater than or equal to 10,000, but less than 12,500, the factor determined in paragraph (b) shall be multiplied by a factor of two.

(e) In the case of a county with a population greater than 500,000, the factor determined in paragraph (b) shall be multiplied by a factor of 0.25.

(f) Before the money appropriated to county base equalization aid is apportioned among the counties as provided in paragraph (a), an amount up to \$73,259 is allocated annually to Anoka County and up to \$59,664 is annually allocated to Washington County for the county to pay postretirement costs of health insurance premiums for court employees. The allocation under this paragraph is in addition to the allocations under paragraphs (a) to (e).

EFFECTIVE DATE. This section is effective for aids payable in 2006 and thereafter.

Sec. 12. Minnesota Statutes 2004, section 477A.03, subdivision 2b, is amended to read:

Subd. 2b. **COUNTIES.** (a) For aids payable in calendar year 2005 and thereafter, the total aids paid to counties under section 477A.0124, subdivision 3, are limited to \$100,500,000. Each calendar year, \$500,000 shall be retained by the commissioner of revenue to make reimbursements to the commissioner of finance for payments made under section 611.27. For calendar year 2004, the amount shall be in addition to the payments authorized under section 477A.0124, subdivision 1. For calendar year 2005 and subsequent years, the amount shall be deducted from the appropriation under this paragraph. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be included in the next distribution of county need aid that is certified to the county auditors for the purpose of property tax reduction for the next taxes payable year.

(b) For aids payable in 2005 and thereafter 2006, the total aids under section 477A.0124, subdivision 4, are limited to \$105,000,000. For aids payable in 2007 and thereafter, the total aid under section 477A.0124, subdivision 4, is limited to \$105,132,923. The commissioner of finance shall bill the commissioner of revenue for the cost of preparation of local impact notes as required by section 3.987, not to exceed \$207,000 in fiscal year 2004 and thereafter. The commissioner of education shall bill the commissioner of revenue for the cost of preparation of local impact notes for school districts as required by section 3.987, not to exceed \$7,000 in fiscal year 2004 and thereafter. The commissioner of revenue shall deduct the amounts billed under this paragraph from the appropriation under this paragraph. The amounts deducted are appropriated to the commissioner of finance and the commissioner of education for the preparation of local impact notes.

EFFECTIVE DATE. This section is effective for aids payable in 2007 and thereafter.

Sec. 13. Laws 2003, First Special Session chapter 21, article 5, section 13, is amended to read:

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Sec. 13. 2004 CITY AID REDUCTIONS.

The commissioner of revenue shall compute an aid reduction amount for 2004 for each city as provided in this section.

The initial aid reduction amount for each city is the amount by which the city's aid distribution under Minnesota Statutes, section 477A.013, and related provisions payable in 2003 exceeds the city's 2004 distribution under those provisions.

The minimum aid reduction amount for a city is the amount of its reduction in 2003 under section 12. If a city receives an increase to its city aid base under Minnesota Statutes, section 477A.011, subdivision 36, its minimum aid reduction is reduced by an equal amount.

The maximum aid reduction amount for a city is an amount equal to 14 percent of the city's total 2004 levy plus aid revenue base, except that if the city has a city net tax capacity for aids payable in 2004, as defined in Minnesota Statutes, section 477A.011, subdivision 20, of \$700 per capita or less, the maximum aid reduction shall not exceed an amount equal to 13 percent of the city's total 2004 levy plus aid revenue base.

If the initial aid reduction amount for a city is less than the minimum aid reduction amount for that city, the final aid reduction amount for the city is the sum of the initial aid reduction amount and the lesser of the amount of the city's payable 2004 reimbursement under Minnesota Statutes, section 273.1384, or the difference between the minimum and initial aid reduction amounts for the city, and the amount of the final aid reduction in excess of the initial aid reduction is deducted from the city's reimbursements pursuant to Minnesota Statutes, section 273.1384.

If the initial aid reduction amount for a city is greater than the maximum aid reduction amount for the city, the city receives an additional distribution under this section equal to the result of subtracting the maximum aid reduction amount from the initial aid reduction amount. This distribution shall be paid in equal installments in 2004 on the dates specified in Minnesota Statutes, section 477A.015. The amount necessary for these additional distributions is appropriated to the commissioner of revenue from the general fund in fiscal year 2005.

~~The initial aid reduction is applied to the city's distribution pursuant to Minnesota Statutes, section 477A.013, and any aid reduction in excess of the initial aid reduction is applied to the city's reimbursements pursuant to Minnesota Statutes, section 273.1384.~~

To the extent that sufficient information is available on each payment date in 2004, the commissioner of revenue shall pay the reimbursements reduced under this section in equal installments on the payment dates provided in law.

EFFECTIVE DATE. This section is effective for aids payable in 2004.

Sec. 14. Laws 2003, First Special Session chapter 21, article 6, section 9, is amended to read:

New language is indicated by underline, deletions by strikeout.

Sec. 9. DEFINITIONS.

(a) For purposes of sections 9 to 15, the following terms have the meanings given them in this section.

(b) The 2003 and 2004 "levy plus aid revenue base" for a county is the sum of that county's certified property tax levy for taxes payable in 2003, plus the sum of the amounts the county was certified to receive in the designated calendar year as:

(1) homestead and agricultural credit aid under Minnesota Statutes, section 273.1398, subdivision 2, plus any additional aid under section 16, minus the amount calculated under section 273.1398, subdivision 4a, paragraph (b), for counties in judicial districts one, three, six, and ten, and 25 percent of the amount calculated under section 273.1398, subdivision 4a, paragraph (b), for counties in judicial districts two and four;

(2) the amount of county manufactured home homestead and agricultural credit aid computed for the county for payment in 2003 under section 273.166;

(3) criminal justice aid under Minnesota Statutes, section 477A.0121;

(4) family preservation aid under Minnesota Statutes, section 477A.0122;

(5) taconite aids under Minnesota Statutes, sections 298.28 and 298.282, including any aid which was required to be placed in a special fund for expenditure in the next succeeding year; and

(6) county program aid under section 477A.0124, exclusive of the attached machinery aid component.

EFFECTIVE DATE. This section is effective for aids payable in 2004.

Sec. 15. COURT AID ADJUSTMENT.

For aids payable in 2005 only, the amount of court aid paid to Anoka County under Minnesota Statutes, section 273.1398, subdivision 4a, is increased by \$36,630 for aids payable in 2005 only and the amount paid to Washington County under Minnesota Statutes, section 273.1398, subdivision 4a, is increased by \$29,832 for aids payable in 2005 only.

EFFECTIVE DATE. This section is effective for aids payable in 2005 only.

Sec. 16. DISTRICT COURTS BUDGET.

The district courts general fund appropriation is reduced by \$66,462 in fiscal year 2006 and \$132,923 beginning in fiscal year 2007 to fund the amount transferred to county tax base equalization aid to fund the payments under Minnesota Statutes, section 477A.0124, subdivision 4, paragraph (f), and section 15.

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

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ARTICLE 5

DEPARTMENT OF REVENUE PROPERTY TAXES

Section 1. Minnesota Statutes 2004, 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 in the name of the current owner at the time of transfer have been paid. For this purpose, manufactured home personal property taxes are treated as levied on January 1 of the payable year.

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

Sec. 2. Minnesota Statutes 2004, section 270.11, subdivision 2, is amended to read:

Subd. 2. **COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.** Each county assessor shall file by April 1 with the commissioner of revenue a copy of the abstract that will be acted upon by the local and county boards of review. The abstract must list the real and personal property in the county itemized by assessment districts. The assessor of each county in the state shall file with the commissioner, within ten working days following final action of the local board of review or equalization and within five days following final action of the county board of equalization, any changes made by the local or county board. The information must be filed in the manner prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the appropriate board.

The final abstract of assessments after adjustments by the State Board of Equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before September 1 of each calendar year. The final abstract must separately report the captured tax capacity of tax increment financing districts under section 469.177, subdivision 2, the metropolitan revenue areawide net tax capacity contribution value values determined under sections 276A.05, subdivision 1, and 473F.07, subdivision 1, and the value subject to the power line credit under section 273.42.

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

Sec. 3. Minnesota Statutes 2004, section 270.16, subdivision 2, is amended to read:

Subd. 2. **FAILURE TO APPRAISE.** When an assessor has failed to properly appraise at least ~~one-quarter~~ one-fifth of the parcels of property in a district or county

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as provided in section 273.01, the commissioner of revenue shall appoint a special assessor and deputy assessor as necessary and cause a reappraisal to be made of the property due for reassessment in accordance with law.

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

Sec. 4. Minnesota Statutes 2004, section 272.01, subdivision 2, is amended to read:

Subd. 2. **EXEMPT PROPERTY USED BY PRIVATE ENTITY FOR PROFIT.** (a) When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.

(b) The tax imposed by this subdivision shall not apply to:

(1) property leased or used as a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 469, municipal auditorium, municipal parking facility, municipal museum, or municipal stadium;

(2) property of an airport owned by a city, town, county, or group thereof which is:

(i) leased to or used by any person or entity including a fixed base operator; and

(ii) used as a hangar for the storage or repair of aircraft or to provide aviation goods, services, or facilities to the airport or general public;

the exception from taxation provided in this clause does not apply to:

(i) property located at an airport owned or operated by the Metropolitan Airports Commission or by a city of over 50,000 population according to the most recent federal census or such a city's airport authority;

(ii) hangars leased by a private individual, association, or corporation in connection with a business conducted for profit other than an aviation-related business; or

(iii) facilities leased by a private individual, association, or corporation in connection with a business for profit, that consists of a major jet engine repair facility financed, in whole or part, with the proceeds of state bonds and located in a tax increment financing district;

(3) property constituting or used as a public pedestrian ramp or concourse in connection with a public airport; or

(4) property constituting or used as a passenger check-in area or ticket sale counter, boarding area, or luggage claim area in connection with a public airport but

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not the airports owned or operated by the Metropolitan Airports Commission or cities of over 50,000 population or an airport authority therein. Real estate owned by a municipality in connection with the operation of a public airport and leased or used for agricultural purposes is not exempt;

(5) property leased, loaned, or otherwise made available to a private individual, corporation, or association under a cooperative farming agreement made pursuant to section 97A.135; or

(6) property leased, loaned, or otherwise made available to a private individual, corporation, or association under section 272.68, subdivision 4.

(c) Taxes imposed by this subdivision are payable as in the case of personal property taxes and shall be assessed to the lessees or users of real or personal property in the same manner as taxes assessed to owners of real or personal property, except that such taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee or user to the state, township, city, county, and school district for which the taxes were assessed and shall be collected in the same manner as personal property taxes. If property subject to the tax imposed by this subdivision is leased or used jointly by two or more persons, each lessee or user shall be jointly and severally liable for payment of the tax.

(d) The tax on real property of the state or any of its political subdivisions that is leased by a private individual, association, or corporation and becomes taxable under this subdivision or other provision of law must be assessed and collected as a personal property assessment. The taxes do not become a lien against the real property.

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

Sec. 5. Minnesota Statutes 2004, section 272.02, subdivision 1a, is amended to read:

Subd. 1a. **LIMITATIONS ON EXEMPTIONS.** The exemptions granted by subdivision 1 are subject to the limits contained in the other subdivisions of this section, section 272.025, ~~or 273.13, subdivision 25, paragraph (c), clause (1) or (2), or paragraph (d), clause (2) and all other provisions of applicable law.~~

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

Sec. 6. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 73. **PROPERTY SUBJECT TO TACONITE PRODUCTION TAX OR NET PROCEEDS TAX.** (a) Real and personal property described in section 298.25 is exempt to the extent the tax on taconite and iron sulphides under section 298.24 is described in section 298.25 as being in lieu of other taxes on such property. This exemption applies for taxes payable in each year that the tax under section 298.24 is payable with respect to such property.

(b) Deposits of mineral, metal, or energy resources the mining of which is subject to taxation under section 298.015 are exempt. This exemption applies for taxes payable

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in each year that the tax under section 298.015 is payable with respect to such property.

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

Sec. 7. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 74. RELIGIOUS CORPORATIONS. Personal and real property that a religious corporation, formed under section 317A.909, necessarily uses for a religious purpose is exempt to the extent provided in section 317A.909, subdivision 3.

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

Sec. 8. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 75. CHILDREN'S HOMES. Personal and real property owned by a corporation formed under section 317A.907 is exempt to the extent provided in section 317A.907, subdivision 7.

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

Sec. 9. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 76. HOUSING AND REDEVELOPMENT AUTHORITY AND TRIBAL HOUSING AUTHORITY PROPERTY. Property owned by a housing and redevelopment authority described in chapter 469, or by a designated housing authority described in section 469.040, subdivision 5, is exempt to the extent provided in chapter 469.

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

Sec. 10. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 77. PROPERTY OF HOUSING AND REDEVELOPMENT AUTHORITIES. Property of projects of housing and redevelopment authorities are exempt to the extent permitted by sections 469.042, subdivision 1, and 469.043, subdivisions 2 and 5.

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

Sec. 11. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 78. PROPERTY OF REGIONAL RAIL AUTHORITY. Property of a regional rail authority as defined in chapter 398A is exempt to the extent permitted by section 398A.05.

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

Sec. 12. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

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Subd. 79. SPIRIT MOUNTAIN RECREATION AREA AUTHORITY. Property owned by the Spirit Mountain Recreation Area Authority is exempt from taxation to the extent provided in Laws 1973, chapter 327, section 6.

Sec. 13. Minnesota Statutes 2004, section 272.02, is amended by adding a subdivision to read:

Subd. 80. INSTALLED CAPACITY DEFINED. For purposes of this section, the term "installed capacity" means generator nameplate capacity.

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

Sec. 14. Minnesota Statutes 2004, section 272.029, subdivision 4, is amended to read:

Subd. 4. **REPORTS.** (a) An owner of a wind energy conversion system subject to tax under subdivision 3 shall file a report with the commissioner of revenue annually on or before March February 1 detailing the amount of electricity in kilowatt-hours that was produced by the wind energy conversion system for the previous calendar year. The commissioner shall prescribe the form of the report. The report must contain the information required by the commissioner to determine the tax due to each county under this section for the current year. If an owner of a wind energy conversion system subject to taxation under this section fails to file the report by the due date, the commissioner of revenue shall determine the tax based upon the nameplate capacity of the system multiplied by a capacity factor of 40 percent.

(b) On or before March 31 February 28, the commissioner of revenue shall notify the owner of the wind energy conversion systems of the tax due to each county for the current year and shall certify to the county auditor of each county in which the systems are located the tax due from each owner for the current year.

EFFECTIVE DATE. This section is effective for reports and certifications due in 2006 and thereafter.

Sec. 15. Minnesota Statutes 2004, section 272.029, subdivision 6, is amended to read:

Subd. 6. **DISTRIBUTION OF REVENUES.** Revenues from the taxes imposed under subdivision 5 must be part of the settlement between the county treasurer and the county auditor under section 276.09. The revenue must be distributed by the county auditor or the county treasurer to all local taxing jurisdictions in which the wind energy conversion system is located, as follows: beginning with distributions in 2006, 80 percent to counties; 14 percent to cities and townships; and six percent to school districts; and for distributions occurring in 2004 and 2005 in the same proportion that each of the local taxing jurisdiction's current year's net tax capacity based tax rate is to the current year's total local net tax capacity based rate.

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

Sec. 16. Minnesota Statutes 2004, section 273.11, subdivision 8, is amended to read:

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Subd. 8. **LIMITED EQUITY COOPERATIVE APARTMENTS.** For the purposes of this subdivision, the terms defined in this subdivision have the meanings given them.

A "limited equity cooperative" is a corporation organized under chapter 308A or 308B, which has as its primary purpose the provision of housing and related services to its members which meets one of the following criteria with respect to the income of its members: (1) a minimum of 75 percent of members must have incomes at or less than 90 percent of area median income, (2) a minimum of 40 percent of members must have incomes at or less than 60 percent of area median income, or (3) a minimum of 20 percent of members must have incomes at or less than 50 percent of area median income. For purposes of this clause, "member income" shall mean the income of a member existing at the time the member acquires cooperative membership, and median income shall mean the St. Paul-Minneapolis metropolitan area median income as determined by the United States Department of Housing and Urban Development. It must also meet the following requirements:

(a) The articles of incorporation set the sale price of occupancy entitling cooperative shares or memberships at no more than a transfer value determined as provided in the articles. That value may not exceed the sum of the following:

(1) the consideration paid for the membership or shares by the first occupant of the unit, as shown in the records of the corporation;

(2) the fair market value, as shown in the records of the corporation, of any improvements to the real property that were installed at the sole expense of the member with the prior approval of the board of directors;

(3) accumulated interest, or an inflation allowance not to exceed the greater of a ten percent annual noncompounded increase on the consideration paid for the membership or share by the first occupant of the unit, or the amount that would have been paid on that consideration if interest had been paid on it at the rate of the percentage increase in the revised Consumer Price Index for All Urban Consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States Department of Labor, provided that the amount determined pursuant to this clause may not exceed \$500 for each year or fraction of a year the membership or share was owned; plus

(4) real property capital contributions shown in the records of the corporation to have been paid by the transferor member and previous holders of the same membership, or of separate memberships that had entitled occupancy to the unit of the member involved. These contributions include contributions to a corporate reserve account the use of which is restricted to real property improvements or acquisitions, contributions to the corporation which are used for real property improvements or acquisitions, and the amount of principal amortized by the corporation on its indebtedness due to the financing of real property acquisition or improvement or the averaging of principal paid by the corporation over the term of its real property-related indebtedness.

(b) The articles of incorporation require that the board of directors limit the purchase price of stock or membership interests for new member-occupants or resident

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shareholders to an amount which does not exceed the transfer value for the membership or stock as defined in clause (a).

(c) The articles of incorporation require that the total distribution out of capital to a member shall not exceed that transfer value.

(d) The articles of incorporation require that upon liquidation of the corporation any assets remaining after retirement of corporate debts and distribution to members will be conveyed to a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1992, or a public agency.

A "limited equity cooperative apartment" is a dwelling unit owned by a limited equity cooperative.

"Occupancy entitling cooperative share or membership" is the ownership interest in a cooperative organization which entitles the holder to an exclusive right to occupy a dwelling unit owned or leased by the cooperative.

For purposes of taxation, the assessor shall value a unit owned by a limited equity cooperative at the lesser of its market value or the value determined by capitalizing the net operating income of a comparable apartment operated on a rental basis at the capitalization rate used in valuing comparable buildings that are not limited equity cooperatives. If a cooperative fails to operate in accordance with the provisions of clauses (a) to (d), the property shall be subject to additional property taxes in the amount of the difference between the taxes determined in accordance with this subdivision for the last ten years that the property had been assessed pursuant to this subdivision and the amount that would have been paid if the provisions of this subdivision had not applied to it. The additional taxes, plus interest at the rate specified in section 549.09, shall be extended against the property on the tax list for the current year.

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

Sec. 17. Minnesota Statutes 2004, section 273.124, subdivision 3, is amended to read:

Subd. 3. COOPERATIVES AND CHARITABLE CORPORATIONS; HOMESTEAD AND OTHER PROPERTY. (a) When property is owned by a corporation or association organized under chapter 308A or 308B, and each person who owns a share or shares in the corporation or association is entitled to occupy a building on the property, or a unit within a building on the property, the corporation or association may claim homestead treatment for each dwelling, or for each unit in the case of a building containing several dwelling units, or for the part of the value of the building occupied by a shareholder. Each building or unit must be designated by legal description or number. The net tax capacity of each building or unit that qualifies for assessment as a homestead under this subdivision must include not more than one-half acre of land, if platted, nor more than 80 acres if unplatted. The net tax capacity of the property is the sum of the net tax capacities of each of the respective buildings or units

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comprising the property, including the net tax capacity of each unit's or building's proportionate share of the land and any common buildings. To qualify for the treatment provided by this subdivision, the corporation or association must be wholly owned by persons having a right to occupy a building or unit owned by the corporation or association. A charitable corporation organized under the laws of Minnesota and not otherwise exempt thereunder with no outstanding stock qualifies for homestead treatment with respect to member residents of the dwelling units who have purchased and hold residential participation warrants entitling them to occupy the units.

(b) To the extent provided in paragraph (a), a cooperative or corporation organized under chapter 308A may obtain separate assessment and valuation, and separate property tax statements for each residential homestead, residential nonhomestead, or for each seasonal residential recreational building or unit not used for commercial purposes. The appropriate class rates under section 273.13 shall be applicable as if each building or unit were a separate tax parcel; provided, however, that the tax parcel which exists at the time the cooperative or corporation makes application under this subdivision shall be a single parcel for purposes of property taxes or the enforcement and collection thereof, other than as provided in paragraph (a) or this paragraph.

(c) A member of a corporation or association may initially obtain the separate assessment and valuation and separate property tax statements, as provided in paragraph (b), by applying to the assessor by June 30 of the assessment year.

(d) When a building, or dwelling units within a building, no longer qualify under paragraph (a) or (b), the current owner must notify the assessor within 30 days. Failure to notify the assessor within 30 days shall result in the loss of benefits under paragraph (a) or (b) for taxes payable in the year that the failure is discovered. For these purposes, "benefits under paragraph (a) or (b)" means the difference in the net tax capacity of the building or units which no longer qualify as computed under paragraph (a) or (b) and as computed under the otherwise applicable law, times the local tax rate applicable to the building for that taxes payable year. Upon discovery of a failure to notify, the assessor shall inform the auditor of the difference in net tax capacity for the building or buildings in which units no longer qualify, and the auditor shall calculate the benefits under paragraph (a) or (b). Such amount, plus a penalty equal to 100 percent of that amount, shall then be demanded of the building's owner. The property owner may appeal the county's determination by serving copies of a petition for review with county officials as provided in section 278.01 and filing a proof of service as provided in section 278.01 with the Minnesota Tax Court within 60 days of the date of the notice from the county. The appeal shall be governed by the Tax Court procedures provided in chapter 271, for cases relating to the tax laws as defined in section 271.01, subdivision 5; disregarding sections 273.125, subdivision 5, and 278.03, but including section 278.05, subdivision 2. If the amount of the benefits under paragraph (a) or (b) and penalty are not paid within 60 days, and if no appeal has been filed, the county auditor shall certify the amount of the benefit and penalty to the succeeding year's tax list to be collected as part of the property taxes on the affected property.

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

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Sec. 18. Minnesota Statutes 2004, section 273.124, subdivision 6, is amended to read:

Subd. 6. **LEASEHOLD COOPERATIVES.** When one or more dwellings or one or more buildings which each contain several dwelling units is owned by a nonprofit corporation subject to the provisions of chapter 317A and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1990, or a limited partnership which corporation or partnership operates the property in conjunction with a cooperative association, and has received public financing, homestead treatment may be claimed by the cooperative association on behalf of the members of the cooperative for each dwelling unit occupied by a member of the cooperative. The cooperative association must provide the assessor with the Social Security numbers of those members. To qualify for the treatment provided by this subdivision, the following conditions must be met:

(a) the cooperative association must be organized under chapter 308A or 308B and all voting members of the board of directors must be resident tenants of the cooperative and must be elected by the resident tenants of the cooperative;

(b) the cooperative association must have a lease for occupancy of the property for a term of at least 20 years, which permits the cooperative association, while not in default on the lease, to participate materially in the management of the property, including material participation in establishing budgets, setting rent levels, and hiring and supervising a management agent;

(c) to the extent permitted under state or federal law, the cooperative association must have a right under a written agreement with the owner to purchase the property if the owner proposes to sell it; if the cooperative association does not purchase the property it is offered for sale, the owner may not subsequently sell the property to another purchaser at a price lower than the price at which it was offered for sale to the cooperative association unless the cooperative association approves the sale;

(d) a minimum of 40 percent of the cooperative association's members must have incomes at or less than 60 percent of area median gross income as determined by the United States Secretary of Housing and Urban Development under section 142(d)(2)(B) of the Internal Revenue Code of 1986, as amended through December 31, 1991. For purposes of this clause, "member income" means the income of a member existing at the time the member acquires cooperative membership;

(e) if a limited partnership owns the property, it must include as the managing general partner a nonprofit organization operating under the provisions of chapter 317A and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended through December 31, 1990, and the limited partnership agreement must provide that the managing general partner have sufficient powers so that it materially participates in the management and control of the limited partnership;

(f) prior to becoming a member of a leasehold cooperative described in this subdivision, a person must have received notice that (1) describes leasehold cooperative property in plain language, including but not limited to the effects of classification

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under this subdivision on rents, property taxes and tax credits or refunds, and operating expenses, and (2) states that copies of the articles of incorporation and bylaws of the cooperative association, the lease between the owner and the cooperative association, a sample sublease between the cooperative association and a tenant, and, if the owner is a partnership, a copy of the limited partnership agreement, can be obtained upon written request at no charge from the owner, and the owner must send or deliver the materials within seven days after receiving any request;

(g) if a dwelling unit of a building was occupied on the 60th day prior to the date on which the unit became leasehold cooperative property described in this subdivision, the notice described in paragraph (f) must have been sent by first class mail to the occupant of the unit at least 60 days prior to the date on which the unit became leasehold cooperative property. For purposes of the notice under this paragraph, the copies of the documents referred to in paragraph (f) may be in proposed version, provided that any subsequent material alteration of those documents made after the occupant has requested a copy shall be disclosed to any occupant who has requested a copy of the document. Copies of the articles of incorporation and certificate of limited partnership shall be filed with the secretary of state after the expiration of the 60-day period unless the change to leasehold cooperative status does not proceed;

(h) the county attorney of the county in which the property is located must certify to the assessor that the property meets the requirements of this subdivision;

(i) the public financing received must be from at least one of the following sources:

(1) tax increment financing proceeds used for the acquisition or rehabilitation of the building or interest rate write-downs relating to the acquisition of the building;

(2) government issued bonds exempt from taxes under section 103 of the Internal Revenue Code of 1986, as amended through December 31, 1991, the proceeds of which are used for the acquisition or rehabilitation of the building;

(3) programs under section 221(d)(3), 202, or 236, of Title II of the National Housing Act;

(4) rental housing program funds under Section 8 of the United States Housing Act of 1937 or the market rate family graduated payment mortgage program funds administered by the Minnesota Housing Finance Agency that are used for the acquisition or rehabilitation of the building;

(5) low-income housing credit under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1991;

(6) public financing provided by a local government used for the acquisition or rehabilitation of the building, including grants or loans from (i) federal community development block grants; (ii) HOME block grants; or (iii) residential rental bonds issued under chapter 474A; or

(7) other rental housing program funds provided by the Minnesota Housing Finance Agency for the acquisition or rehabilitation of the building;

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(j) at the time of the initial request for homestead classification or of any transfer of ownership of the property, the governing body of the municipality in which the property is located must hold a public hearing and make the following findings:

(1) that the granting of the homestead treatment of the apartment's units will facilitate safe, clean, affordable housing for the cooperative members that would otherwise not be available absent the homestead designation;

(2) that the owner has presented information satisfactory to the governing body showing that the savings garnered from the homestead designation of the units will be used to reduce tenant's rents or provide a level of furnishing or maintenance not possible absent the designation; and

(3) that the requirements of paragraphs (b), (d), and (i) have been met.

Homestead treatment must be afforded to units occupied by members of the cooperative association and the units must be assessed as provided in subdivision 3, provided that any unit not so occupied shall be classified and assessed pursuant to the appropriate class. No more than three acres of land may, for assessment purposes, be included with each dwelling unit that qualifies for homestead treatment under this subdivision.

When dwelling units no longer qualify under this subdivision, the current owner must notify the assessor within 60 days. Failure to notify the assessor within 60 days shall result in the loss of benefits under this subdivision for taxes payable in the year that the failure is discovered. For these purposes, "benefits under this subdivision" means the difference in the net tax capacity of the units which no longer qualify as computed under this subdivision and as computed under the otherwise applicable law, times the local tax rate applicable to the building for that taxes payable year. Upon discovery of a failure to notify, the assessor shall inform the auditor of the difference in net tax capacity for the building or buildings in which units no longer qualify, and the auditor shall calculate the benefits under this subdivision. Such amount, plus a penalty equal to 100 percent of that amount, shall then be demanded of the building's owner. The property owner may appeal the county's determination by serving copies of a petition for review with county officials as provided in section 278.01 and filing a proof of service as provided in section 278.01 with the Minnesota Tax Court within 60 days of the date of the notice from the county. The appeal shall be governed by the Tax Court procedures provided in chapter 271, for cases relating to the tax laws as defined in section 271.01, subdivision 5; disregarding sections 273.125, subdivision 5, and 278.03, but including section 278.05, subdivision 2. If the amount of the benefits under this subdivision and penalty are not paid within 60 days, and if no appeal has been filed, the county auditor shall certify the amount of the benefit and penalty to the succeeding year's tax list to be collected as part of the property taxes on the affected buildings.

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

Sec. 19. Minnesota Statutes 2004, section 273.124, subdivision 8, is amended to read:

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Subd. 8. HOMESTEAD OWNED BY OR LEASED TO FAMILY FARM CORPORATION, JOINT FARM VENTURE, LIMITED LIABILITY COMPANY, OR PARTNERSHIP. (a) Each family farm corporation, ~~each~~; ~~each~~ joint family farm venture; ~~and~~ each limited liability company, ~~and~~ ~~each~~ or partnership operating which operates a family farm; is entitled to class 1b under section 273.13, subdivision 22, paragraph (b), or class 2a assessment for one homestead occupied by a shareholder, member, or partner thereof who is residing on the land, and actively engaged in farming of the land owned by the family farm corporation, joint family farm venture, limited liability company, or partnership ~~operating a family farm~~. Homestead treatment applies even if legal title to the property is in the name of the family farm corporation, joint family farm venture, limited liability company, or partnership ~~operating the family farm~~, and not in the name of the person residing on it.

"Family farm corporation," "family farm," and "partnership operating a family farm" have the meanings given in section 500.24, except that the number of allowable shareholders, members, or partners under this subdivision shall not exceed 12. "Limited liability company" has the meaning contained in sections 322B.03, subdivision 28, and 500.24, subdivision 2, paragraphs (l) and (m). "Joint family farm venture" means a cooperative agreement among two or more farm enterprises authorized to operate a family farm under section 500.24.

(b) In addition to property specified in paragraph (a), any other residences owned by family farm corporations, joint family farm ventures, limited liability companies, or partnerships ~~operating a family farm~~ described in paragraph (a) which are located on agricultural land and occupied as homesteads by its shareholders, members, or partners who are actively engaged in farming on behalf of that corporation, joint farm venture, limited liability company, or partnership must also be assessed as class 2a property or as class 1b property under section 273.13.

(c) Agricultural property that is owned by a member, partner, or shareholder of a family farm corporation or joint family farm venture, limited liability company operating a family farm, or by a partnership operating a family farm and leased to the family farm corporation, limited liability company, or partnership operating a family farm, or joint farm venture, as defined in paragraph (a), is eligible for classification as class 1b or class 2a under section 273.13, if the owner is actually residing on the property, and is actually engaged in farming the land on behalf of that corporation, joint farm venture, limited liability company, or partnership. This paragraph applies without regard to any legal possession rights of the family farm corporation, joint family farm venture, limited liability company, or partnership ~~operating a family farm~~ under the lease.

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

Sec. 20. Minnesota Statutes 2004, section 273.124, subdivision 13, is amended to read:

Subd. 13. HOMESTEAD APPLICATION. (a) A person who meets the homestead requirements under subdivision 1 must file a homestead application with

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the county assessor to initially obtain homestead classification.

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

(c) Every property owner applying for homestead classification must furnish to the county assessor the Social Security number of each occupant who is listed as an owner of the property on the deed of record, the name and address of each owner who does not occupy the property, and the name and Social Security number of each owner's spouse who occupies the property. The application must be signed by each owner who occupies the property and by each owner's spouse who occupies the property, or, in the case of property that qualifies as a homestead under subdivision 1, paragraph (c), by the qualifying relative.

If a property owner occupies a homestead, the property owner's spouse may not claim another property as a homestead unless the property owner and the property owner's spouse file with the assessor an affidavit or other proof required by the assessor stating that the property qualifies as a homestead under subdivision 1, paragraph (c).

Owners or spouses occupying residences owned by their spouses and previously occupied with the other spouse, either of whom fail to include the other spouse's name and Social Security number on the homestead application or provide the affidavits or other proof requested, will be deemed to have elected to receive only partial homestead treatment of their residence. The remainder of the residence will be classified as nonhomestead residential. When an owner or spouse's name and Social Security number appear on homestead applications for two separate residences and only one application is signed, the owner or spouse will be deemed to have elected to homestead the residence for which the application was signed.

The Social Security numbers or affidavits or other proofs of the property owners and spouses are private data on individuals as defined by section 13.02, subdivision 12, but, notwithstanding that section, the private data may be disclosed to the commissioner of revenue, or, for purposes of proceeding under the Revenue Recapture Act to recover personal property taxes owing, to the county treasurer.

(d) If residential real estate is occupied and used for purposes of a homestead by a relative of the owner and qualifies for a homestead under subdivision 1, paragraph (c), in order for the property to receive homestead status, a homestead application must be filed with the assessor. The Social Security number of each relative occupying the

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property and the Social Security number of each owner who is related to an occupant of the property shall be required on the homestead application filed under this subdivision. If a different relative of the owner subsequently occupies the property, the owner of the property must notify the assessor within 30 days of the change in occupancy. The Social Security number of a relative occupying the property is private data on individuals as defined by section 13.02, subdivision 12, but may be disclosed to the commissioner of revenue.

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

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

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

(h) If the commissioner finds that a property owner may be claiming a fraudulent homestead, the commissioner shall notify the appropriate counties. Within 90 days of the notification, the county assessor shall investigate to determine if the homestead classification was properly claimed. If the property owner does not qualify, the county assessor shall notify the county auditor who will determine the amount of homestead benefits that had been improperly allowed. For the purpose of this section, "homestead benefits" means the tax reduction resulting from the classification as a homestead under section 273.13, the taconite homestead credit under section 273.135, the residential homestead and agricultural homestead credits under section 273.1384, and the supplemental homestead credit under section 273.1391.

The county auditor shall send a notice to the person who owned the affected property at the time the homestead application related to the improper homestead was

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filed, demanding reimbursement of the homestead benefits plus a penalty equal to 100 percent of the homestead benefits. The person notified may appeal the county's determination by serving copies of a petition for review with county officials as provided in section 278.01 and filing proof of service as provided in section 278.01 with the Minnesota Tax Court within 60 days of the date of the notice from the county. Procedurally, the appeal is governed by the provisions in chapter 271 which apply to the appeal of a property tax assessment or levy, but without requiring any prepayment of the amount in controversy. If the amount of homestead benefits and penalty is not paid within 60 days, and if no appeal has been filed, the county auditor shall certify the amount of taxes and penalty to the county treasurer. The county treasurer will add interest to the unpaid homestead benefits and penalty amounts at the rate provided in section 279.03 for real property taxes becoming delinquent in the calendar year during which the amount remains unpaid. Interest may be assessed for the period beginning 60 days after demand for payment was made.

If the person notified is the current owner of the property, the treasurer may add the total amount of homestead benefits, penalty, interest, and costs to the ad valorem taxes otherwise payable on the property by including the amounts on the property tax statements under section 276.04, subdivision 3. The amounts added under this paragraph to the ad valorem taxes shall include interest accrued through December 31 of the year preceding the taxes payable year for which the amounts are first added. These amounts, when added to the property tax statement, become subject to all the laws for the enforcement of real or personal property taxes for that year, and for any subsequent year.

If the person notified is not the current owner of the property, the treasurer may collect the amounts due under the Revenue Recapture Act in chapter 270A, or use any of the powers granted in sections 277.20 and 277.21 without exclusion, to enforce payment of the homestead benefits, penalty, interest, and costs, as if those amounts were delinquent tax obligations of the person who owned the property at the time the application related to the improperly allowed homestead was filed. The treasurer may relieve a prior owner of personal liability for the homestead benefits, penalty, interest, and costs, and instead extend those amounts on the tax lists against the property as provided in this paragraph to the extent that the current owner agrees in writing. On all demands, billings, property tax statements, and related correspondence, the county must list and state separately the amounts of homestead benefits, penalty, interest and costs being demanded, billed or assessed.

(i) Any amount of homestead benefits recovered by the county from the property owner shall be distributed to the county, city or town, and school district where the property is located in the same proportion that each taxing district's levy was to the total of the three taxing districts' levy for the current year. Any amount recovered attributable to taconite homestead credit shall be transmitted to the St. Louis County auditor to be deposited in the taconite property tax relief account. Any amount recovered that is attributable to supplemental homestead credit is to be transmitted to the commissioner of revenue for deposit in the general fund of the state treasury. The total amount of penalty collected must be deposited in the county general fund.

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(j) If a property owner has applied for more than one homestead and the county assessors cannot determine which property should be classified as homestead, the county assessors will refer the information to the commissioner. The commissioner shall make the determination and notify the counties within 60 days.

(k) In addition to lists of homestead properties, the commissioner may ask the counties to furnish lists of all properties and the record owners. The Social Security numbers and federal identification numbers that are maintained by a county or city assessor for property tax administration purposes, and that may appear on the lists retain their classification as private or nonpublic data; but may be viewed, accessed, and used by the county auditor or treasurer of the same county for the limited purpose of assisting the commissioner in the preparation of microdata samples under section 270.0681.

(l) On or before April 30 each year beginning in 2007, each county must provide the commissioner with the following data for each parcel of homestead property by electronic means as defined in section 289A.02, subdivision 8:

(i) the property identification number assigned to the parcel for purposes of taxes payable in the current year;

(ii) the name and Social Security number of each property owner and property owner's spouse, as shown on the tax rolls for the current and the prior assessment year;

(iii) the classification of the property under section 273.13 for taxes payable in the current year and in the prior year;

(iv) an indication of whether the property was classified as a homestead for taxes payable in the current year or for taxes payable in the prior year because of occupancy by a relative of the owner or by a spouse of a relative;

(v) the property taxes payable as defined in section 290A.03, subdivision 13, for the current year and the prior year;

(vi) the market value of improvements to the property first assessed for tax purposes for taxes payable in the current year;

(vii) the assessor's estimated market value assigned to the property for taxes payable in the current year and the prior year;

(viii) the taxable market value assigned to the property for taxes payable in the current year and the prior year;

(ix) whether there are delinquent property taxes owing on the homestead;

(x) the unique taxing district in which the property is located; and

(xi) such other information as the commissioner decides is necessary.

The commissioner shall use the information provided on the lists as appropriate under the law, including for the detection of improper claims by owners, or relatives of owners, under chapter 290A.

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Sec. 21. Minnesota Statutes 2004, section 273.124, subdivision 21, is amended to read:

Subd. 21. **TRUST PROPERTY; HOMESTEAD.** Real property held by a trustee under a trust is eligible for classification as homestead property if:

(1) the grantor or surviving spouse of the grantor of the trust occupies and uses the property as a homestead;

(2) a relative or surviving relative of the grantor who meets the requirements of subdivision 1, paragraph (c), in the case of residential real estate; or subdivision 1, paragraph (d), in the case of agricultural property, occupies and uses the property as a homestead;

(3) a family farm corporation, joint farm venture, limited liability company, or partnership operating a family farm rents the property held by a trustee under a trust, and the grantor, the spouse of the grantor, or the son or daughter of the grantor, who is also a shareholder, member, or partner of the corporation, joint farm venture, limited liability company, or partnership occupies and uses the property as a homestead, and or is actively farming the property on behalf of the corporation, joint farm venture, limited liability company, or partnership; or

(4) a person who has received homestead classification for property taxes payable in 2000 on the basis of an unqualified legal right under the terms of the trust agreement to occupy the property as that person's homestead and who continues to use the property as a homestead or a person who received the homestead classification for taxes payable in 2005 under clause (3) who does not qualify under clause (3) for taxes payable in 2006 or thereafter but who continues to qualify under clause (3) as it existed for taxes payable in 2005.

For purposes of this subdivision, "grantor" is defined as the person creating or establishing a testamentary, inter Vivos, revocable or irrevocable trust by written instrument or through the exercise of a power of appointment.

EFFECTIVE DATE. This section is effective for taxes payable in 2006 and thereafter.

Sec. 22. Minnesota Statutes 2004, 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), shall file with the commissioner of revenue 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 on or before June 30 of the filing year, the property owner or the owner's spouse satisfies the requirements of section 273.13, subdivision 22, paragraph (b), for 1b classification; and

(b) any additional information prescribed by the commissioner.

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The declaration must be filed on or before October 1 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 November 1 a listing of the parcels of property qualifying for 1b classification.

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

Sec. 23. Minnesota Statutes 2004, section 273.19, subdivision 1a, is amended to read:

Subd. 1a. For purposes of this section, a lease includes any agreement, except a cooperative farming agreement pursuant to section 97A.135, subdivision 3, or a lease executed pursuant to section 272.68, subdivision 4, permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease. A lease has a "term of at least one year" if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users.

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

Sec. 24. Minnesota Statutes 2004, section 273.372, is amended to read:

273.372 PROCEEDINGS AND APPEALS; UTILITY OR RAILROAD VALUATIONS.

Subdivision 1. SCOPE. (a) As provided in this section, an appeal by a utility or railroad company concerning the exemption, valuation, or classification of property for which the commissioner of revenue has provided the city or county assessor with 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.

(b) This section governs administrative appeals and appeals to court of a claim that utility or railroad operating property has been partially, unfairly, or unequally assessed, or assessed at a valuation greater than its real or actual value, misclassified, or that the property is exempt. This section applies only to property described in sections 270.81, subdivision 1, 273.33, 273.35, 273.36, and 273.37, and only with regard to taxable net tax capacities that have been provided to the city or county by the commissioner and which have not been changed by city or county. If the taxable net

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tax capacity being appealed is not the taxable net tax capacity established by the commissioner, or if the appeal claims that the tax rate applied against the parcel is incorrect, or that the tax has been paid, this section does not apply.

Subd. 2. CONTENTS AND FILING OF PETITION. (a) In all appeals to court that are required to be brought against the commissioner under this section, the petition initiating the appeal must be served on the commissioner and must be filed with the Tax Court in Ramsey County, as provided in paragraph (b) or (c).

(b) If the appeal to court is from an order of the commissioner, it must be brought under chapter 271, except that when the provisions of this section conflict with chapter 271, this section prevails. In addition, the petition must include all the parcels encompassed by that order which the petitioner claims have been partially, unfairly, or unequally assessed, assessed at a valuation greater than their real or actual value, misclassified, or are exempt. For this purpose, an order of the commissioner is either (1) a certification or notice of value by the commissioner for property described in subdivision 1, or (2) the final determination by the commissioner of either an administrative appeal conference or informal administrative appeal described in subdivision 4.

(c) If the appeal is from the exemption, valuation, classification, or tax that results from implementation of the commissioner's order, certification, or recommendation, it must be brought under chapter 278, and the provisions in that chapter apply, except that service shall be on the commissioner only and not on the county local officials specified in section 278.01, subdivision 1, and if any other provision of this section conflicts with chapter 278, this section prevails. In addition, the petition must include either all the utility parcels or all the railroad parcels in the state in which the petitioner claims an interest and which the petitioner claims have been partially, unfairly, or unequally assessed, assessed at a valuation greater than their real or actual value, misclassified, or are exempt. This provision applies to the property 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.

Subd. 3. NOTICE. Upon filing of any appeal in court by a utility company or railroad against the commissioner pursuant to this section, the commissioner shall give notice by first class mail to the county auditor of each county which would be affected by the appeal where property included in the petition is located.

Subd. 4. ADMINISTRATIVE APPEALS. (a) 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 by submitting a written request with the commissioner does not change or modify for

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a conference within ten days after the date of the commissioner's valuation certification or notice to the company, or by May 15, whichever is earlier. The commissioner shall conduct the conference upon the commissioner's entire files and records and such further information as may be offered. The conference must be held no later than 20 days after the date of the commissioner's valuation certification or notice to the company, or by the date specified by the commissioner in an extension. Within 60 days after the conference the commissioner shall make a final determination of the matter and shall notify the company promptly of the determination. The conference is not a contested case hearing.

(b) In addition to the opportunity for a conference under paragraph (a), the commissioner shall also provide the railroad and utility companies the opportunity to discuss any questions or concerns relating to the values established by the commissioner through certification or notice in a less formal manner. This does not change or modify the deadline for requesting a conference under paragraph (a), the deadline in section 271.06 for appealing an order of the commissioner in Tax Court, or the deadline in section 278.01 for filing a property tax claim or objection in Tax Court or district appealing property taxes in court.

EFFECTIVE DATE. This section is effective September 1, 2005, and thereafter.

Sec. 25. Minnesota Statutes 2004, section 274.014, subdivision 2, is amended to read:

Subd. 2. **APPEALS AND EQUALIZATION COURSE.** By no later than January 1, Beginning in 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.

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

Sec. 26. Minnesota Statutes 2004, section 274.014, subdivision 3, is amended to read:

Subd. 3. **PROOF OF COMPLIANCE; TRANSFER OF DUTIES.** (a) Any city or town that does not conducts local boards of appeal and equalization meetings must 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. Beginning in 2006, this notice must also verify that there was a quorum of voting members at each meeting of the board of appeal and equalization in the prior current year. A city or town that does not comply with these requirements is deemed to have transferred its board of appeal and equalization powers to the county under section 274.01, subdivision 3, for beginning with the following year's assessment and continuing unless the powers are reinstated under paragraph (c).

(b) 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

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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.

(c) 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. 27. Minnesota Statutes 2004, section 274.14, is amended to read:

274.14 LENGTH OF SESSION; RECORD.

The county board of equalization or the special board of equalization appointed by it shall meet during the last ten meeting days in June. For this purpose, "meeting days" are defined as any day of the week excluding Saturday and Sunday. The board may meet on any ten consecutive meeting days in June, after the second Friday in June, if. The actual meeting dates are must be contained on the valuation notices mailed to each property owner in the county under as provided in section 273.121. For this purpose, "meeting days" is defined as any day of the week excluding Saturday and Sunday. No action taken by the county board of review after June 30 is valid, except for corrections permitted in sections 273.01 and 274.01. The county auditor shall keep an accurate record of the proceedings and orders of the board. The record must be published like other proceedings of county commissioners. A copy of the published record must be sent to the commissioner of revenue, with the abstract of assessment required by section 274.16.

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

Sec. 28. Minnesota Statutes 2004, section 275.07, subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATION OF LEVY.** (a) Except as provided under paragraph (b), the taxes voted by cities, counties, school districts, and special districts shall be certified by the proper authorities to the county auditor on or before five working days after December 20 in each year. A town must certify the levy adopted by the town board to the county auditor by September 15 each year. If the town board modifies the levy at a special town meeting after September 15, the town board must recertify its levy to the county auditor on or before five working days after December 20. ~~The taxes certified shall be reduced by the county auditor by the aid received under section 273.1398, subdivision 3.~~ If a city, town, county, school district, or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year.

(b)(i) The taxes voted by counties under sections 103B.241, 103B.245, and 103B.251 shall be separately certified by the county to the county auditor on or before

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five working days after December 20 in each year. The taxes certified shall not be reduced by the county auditor by the aid received under section 273.1398, subdivision 3. If a county fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year.

(ii) For purposes of the proposed property tax notice under section 275.065 and the property tax statement under section 276.04, for the first year in which the county implements the provisions of this paragraph, the county auditor shall reduce the county's levy for the preceding year to reflect any amount levied for water management purposes under clause (i) included in the county's levy.

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

Sec. 29. Minnesota Statutes 2004, section 275.07, subdivision 4, is amended to read:

Subd. 4. **REPORT TO COMMISSIONER.** (a) On or before October 8 of each year, the county auditor shall report to the commissioner of revenue the proposed levy certified by local units of government under section 275.065, subdivision 1. If any taxing authorities have notified the county auditor that they are in the process of negotiating an agreement for sharing, merging, or consolidating services but that when the proposed levy was certified under section 275.065, subdivision 1c, the agreement was not yet finalized, the county auditor shall supply that information to the commissioner when filing the report under this section and shall recertify the affected levies as soon as practical after October 10,

(b) On or before January 15 of each year, the county auditor shall report to the commissioner of revenue the final levy certified by local units of government under subdivision 1.

(c) The levies must be reported in the manner prescribed by the commissioner. The reports must show a total levy and the amount of each special levy.

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

Sec. 30. Minnesota Statutes 2004, section 276.112, is amended to read:

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 ~~28~~ 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. 31. Minnesota Statutes 2004, section 282.016, is amended to read:

282.016 PROHIBITED PURCHASERS.

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No (a) A county auditor, county treasurer, county attorney, court administrator of the district court, or county assessor or supervisor of assessments, or deputy or clerk or an employee of such officer, and ~~no~~ a commissioner for tax-forfeited lands or an assistant to such commissioner may, must not become a purchaser, either personally or as an agent or attorney for another person, of the properties offered for sale under the provisions of this chapter, either personally, or as agent or attorney for any other person, except that in the county for which the person performs duties. A person prohibited from purchasing property under this section must not directly or indirectly have another person purchase it on behalf of the prohibited purchaser for the prohibited purchaser's benefit or gain.

(b) Notwithstanding paragraph (a), such officer, deputy, ~~court administrator clerk,~~ or employee or commissioner for tax-forfeited lands or assistant to such commissioner may (1) purchase lands owned by that official at the time the state became the absolute owner thereof or (2) bid upon and purchase forfeited property offered for sale under the alternate sale procedure described in section 282.01, subdivision 7a.

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

Sec. 32. Minnesota Statutes 2004, 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;

(3) (2) 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;

(4) (3) 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

(5) (4) any balance must be apportioned as follows:

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(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 the day following final enactment for state general tax levy amounts payable in 2004 and thereafter.

Sec. 33. Minnesota Statutes 2004, section 282.15, is amended to read:

282.15 SALES OF FORFEITED AGRICULTURAL LANDS.

The sale shall be conducted by the auditor of the county in which the parcels lie. The parcels shall be sold to the highest bidder but not for less than the appraised value. The sales shall be for cash or on the following terms: The appraised value of all merchantable timber on agricultural lands shall be paid for in full at the date of sale. At least 15 percent of the purchase price of the land shall be paid in cash at the time of purchase. The balance shall be paid in not more than 20 equal annual installments, with interest at a rate equal to the rate in effect at the time under section 549.09 on the unpaid balance each year. Both principal and interest are due and payable on December 31 each year following that in which the purchase was made. The purchaser may pay any number of installments of principal and interest on or before their due date. When the sale is on terms other than for cash in full, the purchaser shall receive from the county auditor a contract for deed, in a form prescribed by the attorney general. The county auditor shall make a report to the commissioner of natural resources not more than 30 days after each public sale showing the lands sold at the sales, and submit a copy of each contract of sale.

All lands sold pursuant to this section shall, on the second day of January following the date of the sale, must be restored to the tax rolls and become subject to taxation in the same manner as they were assessed and taxed before becoming the absolute property of the state for the assessment year determined under section 272.02, subdivision 38, paragraph (c).

EFFECTIVE DATE. This section is effective for sales occurring on or after July 1, 2005.

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Sec. 34. Minnesota Statutes 2004, section 282.21, is amended to read:

282.21 FORM OF CONVEYANCE.

When any sale has been made under sections 282.14 to 282.22, upon payment in full of the purchase price, appropriate conveyance in fee in such form as may be prescribed by the attorney general shall be issued by the commissioner of ~~finance~~ natural resources to the purchaser or the purchaser's assigns and this conveyance shall have the force and effect of a patent from the state.

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

Sec. 35. Minnesota Statutes 2004, section 282.224, is amended to read:

282.224 FORM OF CONVEYANCE.

When any sale has been made under sections 282.221 to 282.226, upon payment in full of the purchase price, appropriate conveyance in fee, in such form as may be prescribed by the attorney general, shall be issued by the commissioner of natural resources to the purchaser or the purchaser's assignee, and the conveyance shall have the force and effect of a patent from the state.

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

Sec. 36. Minnesota Statutes 2004, section 282.301, is amended to read:

282.301 RECEIPTS FOR PAYMENTS.

When any sale has been made under sections 282.012 and 282.241 to 282.324, the purchaser shall receive from the county auditor at the time of repurchase a receipt, in such form as may be prescribed by the attorney general. When the purchase price of a parcel of land shall be paid in full, the following facts shall be certified by the county auditor to the commissioner of revenue of the state of Minnesota: the description of land, the date of sale, the name of the purchaser or the purchaser's assignee, and the date when the final installment of the purchase price was paid. Upon payment in full of the purchase price, the purchaser or the assignee shall receive a quitclaim deed from the state, to be executed by the commissioner of revenue. The deed must be sent to the county auditor who shall have it recorded before it is forwarded to the purchaser. Failure to make any payment herein required shall constitute default and upon such default and cancellation in accord with section 282.40, the right, title and interest of the purchaser or the purchaser's heirs, representatives, or assigns in such parcel shall terminate.

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

Sec. 37. Minnesota Statutes 2004, section 290B.05, subdivision 3, is amended to read:

Subd. 3. CALCULATION OF DEFERRED PROPERTY TAX AMOUNT.

When final property tax amounts for the following year have been determined, the county auditor shall calculate the "deferred property tax amount." The deferred property tax amount is equal to the lesser of (1) the maximum allowable deferral for the year; or (2) the difference between (i) the total amount of property taxes and special assessments levied upon the qualifying homestead by all taxing jurisdictions and (ii) the maximum property tax amount. ~~Any special assessments levied by any local unit~~

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of government must not be included in the total tax used to calculate the deferred tax amount. For this purpose "special assessments" includes any assessment, fee, or other charge that may by law, and which does, appear on the property tax statement for the property for collection under the laws applicable to the enforcement of real estate taxes. Any tax attributable to new improvements made to the property after the initial application has been approved under section 290B.04, subdivision 2, must be excluded when determining any subsequent deferred property tax amount. The county auditor shall annually, on or before April 15, certify to the commissioner of revenue the property tax deferral amounts determined under this subdivision by property and by owner.

EFFECTIVE DATE. This section is effective for amounts deferred in 2006 and thereafter.

Sec. 38. Minnesota Statutes 2004, section 290C.05, is amended to read:

290C.05 ANNUAL CERTIFICATION.

On or before July 1 of each year, beginning with the year after the claimant has received an approved application, the commissioner shall send each claimant enrolled under the sustainable forest incentive program a certification form. The claimant must sign the certification, attesting that the requirements and conditions for continued enrollment in the program are currently being met, and must return the signed certification form to the commissioner by August 15 of that same year. Failure to If the claimant does not return an annual certification form by the due date shall result in removal of the lands from the provisions of the sustainable forest incentive program, and the imposition of any applicable removal penalty, the provisions in section 290C.11 apply. The claimant may appeal the removal and any associated penalty according to the procedures and within the time allowed under this chapter.

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

Sec. 39. [290C.055] LENGTH OF COVENANT.

The covenant remains in effect for a minimum of eight years. If land is removed from the program before it has been enrolled for four years, the covenant remains in effect for eight years from the date recorded.

If land that has been enrolled for four years or more is removed from the program for any reason, there is a waiting period before the covenant terminates. The covenant terminates on January 1 of the fifth calendar year that begins after the date that:

(1) the commissioner receives notification from the claimant that the claimant wishes to remove the land from the program under section 290C.10; or

(2) the date that the land is removed from the program under section 290C.11.

Notwithstanding the other provisions of this section, the covenant is terminated at the same time that the land is removed from the program due to acquisition of title or possession for a public purpose under section 290C.10.

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

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Sec. 40. Minnesota Statutes 2004, 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 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 when the state of Minnesota, any local government unit, or any other entity which has the right of eminent domain acquires title or possession to the land for a public purpose notwithstanding the provisions of this section. In the case of such acquisition, the commissioner shall execute and acknowledge a document releasing the land acquired by the state, local government unit, or other entity from the covenant. All other enrolled land must remain in the program.

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

Sec. 41. Minnesota Statutes 2004, section 373.45, subdivision 7, is amended to read:

Subd. 7. **AID REDUCTION FOR REPAYMENT.** (a) Except as provided in paragraph (b), the commissioner may reduce, by the amount paid by the state under this section on behalf of the county, plus the interest due on the state payments, the following aids payable to the county:

(1) ~~homestead and agricultural credit aid and disparity reduction aid payable under section 273.1398;~~

(2) ~~county criminal justice aid payable under section 477A.0121; and~~

(3) family preservation aid payable under section 477A.0122 county program aid under section 477A.0124.

The amount of any aid reduction reverts from the appropriate account to the state general fund.

(b) If, after review of the financial situation of the county, the authority advises the commissioner that a total reduction of the aids would cause an undue hardship on the county, the authority, with the approval of the commissioner, may establish a

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different schedule for reduction of aids to repay the state. The amount of aids to be reduced are decreased by any amounts repaid to the state by the county from other revenue sources.

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

Sec. 42. Minnesota Statutes 2004, section 469.1735, subdivision 3, is amended to read:

Subd. 3. **TRANSFER AUTHORITY FOR PROPERTY TAX.** (a) A city may elect to use all or part of its allocation under subdivision 2 to reimburse the city or county or both for property tax reductions under section 272.0212. To elect this option, the city must notify the commissioner of revenue by October 1 of each calendar year of the amount of the property tax reductions for which it seeks reimbursements for taxes payable during the following current year and the governmental units to which the amounts will be paid. The commissioner may require the city to provide information substantiating the amount of the reductions granted or any other information necessary to administer this provision. The commissioner shall pay the reimbursements by December 26 of the taxes payable year. Any amount transferred under this authority reduces the amount of tax credit certificates available under subdivisions 1 and 2.

(b) The amount elected by the city under paragraph (a) is appropriated to the commissioner of revenue from the general fund to reimburse the city or county for tax reductions under section 272.0212. The amount appropriated may not exceed the maximum amounts allocated to a city under subdivision 2, paragraph (b), less the amount of certificates issued by the city under subdivision 1, and is available until expended.

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

Sec. 43. Laws 2003, chapter 127, article 5, section 27, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter distributions occurring on or after June 10, 2003.

Sec. 44. Laws 2003, chapter 127, article 5, section 28, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for taxes payable in 2004 and thereafter distributions occurring on or after June 10, 2003.

Sec. 45. **LINCOLN AND PIPESTONE COUNTIES; TOWN LEVY ADJUSTMENT FOR WIND ENERGY PRODUCTION TAX.**

Notwithstanding the deadlines in Minnesota Statutes, section 275.07, towns located in Lincoln or Pipestone County are authorized to adjust their payable 2004 levy for all or a portion of their estimated wind energy production tax amounts for 2004, as

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computed by the commissioner of revenue from reports filed under Minnesota Statutes, section 272.029, subdivision 4. The Lincoln and Pipestone County auditors may adjust the payable 2004 levy certifications under Minnesota Statutes, section 275.07, subdivision 1, based upon the towns that have recertified their levies under this section by March 15, 2004.

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

Sec. 46. REPEALER.

(a) Minnesota Statutes 2004, sections 273.19, subdivision 5; 274.05; 275.15; 275.61, subdivision 2; and 283.07, are repealed effective the day following final enactment.

(b) Laws 1975, chapter 287, section 5, and Laws 2003, chapter 127, article 9, section 9, subdivision 4, are repealed effective without local approval for taxes payable in 2006 and thereafter.

(c) Minnesota Statutes 2004, sections 270.85; 270.88; and 273.37, subdivision 3, are repealed effective September 1, 2005.

ARTICLE 6

INCOME, CORPORATE FRANCHISE, AND ESTATE TAXES

Section 1. Minnesota Statutes 2004, section 289A.08, subdivision 3, is amended to read:

Subd. 3. **CORPORATIONS.** A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return, except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return. The commissioner shall adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report. All members of an affiliated group that are required to file a combined report must file one return on behalf of the members of the group under rules adopted by the commissioner. If a corporation claims on a return that it has paid tax in excess of the amount of taxes lawfully due, that corporation must include on that return information necessary for payment of the tax in excess of the amount lawfully due by electronic means.

EFFECTIVE DATE. This section is effective for returns filed after December 31, 2005.

Sec. 2. Minnesota Statutes 2004, section 289A.18, subdivision 1, is amended to read:

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Subdivision 1. **INDIVIDUAL INCOME, FIDUCIARY INCOME, CORPORATE FRANCHISE, AND ENTERTAINMENT TAXES; PARTNERSHIP AND S CORPORATION RETURNS; INFORMATION RETURNS; MINING COMPANY RETURNS.** The returns required to be made under sections 289A.08 and 289A.12 must be filed at the following times:

(1) returns made on the basis of the calendar year must be filed on April 15 following the close of the calendar year, except that returns of corporations must be filed on March 15 following the close of the calendar year;

(2) returns made on the basis of the fiscal year must be filed on the 15th day of the fourth month following the close of the fiscal year, except that returns of corporations must be filed on the 15th day of the third month following the close of the fiscal year;

(3) returns for a fractional part of a year must be filed on the 15th day of the fourth month following the end of the month in which falls the last day of the period for which the return is made, except that the returns of corporations must be filed on the 15th day of the third month following the end of the ~~month~~ tax year of the unitary group in which falls the last day of the period for which the return is made;

(4) in the case of a final return of a decedent for a fractional part of a year, the return must be filed on the 15th day of the fourth month following the close of the 12-month period that began with the first day of that fractional part of a year;

(5) in the case of the return of a cooperative association, returns must be filed on or before the 15th day of the ninth month following the close of the taxable year;

(6) if a corporation has been divested from a unitary group and files a return for a fractional part of a year in which it was a member of a unitary business that files a combined report under section 290.34, subdivision 2, the divested corporation's return must be filed on the 15th day of the third month following the close of the common accounting period that includes the fractional year;

(7) returns of entertainment entities must be filed on April 15 following the close of the calendar year;

(8) returns required to be filed under section 289A.08, subdivision 4, must be filed on the 15th day of the fifth month following the close of the taxable year;

(9) returns of mining companies must be filed on May 1 following the close of the calendar year; and

(10) returns required to be filed with the commissioner under section 289A.12, subdivision 2, 4 to 10, or 14, must be filed within 30 days after being demanded by the commissioner.

EFFECTIVE DATE. This section is effective for fractional years closing after December 31, 2004.

Sec. 3. Minnesota Statutes 2004, 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

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~~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. If the estate requests an extension to file an estate tax return within the time provided in section 289A.18, subdivision 3, the commissioner shall extend the time for filing the estate tax return for six months.

EFFECTIVE DATE. This section is effective for estates of decedents dying after December 31, 2004.

Sec. 4. Minnesota Statutes 2004, section 289A.31, subdivision 2, is amended to read:

Subd. 2. **JOINT INCOME TAX RETURNS.** (a) If a joint income tax return is made by a husband and wife, the liability for the tax is joint and several. A spouse who qualifies for relief from a liability attributable to an underpayment under section 6015(b) of the Internal Revenue Code is relieved of the state income tax liability on the underpayment.

(b) In the case of individuals who were a husband and wife prior to the dissolution of their marriage or their legal separation, or prior to the death of one of the individuals, for tax liabilities reported on a joint or combined return, the liability of each person is limited to the proportion of the tax due on the return that equals that person's proportion of the total tax due if the husband and wife filed separate returns for the taxable year. This provision is effective only when the commissioner receives written notice of the marriage dissolution, legal separation, or death of a spouse from the husband or wife. No refund may be claimed by an ex-spouse, legally separated or widowed spouse for any taxes paid more than 60 days before receipt by the commissioner of the written notice.

(c) A request for calculation of separate liability pursuant to paragraph (b) for taxes reported on a return must be made within six years after the due date of the return. For calculation of separate liability for taxes assessed by the commissioner under section 289A.35 or 289A.37, the request must be made within six years after the date of assessment. The commissioner is not required to calculate separate liability if the remaining unpaid liability for which recalculation is requested is \$100 or less.

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

Sec. 5. Minnesota Statutes 2004, 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

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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, corporate franchise 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.

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

Sec. 6. Minnesota Statutes 2004, section 289A.39, subdivision 1, is amended to read:

Subdivision 1. **EXTENSIONS FOR SERVICE MEMBERS.** (a) The limitations of time provided by this chapter, chapter 290 relating to income taxes, chapter 271 relating to the Tax Court for filing returns, paying taxes, claiming refunds, commencing action thereon, appealing to the Tax Court from orders relating to income taxes, and the filing of petitions under chapter 278 that would otherwise be due May 15, 1996 prior to May 1 of the year in which the taxes are payable, and appealing to the Supreme Court from decisions of the Tax Court relating to income taxes are extended, as provided in section 7508 of the Internal Revenue Code.

(b) If a member of the National Guard or reserves is called to active duty in the armed forces, the limitations of time provided by this chapter and chapters 290 and 290A relating to income taxes and claims for property tax refunds are extended by the following period of time:

(1) in the case of an individual whose active service is in the United States, six months; or

(2) in the case of an individual whose active service includes service abroad, the period of initial service plus six months.

Nothing in this paragraph reduces the time within which an act is required or permitted under paragraph (a).

(c) If an individual entitled to the benefit of paragraph (a) files a return during the period disregarded under paragraph (a), interest must be paid on an overpayment or refundable credit from the due date of the return, notwithstanding section 289A.56, subdivision 2.

(d) The provisions of this subdivision apply to the spouse of an individual entitled to the benefits of this subdivision with respect to a joint return filed by the spouses.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2002, and for property taxes payable after 2003.

Sec. 7. Minnesota Statutes 2004, section 289A.50, subdivision 1a, is amended to read:

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Subd. 1a. **REFUND FORM.** On or before January 1, 2000, the commissioner of revenue shall prepare and make available to taxpayers a form for filing claims for refund of taxes paid in excess of the amount due. ~~If the commissioner fails to prepare a form under this subdivision by January 1, 2000, any claims for refund made after January 1, 2000, and up to ten days after the form is made available to taxpayers are deemed to be made in compliance with the requirement of the form.~~ The commissioner may require corporate franchise taxpayers claiming a refund of corporate franchise taxes paid in excess of the amount lawfully due to include on the claim for refund or amended return information necessary for payment of the taxes paid in excess of taxes lawfully due by electronic means.

EFFECTIVE DATE. This section is effective for claims for refund filed after December 31, 2005.

Sec. 8. Minnesota Statutes 2004, section 289A.60, subdivision 6, is amended to read:

Subd. 6. PENALTY FOR FALSE OR FRAUDULENT RETURN, EVASION.

(a) If a person files a false or fraudulent return, or attempts in any manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax, less amounts paid by the person on the basis of the false or fraudulent return, due for the period to which the return related.

(b) If a person files a false or fraudulent return that includes a claim for refund, there is imposed on the person a penalty equal to 50 percent of the portion of any refund claimed that is attributable to fraud. The penalty under this paragraph is in addition to any penalty imposed under paragraph (a).

EFFECTIVE DATE. This section is effective for returns filed after December 31, 2005.

Sec. 9. Minnesota Statutes 2004, section 289A.60, subdivision 12, is amended to read:

Subd. 12. PENALTIES RELATING TO PROPERTY TAX REFUNDS. (a) ~~If the commissioner determines that a property tax refund claim is or was excessive and was filed with fraudulent intent, the claim must be disallowed in full. If the claim has been paid, the amount disallowed may be recovered by assessment and collection.~~

(b) If it is determined that a property tax refund claim is excessive and was negligently prepared, ten percent of the corrected claim must be disallowed. If the claim has been paid, the amount disallowed must be recovered by assessment and collection.

(c) (b) An owner who without reasonable cause fails to give a certificate of rent constituting property tax to a renter, as required by section 290A.19, paragraph (a), is liable to the commissioner for a penalty of \$100 for each failure.

(d) (c) If the owner or managing agent knowingly gives rent certificates that report total rent constituting property taxes in excess of the amount of actual rent constituting property taxes paid on the rented part of a property, the owner or managing agent is

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liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported. An overstatement of rent constituting property taxes is presumed to be knowingly made if it exceeds by ten percent or more the actual rent constituting property taxes.

EFFECTIVE DATE. This section is effective for returns filed after December 31, 2005.

Sec. 10. Minnesota Statutes 2004, section 289A.60, subdivision 13, is amended to read:

Subd. 13. **PENALTIES FOR TAX RETURN PREPARERS.** (a) If an understatement of liability with respect to a return or claim for refund is due to a reckless disregard of laws and rules or willful attempt in any manner to understate the liability for a tax by a person who is a tax return preparer with respect to the return or claim, the person shall pay to the commissioner a penalty of \$500. If a part of a property tax refund claim is excessive due to a reckless disregard or willful attempt in any manner to overstate the claim for relief allowed under chapter 290A by a person who is a tax refund or return preparer, the person shall pay to the commissioner a penalty of \$500 with respect to the claim. These penalties may not be assessed against the employer of a tax return preparer unless the employer was actively involved in the reckless disregard or willful attempt to understate the liability for a tax or to overstate the claim for refund. These penalties are income tax liabilities and may be assessed at any time as provided in section 289A.38, subdivision 5.

(b) A civil action in the name of the state of Minnesota may be commenced to enjoin any person who is a tax return preparer doing business in this state from further engaging in any conduct described in paragraph (c). An action under this paragraph must be brought by the attorney general in the district court for the judicial district of the tax return preparer's residence or principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over the action separate and apart from any other action brought by the state of Minnesota against the tax return preparer or any taxpayer.

(c) In an action under paragraph (b), if the court finds that a tax return preparer has:

(1) engaged in any conduct subject to a civil penalty under section 289A.60 or a criminal penalty under section 289A.63;

(2) misrepresented the preparer's eligibility to practice before the Department of Revenue, or otherwise misrepresented the preparer's experience or education as a tax return preparer;

(3) guaranteed the payment of any tax refund or the allowance of any tax credit;
or

(4) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of state tax law, and injunctive relief is appropriate to prevent the recurrence of that conduct,

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the court may enjoin the person from further engaging in that conduct.

(d) If the court finds that a tax return preparer has continually or repeatedly engaged in conduct described in paragraph (c), and that an injunction prohibiting that conduct would not be sufficient to prevent the person's interference with the proper administration of state tax laws, the court may enjoin the person from acting as a tax return preparer. The court may not enjoin the employer of a tax return preparer for conduct described in paragraph (c) engaged in by one or more of the employer's employees unless the employer was also actively involved in that conduct.

(e) For purposes of this subdivision, the term "understatement of liability" means an understatement of the net amount payable with respect to a tax imposed by state tax law, or an overstatement of the net amount creditable or refundable with respect to a tax. The determination of whether or not there is an understatement of liability must be made without regard to any administrative or judicial action involving the taxpayer. For purposes of this subdivision, the amount determined for underpayment of estimated tax under either section 289A.25 or 289A.26 is not considered an understatement of liability.

(f) For purposes of this subdivision, the term "overstatement of claim" means an overstatement of the net amount refundable with respect to a claim for property tax relief provided by chapter 290A. The determination of whether or not there is an overstatement of a claim must be made without regard to administrative or judicial action involving the claimant.

(g) For purposes of this section, the term "tax refund or return preparer" means an individual who prepares for compensation, or who employs one or more individuals to prepare for compensation, a return of tax, or a claim for refund of tax. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. An individual is not considered a tax return preparer merely because the individual:

- (1) gives typing, reproducing, or other mechanical assistance;
- (2) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the individual is regularly and continuously employed;
- (3) prepares a return or claim for refund of any person as a fiduciary for that person; or
- (4) prepares a claim for refund for a taxpayer in response to a tax order issued to the taxpayer.

EFFECTIVE DATE. This section is effective for returns filed after December 31, 2005.

Sec. 11. Minnesota Statutes 2004, section 290.01, subdivision 7b, is amended to read:

Subd. 7b. **RESIDENT TRUST.** (a) Resident trust means a trust, except a grantor type trust, which either (1) was created by a will of a decedent who at death was

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domiciled in this state or (2) is an irrevocable trust, the grantor of which was domiciled in this state at the time the trust became irrevocable. For the purpose of this subdivision, a trust is considered irrevocable to the extent the grantor is not treated as the owner thereof under sections 671 to 678 of the Internal Revenue Code. The term "grantor type trust" means a trust where the income or gains of the trust are taxable to the grantor or others treated as substantial owners under sections 671 to 678 of the Internal Revenue Code. This paragraph applies to trusts, except grantor type trusts, that became irrevocable after December 31, 1995, or are first administered in Minnesota after December 31, 1995.

(b) This paragraph applies to trusts, except grantor type trusts, that are not governed under paragraph (a). A trust, except a grantor type trust, is a resident trust only if two or more of the following conditions are satisfied:

(i) a majority of the discretionary decisions of the trustees relative to the investment of trust assets are made in Minnesota;

(ii) a majority of the discretionary decisions of the trustees relative to the distributions of trust income and principal are made in Minnesota;

(iii) the official books and records of the trust, consisting of the original minutes of trustee meetings and the original trust instruments, are located in Minnesota.

(c) For purposes of paragraph (b), if the trustees delegate decisions and actions to an agent or custodian, the actions and decisions of the agent or custodian must not be taken into account in determining whether the trust is administered in Minnesota, if:

(i) the delegation was permitted under the trust agreement;

(ii) the trustees retain the power to revoke the delegation on reasonable notice;
and

(iii) the trustees monitor and evaluate the performance of the agent or custodian on a regular basis as is reasonably determined by the trustees.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2004.

Sec. 12. Minnesota Statutes 2004, 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

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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~~ the amount of taxes based on net income 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 99-514, applies;

(4) the amount of income taxes paid or accrued within the taxable year under this chapter and ~~income~~ taxes based on net income 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 other than expenses or interest used in computing net interest income for the subtraction allowed under subdivision 19b, clause (1);

(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.

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EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2004.

Sec. 13. Minnesota Statutes 2004, 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) net 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 363A. 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 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;

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(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 ;

(8) (7) 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;

(9) (8) 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;

(10) (9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, 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), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, 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; and

(11) (10) job opportunity building zone income as provided under section 469.316.

EFFECTIVE DATE. The amendment to clause (9) is effective retroactively for tax years beginning after December 31, 2001. The rest of this section is effective for the tax years beginning after December 31, 2004.

Sec. 14. Minnesota Statutes 2004, 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

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

~~(15)~~ (14) 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 107-147; and

~~(16)~~ (15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) 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)(1)(A) and (k)(4)(A) and the activity generates a loss

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for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) 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)(1)(A) and (k)(4)(A) is allowed.

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

Sec. 15. Minnesota Statutes 2004, section 290.06, subdivision 22, is amended to read:

Subd. 22. **CREDIT FOR TAXES PAID TO ANOTHER STATE.** (a) A taxpayer who is liable for taxes based on or measured by net income to another state, as provided in paragraphs (b) through (f), upon income allocated or apportioned to Minnesota, is entitled to a credit for the tax paid to another state if the tax is actually paid in the taxable year or a subsequent taxable year. A taxpayer who is a resident of this state pursuant to section 290.01, subdivision 7, ~~clause (2)~~ paragraph (b), and who is subject to income tax as a resident in the state of the individual's domicile is not allowed this credit unless the state of domicile does not allow a similar credit.

(b) For an individual, estate, or trust, the credit is determined by multiplying the tax payable under this chapter by the ratio derived by dividing the income subject to tax in the other state that is also subject to tax in Minnesota while a resident of Minnesota by the taxpayer's federal adjusted gross income, as defined in section 62 of the Internal Revenue Code, modified by the addition required by section 290.01, subdivision 19a, clause (1), and the subtraction allowed by section 290.01, subdivision 19b, clause (1), to the extent the income is allocated or assigned to Minnesota under sections 290.081 and 290.17.

(c) If the taxpayer is an athletic team that apportions all of its income under section 290.17, subdivision 5, the credit is determined by multiplying the tax payable under this chapter by the ratio derived from dividing the total net income subject to tax in the other state by the taxpayer's Minnesota taxable income.

(d) The credit determined under paragraph (b) or (c) shall not exceed the amount of tax so paid to the other state on the gross income earned within the other state subject to tax under this chapter, nor shall the allowance of the credit reduce the taxes paid under this chapter to an amount less than what would be assessed if such income amount was excluded from taxable net income.

(e) In the case of the tax assessed on a lump sum distribution under section 290.032, the credit allowed under paragraph (a) is the tax assessed by the other state on the lump sum distribution that is also subject to tax under section 290.032, and shall not exceed the tax assessed under section 290.032. To the extent the total lump sum distribution defined in section 290.032, subdivision 1, includes lump sum distributions received in prior years or is all or in part an annuity contract, the reduction to the tax on the lump sum distribution allowed under section 290.032, subdivision 2, includes tax paid to another state that is properly apportioned to that distribution.

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(f) If a Minnesota resident reported an item of income to Minnesota and is assessed tax in such other state on that same income after the Minnesota statute of limitations has expired, the taxpayer shall receive a credit for that year under paragraph (a), notwithstanding any statute of limitations to the contrary. The claim for the credit must be submitted within one year from the date the taxes were paid to the other state. The taxpayer must submit sufficient proof to show entitlement to a credit.

(g) For the purposes of this subdivision, a resident shareholder of a corporation treated as an "S" corporation under section 290.9725, must be considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S corporation to another state. For the purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income.

(h) For the purposes of this subdivision, a resident partner of an entity taxed as a partnership under the Internal Revenue Code must be considered to have paid a tax imposed on the partner in an amount equal to the partner's pro rata share of any net income tax paid by the partnership to another state. For purposes of the preceding sentence, the term "net income" tax means any tax imposed on or measured by a partnership's net income.

(i) For the purposes of this subdivision, "another state":

(1) includes:

(i) the District of Columbia; and

(ii) a province or territory of Canada; but

(2) excludes Puerto Rico and the several territories organized by Congress.

(j) The limitations on the credit in paragraphs (b), (c), and (d), are imposed on a state by state basis.

(k) For a tax imposed by a province or territory of Canada, the tax for purposes of this subdivision is the excess of the tax over the amount of the foreign tax credit allowed under section 27 of the Internal Revenue Code. In determining the amount of the foreign tax credit allowed, the net income taxes imposed by Canada on the income are deducted first. Any remaining amount of the allowable foreign tax credit reduces the provincial or territorial tax that qualifies for the credit under this subdivision.

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2004.

Sec. 16. Minnesota Statutes 2004, section 290.0671, subdivision 1a, is amended to read:

Subd. 1a. **DEFINITIONS.** For purposes of this section, the terms "qualifying child," and "earned income," and "~~adjusted gross income~~" have the meanings given in section 32(c) of the Internal Revenue Code, and the term "adjusted gross income" has the meaning given in section 62 of the Internal Revenue Code.

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“Earned income of the lesser-earning spouse” has the meaning given in section 290.0675, subdivision 1, paragraph (d).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2004.

Sec. 17. Minnesota Statutes 2004, section 290.0674, subdivision 1, is amended to read:

Subdivision 1. **CREDIT ALLOWED.** An individual is allowed a credit against the tax imposed by this chapter in an amount equal to 75 percent of the amount paid for education-related expenses for a qualifying child in kindergarten through grade 12. For purposes of this section, “education-related expenses” means:

(1) fees or tuition for instruction by an instructor under section 120A.22, subdivision 10, clause (1), (2), (3), (4), or (5), or a member of the Minnesota Music Teachers Association, and who is not a lineal ancestor or sibling of the dependent for instruction outside the regular school day or school year, including tutoring, driver’s education offered as part of school curriculum, regardless of whether it is taken from a public or private entity or summer camps, in grade or age appropriate curricula that supplement curricula and instruction available during the regular school year, that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the ~~graduation rule under section 120B.02, paragraph (e), clauses (1) to (7), (9), and (10) required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (2),~~ and that do not include the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship;

(2) expenses for textbooks, including 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. “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 extracurricular activities including sporting events, musical or dramatic events, speech activities, driver’s education, or similar programs;

(3) a maximum expense of \$200 per family for personal computer hardware, excluding single purpose processors, and educational software that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the ~~graduation rule under section 120B.02 required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (2),~~ purchased for use in the taxpayer’s home and not used in a trade or business regardless of whether the computer is required by the dependent’s school; and

(4) the amount paid to others for transportation of a qualifying child 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

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compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A.

For purposes of this section, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code.

EFFECTIVE DATE. This section is effective for tax years beginning after December 31, 2004.

Sec. 18. Minnesota Statutes 2004, section 290.92, subdivision 4b, is amended to read:

Subd. 4b. **WITHHOLDING BY PARTNERSHIPS.** (a) A partnership shall deduct and withhold a tax as provided in paragraph (b) for nonresident individual partners based on their distributive shares of partnership income for a taxable year of the partnership.

(b) The amount of tax withheld is determined by multiplying the partner's distributive share allocable to Minnesota under section 290.17, paid or credited during the taxable year by the highest rate used to determine the income tax liability for an individual under section 290.06, subdivision 2c, except that the amount of tax withheld may be determined by the commissioner if the partner submits a withholding exemption certificate under subdivision 5.

(c) The commissioner may reduce or abate the tax withheld under this subdivision if the partnership had reasonable cause to believe that no tax was due under this section.

(d) Notwithstanding paragraph (a), a partnership is not required to deduct and withhold tax for a nonresident partner if:

(1) the partner elects to have the tax due paid as part of the partnership's composite return under section 289A.08, subdivision 7;

(2) the partner has Minnesota assignable federal adjusted gross income from the partnership of less than \$1,000; or

(3) the partnership is liquidated or terminated, the income was generated by a transaction related to the termination or liquidation, and no cash or other property was distributed in the current or prior taxable year; or

(4) the distributive shares of partnership income are attributable to:

(i) income required to be recognized because of discharge of indebtedness;

(ii) income recognized because of a sale, exchange, or other disposition of real estate, depreciable property, or property described in section 179 of the Internal Revenue Code; or

(iii) income recognized on the sale, exchange, or other disposition of any property that has been the subject of a basis reduction pursuant to section 108, 734, 743, 754, or 1017 of the Internal Revenue Code

to the extent that the income does not include cash received or receivable or, if there

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is cash received or receivable, to the extent that the cash is required to be used to pay indebtedness by the partnership or a secured debt on partnership property; or

(5) the partnership is a publicly traded partnership, as defined in section 7704(b) of the Internal Revenue Code.

(e) For purposes of subdivision 6a, and sections 289A.09, subdivision 2, 289A.20, subdivision 2, paragraph (c), 289A.50, 289A.56, 289A.60, and 289A.63, a partnership is considered an employer.

(f) To the extent that income is exempt from withholding under paragraph (d), clause (4), the commissioner has a lien in an amount up to the amount that would be required to be withheld with respect to the income of the partner attributable to the partnership interest, but for the application of paragraph (d), clause (4). The lien arises under section 270.69 from the date of assessment of the tax against the partner, and attaches to that partner's share of the profits and any other money due or to become due to that partner in respect of the partnership. Notice of the lien may be sent by mail to the partnership, without the necessity for recording the lien. The notice has the force and effect of a levy under section 270.70, and is enforceable against the partnership in the manner provided by that section. Upon payment in full of the liability subsequent to the notice of lien, the partnership must be notified that the lien has been satisfied.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2004.

Sec. 19. Minnesota Statutes 2004, section 291.005, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** 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 (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.

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(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, 2002~~ April 15, 2005.

(9) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as defined by section 2011(b)(3) of the Internal Revenue Code, increased by the amount of deduction for state death taxes allowed under section 2058 of the Internal Revenue Code.

EFFECTIVE DATE. The change to clause (8) is effective for estates of decedents dying after January 31, 2003, and the new clause (9) is effective for estates of decedents dying after December 31, 2004.

Sec. 20. Minnesota Statutes 2004, 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 for state death taxes computed under section 2011 of the Internal Revenue Code, as amended through December 31, 2000, ~~for state death taxes but using Minnesota adjusted taxable estate instead of federal adjusted taxable estate,~~ as the Minnesota gross estate bears to the value of the federal gross estate. The tax determined under this paragraph shall not be greater than the federal estate tax amount computed by applying the rates and brackets under section 2001(c) of the Internal Revenue Code ~~after the allowance of to the Minnesota adjusted gross estate and subtracting the federal credits credit~~ 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, 2004.

Sec. 21. **REPEALER.**

Minnesota Rules, parts 8093.2000; and 8093.3000, are repealed effective the day following final enactment.

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ARTICLE 7

SALES AND USE TAXES

Section 1. Minnesota Statutes 2004, section 289A.38, subdivision 6, is amended to read:

Subd. 6. **OMISSION IN EXCESS OF 25 PERCENT.** Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if:

(1) the taxpayer omits from gross income an amount properly includable in it that is in excess of 25 percent of the amount of gross income stated in the return;

(2) the taxpayer omits from a sales, use, or withholding tax return an amount of taxes in excess of 25 percent of the taxes reported in the return; or

(3) the taxpayer omits from the gross estate assets in excess of 25 percent of the gross estate reported in the return.

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

Sec. 2. Minnesota Statutes 2004, section 289A.38, is amended by adding a subdivision to read:

Subd. 15. **PURCHASER FILED REFUND CLAIMS.** If a purchaser refund claim is filed under section 289A.50, subdivision 2a, and the basis for the claim is that the purchaser was improperly charged tax on an improvement to real property or on the purchase of nontaxable services, sales or use tax may be assessed for the cost of materials used to make the real property improvement or to perform the nontaxable service. The assessment may be made against the person making the improvement to real property or the sale of nontaxable services, within the period prescribed in subdivision 1, or within one year after the date of the refund order, whichever is later.

EFFECTIVE DATE. This section is effective for purchaser refund claims filed on or after July 1, 2005.

Sec. 3. Minnesota Statutes 2004, 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. 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 for a claim relating to an overpayment of taxes under chapter 297A the following are excluded from the

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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. For claims relating to an overpayment of taxes under chapter 297A, this section is effective for sales and purchases made on or after January 1, 2004; for all other bad debts or claims, this section is effective on or after July 1, 2003.

Sec. 4. Minnesota Statutes 2004, section 289A.40, is amended by adding a subdivision to read:

Subd. 5. PURCHASER FILED REFUND CLAIMS. A claim for refund of taxes paid on a transaction not subject to tax under chapter 297A, where the purchaser may apply directly to the commissioner under section 289A.50, subdivision 2a, must be filed within 3-1/2 years from the 20th day of the month following the month of the invoice date for the purchase.

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

Sec. 5. Minnesota Statutes 2004, section 289A.40, is amended by adding a subdivision to read:

Subd. 6. CAPITAL EQUIPMENT REFUND CLAIMS. A claim for refund for taxes paid under chapter 297A on capital equipment must be filed within 3-1/2 years from the 20th day of the month following the month of the invoice date for the purchase of the capital equipment. A claim for refund for taxes imposed on capital equipment under section 297A.63 must be filed within 3-1/2 years from the date prescribed for filing the return, or one year from the date of an order assessing tax under section 289A.37, subdivision 1, upon payment in full of the tax, penalties, and interest shown on the order, whichever period expires later.

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

Sec. 6. Minnesota Statutes 2004, 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

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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) dietary supplements; and
- (5) 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 in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior notice;

(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

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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

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between members of an affiliated group of corporations are not taxable. For purposes of 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.

(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).

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

Sec. 7. Minnesota Statutes 2004, section 297A.61, subdivision 4, is amended to read:

Subd. 4. **RETAIL SALE.** (a) A "retail sale" means any sale, lease, or rental for any purpose, other than resale, sublease, or subrent of items by the purchaser in the normal course of business as defined in subdivision 21.

(b) A sale of property used by the owner only by leasing it to others or by holding it in an effort to lease it, and put to no use by the owner other than resale after the lease or effort to lease, is a sale of property for resale.

(c) A sale of master computer software that is purchased and used to make copies for sale or lease is a sale of property for resale.

(d) A sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or similar floor covering to a person who provides for installation of the floor covering is a retail sale and not a sale for resale since a sale of floor covering which includes installation is a contract for the improvement of real property.

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(f) A sale of shrubbery, plants, sod, trees, and similar items to a person who provides for installation of the items is a retail sale and not a sale for resale since a sale of shrubbery, plants, sod, trees, and similar items that includes installation is a contract for the improvement of real property.

(g) A sale of tangible personal property that is awarded as prizes is a retail sale and is not considered a sale of property for resale.

(h) A sale of tangible personal property utilized or employed in the furnishing or providing of services under subdivision 3, paragraph (g), clause (1), including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(i) A sale of tangible personal property used in conducting lawful gambling under chapter 349 or the state lottery under chapter 349A, including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(j) A sale of machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including, but not limited to, coin-operated devices, is a retail sale and is not considered a sale of property for resale.

(k) In the case of a lease, a retail sale occurs when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor.

(l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of title or possession of the tangible personal property.

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

Sec. 8. Minnesota Statutes 2004, section 297A.64, subdivision 4, is amended to read:

Subd. 4. **EXEMPTIONS.** (a) The tax and the fee imposed by this section do not apply to a lease or rental of (1) a vehicle to be used by the lessee to provide a licensed taxi service; (2) a hearse or limousine used in connection with a burial or funeral service; or (3) a van designed or adapted primarily for transporting property rather than passengers. The tax and the fee imposed under this section do not apply when the lease or rental of a vehicle is exempt from the tax imposed under section 297A.62, subdivision 1.

(b) The lessor may elect not to charge the fee imposed in subdivision 2 if in the previous calendar year the lessor had no more than 20 vehicles available for lease that would have been subject to tax under this section, or no more than \$50,000 in gross receipts that would have been subject to tax under this section.

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

Sec. 9. Minnesota Statutes 2004, section 297A.668, subdivision 1, is amended to read:

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

Subdivision 1. **APPLICABILITY.** The 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.

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

Sec. 10. Minnesota Statutes 2004, section 297A.668, subdivision 5, is amended to read:

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;

(3) aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate commerce; or

(4) containers designed for use on and component parts attached or secured on the transportation equipment described in items (1) through (3).

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

Sec. 11. Minnesota Statutes 2004, section 297A.67, subdivision 2, is amended to read:

Subd. 2. **FOOD AND FOOD INGREDIENTS.** Except as otherwise provided in this subdivision, 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

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sold through vending machines, dietary supplements, 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 for sales made on or after the day following final enactment.

Sec. 12. Minnesota Statutes 2004, section 297A.67, subdivision 7, is amended to read:

Subd. 7. ~~MEDICINES~~ **MEDICINES DRUGS; MEDICAL DEVICES.** (a) Prescribed Sales of the following drugs and medical devices are exempt:

(1) drugs and medicine, and insulin, intended for internal or external use, in the cure, mitigation, treatment, or prevention of illness or disease in human beings are exempt. "Prescribed drugs and medicine" includes use, including over-the-counter drugs or medicine prescribed by a licensed health care professional.

(b) Nonprescription medicines consisting principally (determined by the weight of all ingredients) of analgesics that are approved by the United States Food and Drug Administration for internal use by human beings are exempt. For purposes of this subdivision, "principally" means greater than 50 percent analgesics by weight.

(c) Prescription glasses, hospital beds, fever thermometers, reusable;

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(2) single-use finger-pricking devices for the extraction of blood; blood glucose monitoring machines; and other single-use devices and single-use diagnostic agents used in diagnosing, monitoring, or treating diabetes; and therapeutic and;

(3) insulin and medical oxygen for human use, regardless of whether prescribed or sold over the counter;

(4) prosthetic devices are exempt. "Therapeutic devices" means devices that are attached or applied to the human body to cure, heal, or alleviate injury, illness, or disease, either directly or by administering a curative agent. "Prosthetic devices" means devices that replace injured, diseased, or missing parts of the human body, either temporarily or permanently;

(5) durable medical equipment for home use only;

(6) mobility enhancing equipment; and

(7) prescription corrective eyeglasses.

(b) For purposes of this subdivision:

(1) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages that is:

(i) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;

(ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease; or

(iii) intended to affect the structure or any function of the body.

(2) "Durable medical equipment" means equipment, including repair and replacement parts, but not including mobility enhancing equipment, that:

(i) can withstand repeated use;

(ii) is primarily and customarily used to serve a medical purpose;

(iii) generally is not useful to a person in the absence of illness or injury; and

(iv) is not worn in or on the body.

(3) "Mobility enhancing equipment" means equipment, including repair and replacement parts, but not including durable medical equipment, that:

(i) is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;

(ii) is not generally used by persons with normal mobility; and

(iii) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

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

(4) “Over-the-counter drug” means a drug that contains a label that identifies the product as a drug as required by Code of Federal Regulations, title 21, section 201.66. The label must include a “drug facts” panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation. Over-the-counter drugs do not include grooming and hygiene products, regardless of whether they otherwise meet the definition. “Grooming and hygiene products” are soaps, cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and sunscreens.

(5) “Prescribed” and “prescription” means a direction in the form of an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed health care professional.

(6) “Prosthetic device” means a replacement, corrective, or supportive device, including repair and replacement parts, worn on or in the body to:

(i) artificially replace a missing portion of the body;

(ii) prevent or correct physical deformity or malfunction; or

(iii) support a weak or deformed portion of the body.

Prosthetic device does not include corrective eyeglasses.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2005.

Sec. 13. Minnesota Statutes 2004, section 297A.67, subdivision 9, is amended to read:

Subd. 9. **BABY PRODUCTS.** ~~(a) Products such as lotion, creams, ointments, oil, powder, or shampoo, and other articles designed for application to the hair or skin of babies are exempt.~~

~~(b) Baby bottles and nipples, pacifiers, teething rings, thumb sucking preventatives, and infant syringes are exempt.~~

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2005.

Sec. 14. Minnesota Statutes 2004, 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;

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(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, 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.

(d) Industrial production does not include the furnishing of services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii).

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

Sec. 15. Minnesota Statutes 2004, 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

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machinery and equipment used primarily to electronically transmit results retrieved by a customer of an on-line 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;

(8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis, repair parts for ready-mixed concrete trucks, and leases of ready-mixed concrete trucks; 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) machinery and equipment used by restaurants in the furnishing, preparing, or serving of prepared foods as defined in section 297A.61, subdivision 31;

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(8) machinery and equipment used to furnish the services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii); or

(9) 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.

(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).

(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.

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

(8) "On-line data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

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

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(10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

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

Sec. 16. Minnesota Statutes 2004, section 297A.68, subdivision 28, is amended to read:

Subd. 28. **MEDICAL SUPPLIES.** Medical supplies purchased by a licensed health care facility or licensed health care professional to provide medical treatment to residents or patients are exempt. The exemption does not apply to durable medical equipment or components of durable medical equipment, laboratory supplies, radiological supplies, and other items used in providing medical services. For purposes of this subdivision, "medical supplies" means adhesive and nonadhesive bandages, gauze pads and strips, cotton applicators, antiseptics, ~~nonprescription drugs~~, eye solution, and other similar supplies used directly on the resident or patient in providing medical services.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2005.

Sec. 17. Minnesota Statutes 2004, section 297A.68, subdivision 39, is amended to read:

Subd. 39. **PREEXISTING BIDS OR CONTRACTS.** (a) The sale of tangible personal property or services is exempt from tax or a tax rate increase for a period of six months from the effective date of the law change that results in the imposition of the tax or the tax rate increase under this chapter if:

(1) the act imposing the tax or increasing the tax rate 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 or the tax rate was increased;

(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 construction bid:

(i) the goods or services sold must be used pursuant to an obligation of a bid or bids;

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(ii) the bid or bids must be submitted and accepted before the date the goods or services became subject to the sales tax or the tax rate was increased;

(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. 18. Minnesota Statutes 2004, section 297A.71, subdivision 12, is amended to read:

Subd. 12. **CHAIR LIFTS, RAMPS, ELEVATORS.** ~~Chair lifts, ramps, and Elevators and building materials used to install or construct them~~ chair lifts, ramps, and elevators are exempt, if they are authorized by a physician and installed in or attached to the owner's homestead. 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.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2005.

Sec. 19. Minnesota Statutes 2004, section 297A.75, subdivision 1, is amended to read:

Subdivision 1. **TAX COLLECTED.** The tax on the gross receipts from the sale of the following exempt items must be imposed and collected as if the sale were taxable and the rate under section 297A.62, subdivision 1, applied. The exempt items include:

- (1) capital equipment exempt under section 297A.68, subdivision 5;
- (2) building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;
- (3) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;
- (4) building materials for correctional facilities under section 297A.71, subdivision 3;
- (5) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11;
- (6) ~~chair lifts, ramps, elevators, and associated building materials~~ chair lifts, ramps, elevators, and associated building materials exempt under section 297A.71, subdivision 12;
- (7) building materials for the Long Lake Conservation Center exempt under section 297A.71, subdivision 17;
- (8) materials, supplies, fixtures, furnishings, and equipment for a county law enforcement and family service center under section 297A.71, subdivision 26; and

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(9) materials and supplies for qualified low-income housing under section 297A.71, subdivision 23.

EFFECTIVE DATE. This section is effective for sales and purchases made after June 30, 2005.

Sec. 20. Minnesota Statutes 2004, section 297A.87, subdivision 2, is amended to read:

Subd. 2. **SELLER'S PERMIT OR ALTERNATE STATEMENT.** (a) The operator of an event under subdivision 1 shall obtain one of the following from a person who wishes to do business as a seller at the event:

(1) evidence that the person holds a valid seller's permit under section 297A.84;
or

(2) a written statement that the person is not offering for sale any item that is taxable under this chapter; or

(3) a written statement that this is the only selling event that the person will be participating in for that calendar year, that the person will be participating for three or fewer days, and that the person will make less than \$500 in total sales in the calendar year. The written statement shall include the person's name, address, and telephone number.

(b) The operator shall require the evidence or statement as a prerequisite to participating in the event as a seller.

EFFECTIVE DATE. This section is effective for selling events occurring after June 15, 2005.

Sec. 21. Minnesota Statutes 2004, section 297A.87, subdivision 3, is amended to read:

Subd. 3. **OCCASIONAL SALE PROVISIONS NOT APPLICABLE UNDER LIMITED CIRCUMSTANCES.** The isolated and occasional sale provisions provision under section 297A.67, subdivision 23, or applies, provided that the seller only participates for three or fewer days in one event per calendar year, makes \$500 or less in sales in the calendar year, and provides the written statement required in subdivision 2, paragraph (a), clause (3). The isolated and occasional sales provision under section 297A.68, subdivision 25, ~~de~~ does not apply to a seller at an event under this section.

EFFECTIVE DATE. This section is effective for selling events occurring after June 15, 2005.

Sec. 22. Minnesota Statutes 2004, section 297A.99, subdivision 4, is amended to read:

Subd. 4. **TAX BASE.** (a) The tax applies to sales taxable under this chapter that occur within the political subdivision.

(b) Taxable goods or services are subject to a political subdivision's sales tax, if they are performed either:

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~~(1) within the political subdivision, or~~

~~(2) partly within and partly without the political subdivision and more of the service is performed within the political subdivision, based on the cost of performance sourced to the political subdivision pursuant to section 297A.668.~~

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

Sec. 23. REPEALER.

Minnesota Rules, parts 8130.0110, subpart 4; 8130.0200, subparts 5 and 6; 8130.0400, subpart 9; 8130.1200, subparts 5 and 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1 and 2; 8130.4200, subpart 1; 8130.4400, subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; and 8130.8800, subpart 4, are repealed.

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

ARTICLE 8

SPECIAL TAXES

Section 1. Minnesota Statutes 2004, section 287.04, is amended to read:

287.04 EXEMPTIONS.

The tax imposed by section 287.035 does not apply to:

- (a) A decree of marriage dissolution or an instrument made pursuant to it.
- (b) A mortgage given to correct a misdescription of the mortgaged property.
- (c) A mortgage or other instrument that adds additional security for the same debt for which mortgage registry tax has been paid.
- (d) A contract for the conveyance of any interest in real property, including a contract for deed.
- (e) A mortgage secured by real property subject to the minerals production tax of sections 298.24 to 298.28.
- (f) The principal amount of a mortgage loan made under a low and moderate income or other affordable housing program, if the mortgagee is a federal, state, or local government agency.
- (g) Mortgages granted by fraternal benefit societies subject to section 64B.24.
- (h) A mortgage amendment or extension, as defined in section 287.01.

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

(i) An agricultural mortgage if the proceeds of the loan secured by the mortgage are used to acquire or improve real property classified under section 273.13, subdivision 23, paragraph (a), or (b), clause (1), (2), or (3).

(j) A mortgage on an armory building as set forth in section 193.147.

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

Sec. 2. Minnesota Statutes 2004, section 295.60, subdivision 3, is amended to read:

Subd. 3. **PAYMENT.** (a) Each furrier shall make estimated payments of the taxes for the calendar year in quarterly installments to the commissioner by April 15, July 15, October 15, and January 15 of the following calendar year.

(b) Estimated tax payments are not required if:

(1) the tax for the current calendar year is less than \$500; or

(2) the tax for the previous calendar year is less than \$500, if the taxpayer had a tax liability and was doing business the entire year.

(c) Underpayment of estimated installments bear interest at the rate specified in section 270.75, from the due date of the payment until paid or until the due date of the annual return, whichever comes first. An underpayment of an estimated installment is the difference between the amount paid and the lesser of (1) ~~90 percent of one-quarter of the tax for the calendar year~~ the tax for the actual gross revenues received during the quarter, or (2) one-quarter of the total tax for the previous calendar year if the taxpayer had a tax liability and was doing business the entire year.

EFFECTIVE DATE. This section is effective for gross revenues received after December 31, 2004.

Sec. 3. Minnesota Statutes 2004, section 296A.22, is amended by adding a subdivision to read:

Subd. 9. **ABATEMENT OF PENALTY.** (a) The commissioner may by written order abate any penalty imposed under this section, if in the commissioner's opinion there is reasonable cause to do so.

(b) A request for abatement of penalty must be filed with the commissioner within 60 days of the date the notice stating that a penalty has been imposed was mailed to the taxpayer's last known address.

(c) If the commissioner issues an order denying a request for abatement of penalty, the taxpayer may file an administrative appeal as provided in section 296A.25 or appeal to Tax Court as provided in section 271.06. If the commissioner does not issue an order on the abatement request within 60 days from the date the request is received, the taxpayer may appeal to Tax Court as provided in section 271.06.

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

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

Sec. 4. Minnesota Statutes 2004, section 297E.01, subdivision 5, is amended to read:

Subd. 5. **DISTRIBUTOR.** "Distributor" means a distributor as defined in section 349.12, subdivision 11, or a person or linked bingo game provider who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.

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

Sec. 5. Minnesota Statutes 2004, section 297E.01, subdivision 7, is amended to read:

Subd. 7. **GAMBLING PRODUCT.** "Gambling product" means bingo hard cards, bingo paper, or sheets, or linked bingo paper sheets; pull-tabs; tipboards; paddletickets and paddleticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.

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

Sec. 6. Minnesota Statutes 2004, section 297E.01, is amended by adding a subdivision to read:

Subd. 9a. **LINKED BINGO GAME.** "Linked bingo game" means a bingo game played at two or more locations where licensed organizations are authorized to conduct bingo, when there is a common prize pool and a common selection of numbers or symbols conducted at one location, and when the results of the selection are transmitted to all participating locations by satellite, telephone, or other means by a linked bingo game provider.

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

Sec. 7. Minnesota Statutes 2004, section 297E.01, is amended by adding a subdivision to read:

Subd. 9b. **LINKED BINGO GAME PROVIDER.** "Linked bingo game provider" means any person who provides the means to link bingo prizes in a linked bingo game, who provides linked bingo paper sheets to the participating organizations, who provides linked bingo prize management, and who provides the linked bingo game system.

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

Sec. 8. Minnesota Statutes 2004, section 297E.06, subdivision 2, is amended to read:

Subd. 2. **BUSINESS RECORDS.** An organization shall maintain records supporting the gambling activity reported to the commissioner. Records include, but are not limited to, the following items:

(1) all winning and unsold tickets, cards, or stubs for pull-tab, tipboard, paddlewheel, and raffle games;

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(2) all reports and statements, including checker's records, for each bingo occasion;

(3) all cash journals and ledgers, deposit slips, register tapes, and bank statements supporting gambling activity receipts;

(4) all invoices that represent purchases of gambling product;

(5) all canceled checks or copies of substitute checks as defined in Public Law 108-100, section 3, check recorders, journals and ledgers, vouchers, invoices, bank statements, and other documents supporting gambling activity expenditures; and

(6) all organizational meeting minutes.

All records required to be kept by this section must be preserved by the organization for at least 3-1/2 years and may be inspected by the commissioner of revenue at any reasonable time without notice or a search warrant.

EFFECTIVE DATE. This section is effective July 1, 2005.

Sec. 9. Minnesota Statutes 2004, section 297E.07, is amended to read:

297E.07 INSPECTION RIGHTS.

At any reasonable time, without notice and without a search warrant, the commissioner may enter a place of business of a manufacturer, distributor, or organization, or linked bingo game provider; any site from which pull-tabs or tipboards or other gambling equipment or gambling product are being manufactured, stored, or sold; or any site at which lawful gambling is being conducted, and inspect the premises, books, records, and other documents required to be kept under this chapter to determine whether or not this chapter is being fully complied with. If the commissioner is denied free access to or is hindered or interfered with in making an inspection of the place of business, books, or records, the permit of the distributor may be revoked by the commissioner, and the license of the manufacturer, the distributor, or the organization, or linked bingo game provider may be revoked by the board.

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

Sec. 10. Minnesota Statutes 2004, section 297F.08, subdivision 12, is amended 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.

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(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. This reporting requirement only applies to cigarettes manufactured by companies that are not original or subsequent participating manufacturers in the Master Settlement Agreement with other states.

(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, and does not include a manufacturer that has entered into is an original or subsequent participating manufacturer in the Master Settlement Agreement with other states.

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

Sec. 11. Minnesota Statutes 2004, section 297F.08, is amended by adding a subdivision to read:

Subd. 13. BOND. The commissioner may require the furnishing of a corporate surety bond or a certified check in an amount suitable to guarantee payment of the tax stamps purchased by a distributor. The bond or certified check may be required when the commissioner determines that a distributor is (1) delinquent in the filing of any return required under this chapter, or (2) delinquent in the payment of any uncontested tax liability under this chapter. The distributor shall furnish the bond or certified check for a period of two years, after which, if the distributor has not been delinquent in the filing of any returns required under this chapter, or delinquent in the paying of any tax under this chapter, a bond or certified check is no longer required. The commissioner at any time may apply the bond or certified check to any unpaid taxes or fees, including interest and penalties, owed to the department by the distributor.

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

Sec. 12. Minnesota Statutes 2004, section 297F.09, subdivision 1, is amended to read:

Subdivision 1. **MONTHLY RETURN; CIGARETTE 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 of cigarettes manufactured or brought in from outside the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. A licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns 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 unpaid tax liability shown by it. ~~The return for the May liability and 85 percent of~~

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the estimated June liability is due on the date payment of the tax is due. For distributors subject to the accelerated tax payment requirements in subdivision 10, the return for the May liability is due two business days before June 30th of the year and the return for the June liability is due on or before August 18th of the year.

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

Sec. 13. Minnesota Statutes 2004, 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. The return for the May liability and 85 percent of the estimated June liability is due on the date payment of the tax is due. For distributors subject to the accelerated tax payment requirements in subdivision 10, the return for the May liability is due two business days before June 30th of the year and the return for the June liability is due on or before August 18th of the year.

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

Sec. 14. Minnesota Statutes 2004, section 297F.14, subdivision 4, is amended to read:

Subd. 4. **BAD DEBT.** ~~The commissioner may adopt rules providing a refund of the tax paid under this chapter if the tax paid qualifies as a bad debt under section 166(a) of the Internal Revenue Code. For any reporting period, a taxpayer may offset against taxes payable under this chapter the amount of taxes previously paid under this chapter that is attributable to a bad debt. The taxes must have been included in a transaction the consideration for which was a debt owed to the taxpayer and which became uncollectible, but only in proportion to the portion of debt that became uncollectible. To qualify for offset under this subdivision, the debt must have qualified as a bad debt under section 166(a) of the Internal Revenue Code. The taxpayer may claim the offset within the time period prescribed in section 297F.17, subdivision 6. If the taxpayer is no longer liable for taxes imposed under this chapter, the commissioner shall refund to the taxpayer the amount of the taxes attributable to the bad debt. Any recovery of the tax claimed as a refund or credit must be reported to the commissioner~~

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on the tax return for the month in which the recovery is made. If the taxpayer is no longer required to file returns under this chapter, the taxpayer must reimburse the commissioner for tax recovered in the month following the recovery.

EFFECTIVE DATE. This section is effective for claims filed on or after July 1, 2005.

Sec. 15. Minnesota Statutes 2004, section 297G.09, is amended by adding a subdivision to read:

Subd. 10. QUARTERLY AND ANNUAL PAYMENTS AND RETURNS. (a) If a manufacturer, wholesaler, brewer, or importer has an average liquor tax liability equal to or less than \$500 per month in any quarter of a calendar year, and has substantially complied with the state tax laws during the preceding four calendar quarters, the manufacturer, wholesaler, brewer, or importer 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 manufacturer's, wholesaler's, brewer's, or importer's quarterly returns reflect liquor tax liabilities of less than \$1,500 and there is continued compliance with state tax laws.

(b) If a manufacturer, wholesaler, brewer, or importer has an average liquor tax liability equal to or less than \$100 per month during a calendar year, and has substantially complied with the state tax laws during that period, the manufacturer, wholesaler, brewer, or importer may request authorization to file and pay the taxes annually in subsequent years. The authorization remains in effect during the period in which the manufacturer's, wholesaler's, brewer's, or importer's annual returns reflect liquor tax liabilities of less than \$1,200 and there is continued compliance with state tax laws.

(c) The commissioner may also grant quarterly or annual filing and payment authorizations to manufacturers, wholesalers, brewers, or importers if the commissioner concludes that the manufacturer's, wholesaler's, brewer's, or importer's future tax liabilities will be less than the monthly totals identified in paragraphs (a) and (b). An authorization granted under this paragraph is subject to the same conditions as an authorization granted under paragraphs (a) and (b).

(d) The annual tax return and payments must be filed and paid on or before the 18th day of January following the calendar year. The quarterly returns and payments must be filed and paid on or before April 18 for the quarter ending March 31, on or before July 18 for the quarter ending June 30, on or before October 18 for the quarter ending September 30, and on or before January 18 for the quarter ending December 31.

EFFECTIVE DATE. This section is effective for tax returns and payments due on or after January 1, 2006.

Sec. 16. Minnesota Statutes 2004, section 297I.01, is amended by adding a subdivision to read:

Subd. 13a. REINSURANCE. "Reinsurance" is insurance whereby an insurance company, for a consideration, agrees to indemnify another insurance company against

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all or part of the loss which the latter may sustain under the policy or policies which it has issued.

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

Sec. 17. Minnesota Statutes 2004, section 297I.05, subdivision 5, is amended to read:

Subd. 5. **HEALTH MAINTENANCE ORGANIZATIONS, NONPROFIT HEALTH SERVICE PLAN CORPORATIONS, AND COMMUNITY INTEGRATED SERVICE NETWORKS.** (a) ~~Health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations are exempt from the tax imposed under this section for premiums received in calendar years 2001 to 2003.~~

(b) ~~For calendar years after 2003, A tax is imposed on health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the organization, network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar year.~~

(c) ~~In approving the premium rates as required in sections 62L.08, subdivision 8, and 62A.65, subdivision 3, the commissioners of health and commerce shall ensure that any exemption from tax as described in paragraph (a) is reflected in the premium rate.~~

(d) (b) ~~The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.~~

EFFECTIVE DATE. This section is effective January 1, 2005.

Sec. 18. Minnesota Statutes 2004, section 298.24, subdivision 1, is amended to read:

Subdivision 1. (a) For concentrate produced in 2001, 2002, and 2003, there is imposed upon taconite and iron sulphides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the concentrate so produced, a tax of \$2.103 per gross ton of merchantable iron ore concentrate produced therefrom.

(b) For concentrates produced in 2004 and subsequent years, the tax rate shall be equal to the preceding year's tax rate plus an amount equal to the preceding year's tax rate multiplied by the percentage increase in the implicit price deflator from the fourth quarter of the second preceding year to the fourth quarter of the preceding year. "Implicit price deflator" means the implicit price deflator for the gross domestic

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product prepared by the Bureau of Economic Analysis of the United States Department of Commerce.

(c) On concentrates produced in 1997 and thereafter, an additional tax is imposed equal to three cents per gross ton of merchantable iron ore concentrate for each one percent that the iron content of the product exceeds 72 percent, when dried at 212 degrees Fahrenheit.

(d) The tax shall be imposed on the average of the production for the current year and the previous two years. The rate of the tax imposed will be the current year's tax rate. This clause shall not apply in the case of the closing of a taconite facility if the property taxes on the facility would be higher if this clause and section 298.25 were not applicable.

(e) If the tax or any part of the tax imposed by this subdivision is held to be unconstitutional, a tax of \$2.103 per gross ton of merchantable iron ore concentrate produced shall be imposed.

(f) Consistent with the intent of this subdivision to impose a tax based upon the weight of merchantable iron ore concentrate, the commissioner of revenue may indirectly determine the weight of merchantable iron ore concentrate included in fluxed pellets by subtracting the weight of the limestone, dolomite, or olivine derivatives or other basic flux additives included in the pellets from the weight of the pellets. For purposes of this paragraph, "fluxed pellets" are pellets produced in a process in which limestone, dolomite, olivine, or other basic flux additives are combined with merchantable iron ore concentrate. No subtraction from the weight of the pellets shall be allowed for binders, mineral and chemical additives other than basic flux additives, or moisture.

(g)(1) Notwithstanding any other provision of this subdivision, for the first two years of a plant's commercial production of direct reduced ore, no tax is imposed under this section. As used in this paragraph, "commercial production" is production of more than 50,000 tons of direct reduced ore in the current year or in any prior year, "noncommercial production" is production of 50,000 tons or less of direct reduced ore in any year, and "direct reduced ore" is ore that results in a product that has an iron content of at least 75 percent. For the third year of a plant's commercial production of direct reduced ore, the rate to be applied to direct reduced ore is 25 percent of the rate otherwise determined under this subdivision. For the fourth such commercial production year, the rate is 50 percent of the rate otherwise determined under this subdivision; for the fifth such commercial production year, the rate is 75 percent of the rate otherwise determined under this subdivision; and for all subsequent commercial production years, the full rate is imposed.

(2) Subject to clause (1), production of direct reduced ore in this state is subject to the tax imposed by this section, but if that production is not produced by a producer of taconite or iron sulfides, the production of taconite or iron sulfides consumed in the production of direct reduced iron in this state is not subject to the tax imposed by this section on taconite or iron sulfides.

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(3) Notwithstanding any other provision of this subdivision, no tax is imposed on direct reduced ore under this section during the facility's noncommercial production of direct reduced ore. The taconite or iron sulphides consumed in the noncommercial production of direct reduced ore is subject to the tax imposed by this section on taconite and iron sulphides. Three-year average production of direct reduced ore does not include production of direct reduced ore in any noncommercial year. Three-year average production for a direct reduced ore facility that has noncommercial production is the average of the commercial production of direct reduced ore for the current year and the previous two commercial years.

EFFECTIVE DATE. This section is effective for direct reduced ore produced after the day following final enactment.

Sec. 19. Minnesota Statutes 2004, section 473.843, subdivision 5, is amended to read:

Subd. 5. **PENALTIES; ENFORCEMENT.** The audit, penalty, and enforcement provisions applicable to corporate franchise taxes imposed under chapter 290 apply to the fees imposed under this section. The commissioner of revenue shall administer the provisions.

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

Sec. 20. **REPEALER.**

Minnesota Statutes 2004, section 297E.12, subdivision 10, is repealed effective the day following final enactment.

ARTICLE 9

MISCELLANEOUS

Section 1. Minnesota Statutes 2004, section 16D.10, is amended to read:

16D.10 CASE REVIEWER.

Subdivision 1. **DUTIES.** The commissioner shall make a case reviewer available to debtors. The reviewer must be available to answer a debtor's questions concerning the collection process and to review the collection activity taken. If the reviewer reasonably believes that the particular action being taken is unreasonable or unfair, the reviewer may make recommendations to the commissioner in regard to the collection action.

Subd. 2. **AUTHORITY TO ISSUE DEBTOR ASSISTANCE ORDER.** On application filed by a debtor with the case reviewer, in the form, manner, and in the time prescribed by the commissioner, and after thorough investigation, the case reviewer may issue a debtor assistance order if, in the determination of the case

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reviewer, the manner in which the state debt collection laws are being administered is creating or will create an unjust and inequitable result for the debtor. Debtor assistance orders are governed by the provisions relating to taxpayer assistance orders under section 270.273.

Subd. 3. TRANSFER OF DUTIES TO TAXPAYER RIGHTS ADVOCATE. All duties and authority of the case reviewer under subdivisions 1 and 2 are transferred to the taxpayer rights advocate.

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

Sec. 2. Minnesota Statutes 2004, section 270.30, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** (a) This section applies to a person who offers, provides, or facilitates the provision of refund anticipation loans, as part of or in connection with the provision of tax preparation services.

(b) This section does not apply to:

(1) a tax preparer who provides tax preparation services for fewer than six clients in a calendar year;

(2) the provision by a person of tax preparation services to a spouse, parent, grandparent, child, or sibling; and

(3) the provision of services by an employee for an employer.

Sec. 3. Minnesota Statutes 2004, section 270.30, subdivision 5, is amended to read:

Subd. 5. **ITEMIZED BILL REQUIRED.** A tax preparer must provide an itemized statement of the charges for services, at least separately stating the charges for:

(1) return preparation; and

(2) electronic filing; and

(3) providing or facilitating a refund anticipation loan.

Sec. 4. Minnesota Statutes 2004, section 270.30, subdivision 6, is amended to read:

Subd. 6. **ENFORCEMENT; PENALTIES.** The commissioner may impose an administrative penalty of not more than \$1,000 per violation of subdivision 3, 4, or 5. The commissioner may terminate a tax preparer's authority to transmit returns electronically to the state, if the commissioner determines the tax preparer engaged in a pattern and practice of violating this section. Imposition of a penalty under this subdivision is subject to the contested case procedure under chapter 14. The commissioner shall collect the penalty in the same manner as the income tax. Penalties imposed under this subdivision are public data.

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

Sec. 5. Minnesota Statutes 2004, section 270.30, is amended by adding a subdivision to read:

Subd. 6a. EXCHANGE OF DATA; STATE BOARD OF ACCOUNTANCY. The State Board of Accountancy shall refer to the commissioner complaints it receives about tax preparers who are not subject to the jurisdiction of the State Board of Accountancy and who are alleged to have violated the provisions of subdivisions 3 to 5.

Sec. 6. Minnesota Statutes 2004, section 270.30, is amended by adding a subdivision to read:

Subd. 6b. EXCHANGE OF DATA; LAWYERS BOARD OF PROFESSIONAL RESPONSIBILITY. The Lawyers Board of Professional Responsibility may refer to the commissioner complaints it receives about tax preparers who are not subject to its jurisdiction and who are alleged to have violated the provisions of subdivisions 3 to 5.

Sec. 7. Minnesota Statutes 2004, section 270.30, is amended by adding a subdivision to read:

Subd. 6c. EXCHANGE OF DATA; COMMISSIONER. The commissioner shall refer complaints about tax preparers who are alleged to have violated the provisions of subdivisions 3 to 5 to:

- (1) the State Board of Accountancy, if the tax preparer is under its jurisdiction; and
- (2) the Lawyers Board of Professional Responsibility, if the tax preparer is under its jurisdiction.

Sec. 8. Minnesota Statutes 2004, section 270.30, is amended by adding a subdivision to read:

Subd. 6d. DATA PRIVATE. Information exchanged on individuals under subdivisions 6a to 6c are private data under section 13.02, subdivision 12, until such time as a penalty is imposed as provided in section 326A.08 or by the Lawyers Board of Professional Responsibility.

Sec. 9. Minnesota Statutes 2004, section 270.30, subdivision 8, is amended to read:

Subd. 8. EXEMPTIONS; ENFORCEMENT PROVISIONS. (a) The provisions of subdivisions 6 and 7 this section, except for subdivision 4, do not apply to:

- (1) an attorney admitted to practice under section 481.01;
- (2) a certified public accountant holding a certificate under section 326A.04 or a person issued a permit to practice under section 326A.05 or other person who is subject to the jurisdiction of the State Board of Accountancy;
- (3) a person designated as a registered accounting practitioner under Minnesota Rules, part 1105.6600, or a registered accounting practitioner firm issued a permit under Minnesota Rules, part 1105.7100;

New language is indicated by underline, deletions by strikeout.

(4) an enrolled agent who has passed the special enrollment examination administered by the Internal Revenue Service; and

~~(5)~~ (4) any fiduciary, or the regular employees of a fiduciary, while acting on behalf of the fiduciary estate, the testator, trustor, grantor, or beneficiaries of them;

(5) a tax preparer who provides tax preparation services for fewer than six clients in a calendar year;

(6) tax preparation services to a spouse, parent, grandparent, child, or sibling of the tax preparer; and

(7) the preparation by an employee of the tax return of the employee's employer.

Sec. 10. [270.301] PUBLICATION OF NAMES OF TAX PREPARERS SUBJECT TO PENALTIES.

Subdivision 1. PUBLICATION OF LIST. Notwithstanding any other law, the commissioner must publish as provided in this section a list or lists of tax preparers subject to penalties.

Subd. 2. REQUIRED AND EXCLUDED TAX PREPARERS. (a) Subject to the limitations of paragraph (b), the commissioner must publish lists of tax preparers who have been convicted under section 289A.63.

(b) For the purposes of this section, tax preparers are not subject to publication if:

(1) an administrative or court action contesting the penalty has been filed or served and is unresolved at the time when notice would be given under subdivision 3;

(2) an appeal period to contest the penalty has not expired; or

(3) the commissioner has been notified that the tax preparer is deceased.

Subd. 3. NOTICE TO TAX PREPARER. (a) At least 30 days before publishing the name of a tax preparer subject to penalty, the commissioner shall mail a written notice to the tax preparer, detailing the amount and nature of each penalty and the intended publication of the information listed in subdivision 4 related to the penalty. The notice must be mailed by first class and certified mail addressed to the last known address of the tax preparer. The notice must include information regarding the exceptions listed in subdivision 2, paragraph (b), and must state that the tax preparer's information will not be published if the tax preparer provides information establishing that subdivision 2, paragraph (b), prohibits publication of the tax preparer's name.

(b) Thirty days after the notice is mailed and if the tax preparer has not proved to the commissioner that subdivision 2, paragraph (b), prohibits publication, the commissioner may publish in a list of tax preparers subject to penalty the information about the tax preparer that is listed in subdivision 4.

Subd. 4. FORM OF LIST. The list may be published by any medium or method. The list must contain the name, associated business name or names, address or addresses, and violation or violations for which a penalty was imposed of each tax preparer subject to penalty.

New language is indicated by underline, deletions by strikeout.

Subd. 5. REMOVAL FROM LIST. The commissioner shall remove the name of a tax preparer from the list of tax preparers published under this section:

(1) when the commissioner determines that the name was included on the list in error;

(2) within 90 days after the preparer has fully paid all fines imposed, served any suspension, and demonstrated to the satisfaction of the commissioner that the preparer has successfully completed any remedial actions required by the commissioner, the State Board of Accountancy, or the Lawyers Board of Professional Responsibility; or

(3) when the commissioner has been notified that the tax preparer is deceased.

Subd. 6. NAMES PUBLISHED IN ERROR. If the commissioner publishes a name under subdivision 1 in error, the tax preparer whose name was erroneously published has a right to request a retraction and apology. If the tax preparer so requests, the commissioner shall publish a retraction and apology acknowledging that the tax preparer's name was published in error. The retraction and apology must appear in the same medium and the same format as the original list that contained the name listed in error.

Subd. 7. PAYMENT OF DAMAGES. Actions against the commissioner of revenue or the state of Minnesota arising out of the implementation of this program must be brought under section 270.276.

EFFECTIVE DATE. The provision of this section requiring the commissioner to publish the names of tax preparers applies only to publishing the names of those tax preparers who commit a crime under section 289A.63 on or after August 1, 2005.

Sec. 11. Minnesota Statutes 2004, section 270.65, is amended to read:

270.65 DATE OF ASSESSMENT; DEFINITION.

For purposes of taxes administered by the commissioner, the term "date of assessment" means the date a liability reported on a return was entered into the records of the commissioner or the date a return should have been filed, whichever is later; or, in the case of taxes determined by the commissioner, "date of assessment" means the date of the order assessing taxes or date of the return made by the commissioner; or, in the case of an amended return filed by the taxpayer, the assessment date is the date additional liability reported on the return, if any, was entered into the records of the commissioner; or, in the case of a consent agreement signed by the taxpayer under section 270.67, subdivision 3, the assessment date is the notice date shown on the agreement; or, in the case of a check from a taxpayer that is dishonored and results in an erroneous refund being given to the taxpayer, remittance of the check is deemed to be an assessment and the "date of assessment" is the date the check was received by the commissioner.

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

Sec. 12. Minnesota Statutes 2004, section 270.67, subdivision 4, is amended to read:

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

Subd. 4. **OFFER-IN-COMPROMISE AND INSTALLMENT PAYMENT PROGRAM.** (a) In implementing the authority provided in subdivision 2 or in 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.

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

(c) Each compromise proposal must be accompanied by a nonrefundable payment of \$250. If the compromise proposal is accepted, the payment must be applied to the accepted compromise amount. If the compromise is rejected, the payment must be applied to the outstanding tax debts of the taxpayer pursuant to section 270.652. In cases of financial hardship, upon presentation of information establishing an inability to make the \$250 payment, the commissioner may waive this requirement.

EFFECTIVE DATE. This section is effective for offers in compromise submitted after August 31, 2005.

Sec. 13. Minnesota Statutes 2004, section 270.69, subdivision 4, is amended to read:

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

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

Sec. 14. Minnesota Statutes 2004, section 270A.03, subdivision 5, is amended to read:

Subd. 5. **DEBT.** "Debt" means a legal obligation of a natural person to pay a fixed and certain amount of money, which equals or exceeds \$25 and which is due and payable to a claimant agency. The term includes criminal fines imposed under section 609.10 or 609.125, fines imposed for petty misdemeanors as defined in section 609.02, subdivision 4a, and restitution. The term also includes the co-payment for the appointment of a district public defender imposed under section 611.17, paragraph (c). A debt may arise under a contractual or statutory obligation, a court order, or other legal obligation, but need not have been reduced to judgment.

A debt includes any legal obligation of a current recipient of assistance which is based on overpayment of an assistance grant where that payment is based on a client waiver or an administrative or judicial finding of an intentional program violation; or where the debt is owed to a program wherein the debtor is not a client at the time notification is provided to initiate recovery under this chapter and the debtor is not a current recipient of food support, transitional child care, or transitional medical assistance.

A debt does not include any legal obligation to pay a claimant agency for medical care, including hospitalization if the income of the debtor at the time when the medical care was rendered does not exceed the following amount:

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- (1) for an unmarried debtor, an income of \$8,800 or less;
- (2) for a debtor with one dependent, an income of \$11,270 or less;
- (3) for a debtor with two dependents, an income of \$13,330 or less;
- (4) for a debtor with three dependents, an income of \$15,120 or less;
- (5) for a debtor with four dependents, an income of \$15,950 or less; and
- (6) for a debtor with five or more dependents, an income of \$16,630 or less.

The income amounts in this subdivision shall be adjusted for inflation for debts incurred in calendar years 2001 and thereafter. The dollar amount of each income level that applied to debts incurred in the prior year shall be increased in the same manner as provided in section 1(f) of the Internal Revenue Code of 1986, as amended through December 31, 2000, except that for the purposes of this subdivision the percentage increase shall be determined from the year starting September 1, 1999, and ending August 31, 2000, as the base year for adjusting for inflation for debts incurred after December 31, 2000.

Debt also includes an agreement to pay a MinnesotaCare premium, regardless of the dollar amount of the premium authorized under section 256L.15, subdivision 1a.

Sec. 15. Minnesota Statutes 2004, section 289A.08, subdivision 16, is amended to read:

Subd. 16. TAX REFUND OR RETURN PREPARERS; ELECTRONIC FILING; PAPER FILING FEE IMPOSED. (a) A "tax refund or return preparer," as defined in section 289A.60, subdivision 13, paragraph ~~(g)~~ (h), who prepared more than 500 100 Minnesota individual income tax returns for the prior calendar year must file all Minnesota individual income tax returns prepared for the current calendar year by electronic means.

(b) ~~For tax returns prepared for the tax year beginning in 2001, the "500" in paragraph (a) is reduced to 250.~~

(c) ~~For tax returns prepared for tax years beginning after December 31, 2001, the "500" in paragraph (a) is reduced to 100.~~

(d) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(e) ~~(c)~~ For each return that is not filed electronically by a tax refund or return preparer under this subdivision, including returns filed under paragraph ~~(d)~~ (b), a paper filing fee of \$5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. The fee does not apply to returns that the commissioner requires to be filed in paper form.

Sec. 16. Minnesota Statutes 2004, section 289A.37, subdivision 5, is amended to read:

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Subd. 5. **SUFFICIENCY OF NOTICE.** An order of assessment, sent postage prepaid by United States mail to the taxpayer at the taxpayer's last known address, or sent by electronic mail to the taxpayer's last known electronic mailing address as provided for in section 325L.08, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.

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

Sec. 17. Minnesota Statutes 2004, section 289A.60, subdivision 2a, is amended to read:

Subd. 2a. **PENALTIES FOR EXTENDED DELINQUENCY.** (a) If an individual income tax is not paid within 180 days after the date of filing of a return or, in the case of taxes assessed by the commissioner, within 180 days after the assessment date or, if appealed, within 180 days after final resolution of the appeal, an extended delinquency penalty of five percent of the tax remaining unpaid is added to the amount due.

(b) If a corporate franchise, fiduciary income, mining company, estate, partnership, S corporation, or nonresident entertainer tax return is not filed within 30 days after written demand for the filing of a delinquent return, an extended delinquency penalty of five percent of the tax not paid prior to the demand is added to the tax, or in the case of an individual income tax return, a minimum penalty of \$100 or the five percent penalty is imposed, whichever amount is greater.

EFFECTIVE DATE. This section is effective for returns originally due on or after August 1, 2005.

Sec. 18. Minnesota Statutes 2004, section 289A.60, subdivision 11, is amended to read:

Subd. 11. **PENALTIES RELATING TO INFORMATION REPORTS, WITHHOLDING.** (a) When a person required under section 289A.09, subdivision 2, to give a statement to an employee or payee and a duplicate statement to the commissioner, or to give a reconciliation of the statements and quarterly returns to the commissioner, gives a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements and quarterly returns to the commissioner, or fails to give a statement or the reconciliation in the manner, when due, and showing the information required by section 289A.09, subdivision 2, or rules prescribed by the commissioner under that section, that person is liable for a penalty of \$50 for an act or failure to act. The total amount imposed on the delinquent person for failures during a calendar year must not exceed \$25,000.

(b) In addition to any other penalty provided by law, an employee who gives a withholding exemption certificate or a residency affidavit to an employer that the employee has reason to know contains a materially incorrect statement decreases the amount withheld under section 290.92 and as of the time the certificate or affidavit was given to the employer there was no reasonable basis for the statements in the certificate

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or affidavit is liable to the commissioner of revenue for a penalty of \$500 for each instance.

(c) In addition to any other penalty provided by law, an employer who fails to submit a copy of a withholding exemption certificate or a residency affidavit required by section 290.92, subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance.

(d) An employer or payor who fails to file an application for a withholding account number, as required by section 290.92, subdivision 24, is liable to the commissioner for a penalty of \$100.

EFFECTIVE DATE. This section is effective for certificates and affidavits given to employers after December 31, 2005.

Sec. 19. Minnesota Statutes 2004, section 289A.60, subdivision 13, is amended to read:

Subd. 13. **PENALTIES FOR TAX RETURN PREPARERS.** (a) If an understatement of liability with respect to a return or claim for refund is due to a willful attempt in any manner to understate the liability for a tax by a person who is a tax return preparer with respect to the return or claim, the person shall pay to the commissioner a penalty of \$500. If a part of a property tax refund claim is excessive due to a willful attempt in any manner to overstate the claim for relief allowed under chapter 290A by a person who is a tax refund or return preparer, the person shall pay to the commissioner a penalty of \$500 with respect to the claim. These penalties may not be assessed against the employer of a tax return preparer unless the employer was actively involved in the willful attempt to understate the liability for a tax or to overstate the claim for refund. These penalties are income tax liabilities and may be assessed at any time as provided in section 289A.38, subdivision 5.

(b) A civil action in the name of the state of Minnesota may be commenced to enjoin any person who is a tax return preparer doing business in this state from further engaging in any conduct described in paragraph (c). An action under this paragraph must be brought by the attorney general in the district court for the judicial district of the tax return preparer's residence or principal place of business, or in which the taxpayer with respect to whose tax return the action is brought resides. The court may exercise its jurisdiction over the action separate and apart from any other action brought by the state of Minnesota against the tax return preparer or any taxpayer.

(c) In an action under paragraph (b), if the court finds that a tax return preparer has:

(1) engaged in any conduct subject to a civil penalty under section 289A.60 or a criminal penalty under section 289A.63;

(2) misrepresented the preparer's eligibility to practice before the Department of Revenue, or otherwise misrepresented the preparer's experience or education as a tax return preparer;

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(3) guaranteed the payment of any tax refund or the allowance of any tax credit;
or

(4) engaged in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of state tax law, and injunctive relief is appropriate to prevent the recurrence of that conduct,
the court may enjoin the person from further engaging in that conduct.

(d) If the court finds that a tax return preparer has continually or repeatedly engaged in conduct described in paragraph (c), and that an injunction prohibiting that conduct would not be sufficient to prevent the person's interference with the proper administration of state tax laws, the court may enjoin the person from acting as a tax return preparer. The court may not enjoin the employer of a tax return preparer for conduct described in paragraph (c) engaged in by one or more of the employer's employees unless the employer was also actively involved in that conduct.

(e) The commissioner may terminate or suspend a tax preparer's authority to transmit returns electronically to the state, if the commissioner determines that the tax preparer has engaged in a pattern and practice of conduct in violation of paragraph (a) of this subdivision or has been convicted under section 289A.63.

(f) For purposes of this subdivision, the term "understatement of liability" means an understatement of the net amount payable with respect to a tax imposed by state tax law, or an overstatement of the net amount creditable or refundable with respect to a tax. The determination of whether or not there is an understatement of liability must be made without regard to any administrative or judicial action involving the taxpayer. For purposes of this subdivision, the amount determined for underpayment of estimated tax under either section 289A.25 or 289A.26 is not considered an understatement of liability.

~~(f)~~ (g) For purposes of this subdivision, the term "overstatement of claim" means an overstatement of the net amount refundable with respect to a claim for property tax relief provided by chapter 290A. The determination of whether or not there is an overstatement of a claim must be made without regard to administrative or judicial action involving the claimant.

~~(g)~~ (h) For purposes of this section, the term "tax refund or return preparer" means an individual who prepares for compensation, or who employs one or more individuals to prepare for compensation, a return of tax, or a claim for refund of tax. The preparation of a substantial part of a return or claim for refund is treated as if it were the preparation of the entire return or claim for refund. An individual is not considered a tax return preparer merely because the individual:

- (1) gives typing, reproducing, or other mechanical assistance;
- (2) prepares a return or claim for refund of the employer, or an officer or employee of the employer, by whom the individual is regularly and continuously employed;
- (3) prepares a return or claim for refund of any person as a fiduciary for that person; or

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(4) prepares a claim for refund for a taxpayer in response to a tax order issued to the taxpayer.

Sec. 20. Minnesota Statutes 2004, section 290.92, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** (1) **WAGES.** For purposes of this section, the term "wages" means the same as that term is defined in section 3401(a) and (f) of the Internal Revenue Code.

(2) **PAYROLL PERIOD.** For purposes of this section the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by the employee's employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

(3) **EMPLOYEE.** For purposes of this section the term "employee" means any resident individual performing services for an employer, either within or without, or both within and without the state of Minnesota, and every nonresident individual performing services within the state of Minnesota, the performance of which services constitute, establish, and determine the relationship between the parties as that of employer and employee. As used in the preceding sentence, the term "employee" includes an officer of a corporation, and an officer, employee, or elected official of the United States, a state, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.

(4) **EMPLOYER.** For purposes of this section the term "employer" means any person, including individuals, fiduciaries, estates, trusts, partnerships, limited liability companies, and corporations transacting business in or deriving any income from sources within the state of Minnesota for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that if the person for whom the individual performs or performed the services does not have legal control of the payment of the wages for such services, the term "employer," except for purposes of paragraph (1), means the person having legal control of the payment of such wages. As used in the preceding sentence, the term "employer" includes any corporation, individual, estate, trust, or organization which is exempt from taxation under section 290.05 and further includes, but is not limited to, officers of corporations who have legal control, either individually or jointly with another or others, of the payment of the wages.

(5) **NUMBER OF WITHHOLDING EXEMPTIONS CLAIMED.** For purposes of this section, the term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under subdivision 5, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

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

Sec. 21. Minnesota Statutes 2004, section 325D.33, subdivision 6, is amended to read:

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Subd. 6. **VIOLATIONS.** If the commissioner determines that a distributor is violating any provision of this chapter, the commissioner must give the distributor a written warning explaining the violation and an explanation of what must be done to comply with this chapter. Within ten days of issuance of the warning, the distributor must notify the commissioner that the distributor has complied with the commissioner's recommendation or request that the commissioner set the issue for a hearing pursuant to chapter 14. If a hearing is requested, the hearing shall be scheduled within 20 days of the request and the recommendation of the administrative law judge shall be issued within five working days of the close of the hearing. The commissioner's final determination shall be issued within five working days of the receipt of the administrative law judge's recommendation. If the commissioner's final determination is adverse to the distributor and the distributor does not comply within ten days of receipt of the commissioner's final determination, the commissioner may order the distributor to immediately cease the stamping of cigarettes. As soon as practicable after the order, the commissioner must remove the meter and any unapplied cigarette stamps from the premises of the distributor.

If within ten days of issuance of the written warning the distributor has not complied with the commissioner's recommendation or requested a hearing, the commissioner may order the distributor to immediately cease the stamping of cigarettes and remove the meter and unapplied stamps from the distributor's premises.

~~If, within any 12-month period, the commissioner has issued three written warnings to any distributor, even if the distributor has complied within ten days, the commissioner shall notify the distributor of the commissioner's intent to revoke the distributor's license for a continuing course of conduct contrary to this chapter. For purposes of this paragraph, a written warning that was ultimately resolved by removal of the warning by the commissioner is not deemed to be a warning. The commissioner must notify the distributor of the date and time of a hearing pursuant to chapter 14 at least 20 days before the hearing is held. The hearing must provide an opportunity for the distributor to show cause why the license should not be revoked. If the commissioner revokes a distributor's license, the commissioner shall not issue a new license to that distributor for 180 days.~~

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

Presented to the governor May 31, 2005

Signed by the governor June 2, 2005, 11:50 a.m.

CHAPTER 152—H.F.No. 2498

An act relating to public finance; authorizing purchases of certain guaranteed investment contracts; authorizing a special levy; modifying a taconite fund provision; modifying the authority of cities and counties to finance purchases of computers and related items; extending

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