

Taxation
Supervision
CHAPTER 270

DEPARTMENT OF REVENUE

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270.01 DEPARTMENT CREATED. The department of revenue shall be under the supervision and control of a commissioner of revenue, except as to the functions herein or by other provisions of law committed to the state tax court.

[1939 c 431 art 6 s 1; 1965 c 698 s 3; 1973 c 582 s 3] (2362-1)

270.02 DEPARTMENT OF REVENUE; COMMISSIONER OF REVENUE. Subdivision 1. The name of the department of taxation is changed to the department of revenue. The name of the commissioner of taxation is changed to the commissioner of revenue. Subject to the provisions of Laws 1973, Chapter 582 and other applicable laws, the department of revenue with its commissioner and other officers shall continue to exercise all the powers and duties vested in, or imposed upon its commissioner as existing and constituted immediately prior to July 1, 1973.

Subd. 2. **Terms, bond.** The commissioner of revenue shall be appointed by the governor by and with the advice and consent of the senate for a four year term which shall coincide with the term of the governor until his successor is duly appointed and qualified. The commissioner, who shall be in unclassified service, shall be selected on the basis of ability and experience in the field of taxation and tax administration and without regard to political affiliations. The governor may remove the commissioner at any time for cause, after notice and hearing. In case of a vacancy, the governor may appoint a commissioner, who shall take office immediately and shall carry on the duties of the office until the next session of the legis-

lature, when his appointment is submitted to the senate for approval. The commissioner shall give bond to the state in the sum of \$200,000. The person occupying the position of commissioner of taxation on July 1, 1973, shall be designated as commissioner of revenue, and his term of office shall coincide with the term of the office of governor.

Subd. 3. Powers, organization, assistants. Subject to the provisions of this chapter and other applicable laws the commissioner shall have power to organize the department with such divisions and other agencies as he deems necessary and to appoint two deputy commissioners, a department secretary, directors of divisions, and such other officers, employees, and agents as he may deem necessary to discharge the functions of the department, define the duties of such officers, employees, and agents, and delegate to them any of his powers or duties, subject to his control and under such conditions as he may prescribe. Appointments to exercise delegated power shall be by written order filed with the secretary of state.

Subd. 4. Department seal. The department of revenue 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 members of the department, except the tax court, 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 members of the department.

(NOTE: Laws 1973, Chapter 582, Section 2, reads as follows:

"Sec. 2. Until such time as the commissioner of revenue is able to make all changes in designation of the department of taxation to the department of revenue, he may continue to use the department of taxation designation, but the use of such designation shall not extend beyond the first Monday in January, 1978.")

[1939 c 431 art 6 s 2; 1949 c 739 s 3; 1951 c 478 s 1; 1951 c 713 s 30; 1965 c 45 s 48; 1965 c 698 s 3; 1969 c 1129 art 8 s 8; 1973 c 582 s 1] (2362-2)

270.03 [Repealed, 1943 c 160 s 1]

270.04 OFFICE AND SUPPLIES FURNISHED. The commissioner of revenue 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 and his secretary, clerks, and such experts and assistants as may be employed by him while traveling on the business of the department shall be paid by the state, such expenditures to be sworn to by the party who incurred the expense and approved by the commissioner of revenue.

[1907 c 408 s 10; 1973 c 582 s 3] (2363)

270.05 MINNESOTA TAX COMMISSION ABOLISHED; POWERS AND DUTIES TRANSFERRED. All the powers and duties now vested in or imposed upon the department of revenue and the Minnesota tax commission, except those herein or by other provisions of law transferred to the tax court, are hereby transferred to, vested in, and imposed upon, the commissioner of revenue. The Minnesota tax commission as heretofore constituted is hereby abolished.

[1939 c 431 art 6 s 3; 1965 c 698 s 3; 1973 c 582 s 3] (2362-3)

270.051 OLEOMARGARINE TAXES AND BOXING GROSS RECEIPTS TAX, TRANSFER OF DUTIES. Subdivision 1. All the powers and duties now vested in, or imposed upon the commissioner of the department of agriculture under chapter 33, relating to the imposition and collection of taxes on oleomargarine are hereby transferred to, vested in, and imposed upon the commissioner of revenue. The duties of the commissioner of the department of agriculture in relation thereto as existing and heretofore constituted are abolished.

Subd. 2. The commissioner of revenue shall collect five percent of the gross receipts from admission to every boxing and sparring exhibition other than an amateur boxing and sparring exhibition held within the state, and five percent of the gross receipts from the lease or sale of radio, motion picture and television rights therein. All complimentary tickets for a boxing and sparring exhibition other than an amateur boxing and sparring exhibition presented at any entrance gate shall likewise be assessed for the tax herein provided five percent of the value thereof.

Each person issued a license in accordance with section 341.05, subdivision 2, shall also, within 24 hours after the termination of the telecast or subscription

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television program, pay to the commissioner five percent of the gross receipts from the sale of tickets of admission or money received from subscription for the showing or exhibiting of the telecast or program. If the boxing or sparring match, exhibition, or performance shown or exhibited is wholly amateur no payment is due.

Subd. 3. The commissioner of revenue may prescribe by rule the procedures to be followed in the payment of the gross receipts tax provided for in this section.

[1969 c 1129 art 7 s 1; 1971 c 25 s 52; 1973 c 582 s 3]

270.06 POWERS AND DUTIES. It shall be the duty of the commissioner of revenue and he shall have power and authority:

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

(2) To 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, and to that end call meetings of local assessors of each county, to be held at the county-seat of such county, for the purpose of receiving necessary instructions from the commissioner as to the laws governing the assessment and taxation of all classes of property, which meetings at least one member of each local board of review shall attend.

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

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

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

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

(7) To summon witnesses to appear and give testimony, and to produce books, records, papers and documents relating to any tax matter which he may have authority to investigate or determine;

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

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

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

(11) To transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even numbered year, the report of the department of revenue

for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;

(12) To visit at least one-half of the counties of the state annually and every county in the state at least once in two years and inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance with the laws requiring the assessment of all property not exempt from taxation;

(13) To exercise and perform such further powers and duties as may be required or imposed upon the commissioner of revenue by law;

(14) The commissioner of revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law.

[1907 c 408 s 1; 1943 c 199 s 1; 1945 c 599 s 1; 1971 c 670 s 1; 1973 c 123 art 5 s 7; 1973 c 582 s 3; 1974 c 406 s 66] (2364)

270.061 SERVICE OF NOTICE BY MAIL. Notwithstanding any other law to the contrary, whenever the commissioner of revenue is required to serve notices by registered or certified mail, he may at his option make such services by regular mail, retaining for his records adequate proof of such service.

[Ex:1967 c 48 s 96; 1969 c 1139 s 66; 1973 c 582 s 3]

270.065 EQUALITY AND CONSISTENCY IN THE EXERCISE OF POWERS AND DUTIES. Notwithstanding the provisions of any other law, the commissioner of revenue may use any and all information in his possession, or to which he has access, to insure equal and consistent application and enforcement of all tax laws administered by his department. This section shall not be construed as granting to the commissioner of revenue any power to release any information outside his department.

[1971 c 431 s 1; 1973 c 582 s 3]

270.07 ADDITIONAL POWERS. Subdivision 1. The commissioner of revenue shall prescribe the form of all blanks and books required under this chapter. He shall hear and determine all matters of grievance relating to taxation. Except as otherwise provided by law, he shall have power to grant such reduction or abatement of assessed valuations or taxes and of any costs, penalties or interest thereon as he may deem just and equitable, and to order the refundment, in whole or in part, of any taxes, 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. In the case of gross earnings taxes the application may be made directly to the commissioner without the favorable action of the county board and county auditor, and the commissioner shall direct that any gross earnings taxes which may have been erroneously or unjustly paid shall be applied against unpaid taxes due from the applicant for such refundment. 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. The commissioner may refer any question that may arise in reference to the true construction of this chapter to the attorney general, and his decision thereon shall be in force and effect until annulled by the judgment of a court of competent jurisdiction. The commissioner shall forward to the county auditor a copy of the order by him made in all cases in which the approval of the county board is required. The commissioner may by written order abate, reduce, or refund any penalty imposed by any law relating to taxation, if in his opinion the enforcement of such a penalty would be unjust and inequitable. Such order shall, in the case of real and personal property taxes, be made only on application and approval as provided in this section; in the case of all other taxes, such order shall be made on application of the taxpayer to the commissioner and, if the order is for an abatement, reduction or refund of over \$500, it shall be valid only if approved in writing by the attorney general.

An appeal may not be taken to the tax court from any order of the commissioner of revenue made in the exercise of the discretionary authority granted to him in this subdivision in response to a taxpayer's application for an abatement, reduction or refund of taxes, assessed valuations, costs, penalties or interest.

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Subd. 2. The commissioner of revenue, on application of the county auditor with the approval of the county board, may order the correction of any administrative and clerical errors in the assessment, levy and extension of ad valorem taxes other than valuation.

Subd. 3. Notwithstanding any other provision of law the commissioner of revenue may,

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

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

(c) based upon the administrative costs of processing, determine the minimum amount of refunds for which an order shall be issued and refund made where no claim therefor has been filed, and

(d) may cancel any amounts below these minimum standards determined under (a) and (b) hereof.

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

Subd. 5. Notwithstanding any other provision of law to the contrary, in the case of an overpayment of any tax collected by the commissioner of revenue, the commissioner, within the applicable period of limitations, may credit the amount of such overpayment against any delinquent tax liability on the part of the taxpayer who made the overpayment. 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.

[*R L s 801; 1909 c 96 s 1; 1911 c 339 s 1; 1923 c 145 s 1; 1941 c 454; 1949 c 45 s 1; Ex1959 c 59 s 1; 1965 c 357 s 1; 1965 c 506 s 1; 1969 c 97 s 1; 1971 c 479 s 1; 1973 c 457 s 1; 1973 c 582 s 3*] (1983)

270.071 DEFINITIONS. Subdivision 1. The following words and phrases, when used in sections 270.071 to 270.079, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.

Subd. 2. "Person" means any individual, corporation, firm, copartnership, company, or association, and includes any guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity therefor.

Subd. 3. "Airline company" means any person who undertakes, directly or indirectly, to engage in the business of air commerce.

Subd. 4. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 5. "Flight property" means all aircraft and flight equipment used in connection therewith, including spare flight equipment.

Subd. 6. "Air commerce" means the transportation by aircraft of persons or property for hire in interstate, intrastate, or international transportation on regularly scheduled flights.

Subd. 7. "Equated plane hours" means hours spent by aircraft in flight weighted according to the cargo capacity of each aircraft.

Subd. 8. "Commissioner" means state commissioner of revenue.

[*1945 c 418 s 1; 1953 c 672 s 1; 1973 c 582 s 3*]

270.072 TAXATION AND ASSESSMENT OF FLIGHT PROPERTY. Subdivision 1. **Tax on real estate.** All real property of an airline company and all personal property thereof except flight property shall be taxed as otherwise provided by law.

Subd. 2. **Assessment of flight property.** The flight property of all air carriers operating in Minnesota under a certificate of convenience and necessity issued by the United States Civil Aeronautics Board shall be assessed annually by the commissioner in the manner prescribed by sections 270.071 to 270.079.

Subd. 3. **Report by airline company.** Every airline company engaged in air commerce in this state at any time during the year 1945 or any year thereafter

shall file with the commissioner on or before the time fixed by the commissioner a report under oath setting forth specifically the information prescribed by the commissioner to enable him to make the assessment required in sections 270.071 to 270.079.

Subd. 4. Extension of time. The commissioner for good cause may extend for not to exceed 30 days the time for making a report.

Subd. 5. Taxes imposed a personal debt. The taxes imposed under the provisions of sections 270.071 to 270.079 shall be a personal debt of the airline company in whose name the property is assessed. Such taxes may be enforced by action in debt by the Attorney General on behalf of the state.

[1945 c. 418 ss. 2, 3, 7, 10]

270.073 EXAMINATIONS AND INVESTIGATIONS. Subdivision 1. For the purpose of determining the correctness of any statement, the commissioner shall have the power to examine or cause to be examined any books, papers, records, or memoranda relevant to the determination of the assessed valuation of flight property as herein provided, including the airline company's retained copy of any return or statement made to the United States of America or any state for any year, whether such books, papers, records, or memoranda are the property of or in the possession of the airline company or any other person. The commissioner shall have the right to inspect the originals of such reports with or without obtaining copies from the company. The commissioner shall have further power to require the attendance of any airline company or other person having knowledge or information in the premises, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination and to administer oaths or affirmations.

Subd. 2. For the purpose of making such examinations, the commissioner may appoint such persons as he may deem necessary. Such persons shall have the rights and powers with reference to the examining of books, papers, records, or memoranda, and with reference to the subpoenaing of witnesses, administering of oaths and affirmations, and taking of testimony, which are conferred upon the commissioner hereby. The clerk of any court of record, upon demand of any such person, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records, or memoranda before such person. The commissioner may also issue subpoenas for the appearance of witnesses before him or before such persons. Disobedience of subpoenas so issued shall be punished by the district court of the district in which the subpoena is issued as for a contempt of the district court.

Subd. 3. If any airline company shall refuse or neglect to make the statement required by this section to the commissioner, or shall refuse or neglect to permit an inspection and examination of its property, its records, books, accounts or other papers when requested by the commissioner, or shall refuse or neglect to appear before the commissioner or a person appointed under subdivision 2 when required so to do, the commissioner shall assess the tax provided for by sections 270.071 to 270.079 against the airline company according to his best judgment on available information, and such airline company shall be estopped to question or impeach the action or determination of the commissioner, except upon proof of fraud on the part of the commissioner; and the commissioner may add to the assessment a penalty not exceeding ten percent of the assessment.

[1945 c. 418 s. 4]

270.074 VALUATION OF FLIGHT PROPERTY; METHODS OF APPORTIONMENT; RATIO OF TAX. Subdivision 1. The commissioner shall determine the market valuation of all flight property operated or used by every airline company in air commerce in this state. The valuation apportioned to this state of such flight property shall be the proportion of the total valuation thereof determined on the basis of the total of the following percentages:

(1) 33 $\frac{1}{3}$ percent of the percentage which the total tonnage of passengers, express and freight first received by the airline company in this state during the preceding calendar year plus the total tonnage of passengers, express and freight finally discharged by it within this state during the preceding calendar year is of the total of such tonnage first received by the airline company or finally discharged by it, within and without this state during the preceding calendar year.

(2) 33 $\frac{1}{3}$ percent of the percentage which, in equated plane hours, the total time of all aircraft of the airline company in flight in this state during the pre-

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ceding calendar year, is of the total of such time in flight within and without this state during the preceding calendar year.

(3) 33½ percent of the percentage which the number of revenue ton miles of passengers, mail, express and freight flown by the airline company within this state during the preceding calendar year is of the total number of such miles flown by it within and without this state during the preceding calendar year.

Subd. 2. The method prescribed by subdivision 1 shall be presumed to determine fairly and correctly the value of the flight property of an airline allocable to this state. Any airline aggrieved by the valuation of the flight property or the application to its case of the apportionment methods prescribed by subdivision 1, may petition the commissioner for determination of the valuation or the apportionment thereof to this state by the use of some other method. Thereupon, if the commissioner finds that the application of the methods prescribed by subdivision 1 will be unjust to the airline, he may allow the use of the methods so petitioned for by the airline, or may determine the valuation or apportionment thereof by other methods if satisfied that such other methods will fairly reflect such valuation or apportionment thereof.

Subd. 3. The flight property of every airline company shall be assessed at 33½ percent of the value thereof apportioned to this state under subdivision 1.
[1945 c 418 s 5; 1953 c 672 s 2, 3; 1971 c 427 s 15]

270.075 TAX LEVY. Subdivision 1. The commissioner shall determine the rate of tax to be levied and collected against the assessed valuation as determined pursuant to section 270.074, subdivision 2, which shall be the average rate of taxes, general, municipal, and local, levied throughout the state for the preceding year. The levy shall be completed on or before the first Monday in October of each year. Provided, however, that for taxes levied in 1972 the rate shall not exceed 33½ percent of the average rate of taxes, general, municipal, and local, levied throughout the state for the preceding year.

Subd. 2. As soon as practicable and not later than November 1 next following the levy of the tax, the commissioner shall give actual notice to the airline company of the assessed valuation and of the tax. The taxes imposed under sections 270.071 to 270.079 shall become due and payable on January 1 following the levy thereof and if not paid to the commissioner on or before February 1 next following shall become delinquent. The delinquent tax shall carry interest at the rate of one per cent per month from January 1 for the first year of delinquency and thereafter at the rate of one-half of one per cent for each month or fraction thereof until paid. Such interest shall be a part of the tax. Failure to send or receive the notice herein provided for or error in such notice shall not excuse the payment of the tax as required by sections 270.071 to 270.079.

Subd. 3. If the taxes remain unpaid on the following 1st day of July, the commissioner shall certify the amount thereof to the attorney general, who shall bring an action to recover the amount of such taxes. The statement shall give the name and address of the airline company owing such tax, the amount thereof, the date of delinquency, and such other information as may be required by the attorney general.

Subd. 4. The commissioner's certified statement to the attorney general of delinquent taxes shall for all purposes and in all courts be prima facie evidence of the facts therein stated and that the amount shown therein is due from the airline company named in the statement.

[1945 c 418 s 6; Ex1971 c 31 art 10 s 1]

270.076 APPEAL. Subdivision 1. Any airline company against which a tax has been imposed under sections 270.071 to 270.079 shall have the right to appeal within 30 days from the date of notice of the levy of the tax to the tax court in the manner provided by law.

Subd. 2. In case of appeal from the assessment and levy of the tax, the airline company shall currently pay when due that portion of the tax which is admitted to be due. If the final determination of the litigation should result in sustaining the assessment and levy or in the finding that the amount paid by the airline company is insufficient, the difference between the amount paid and the amount which should have been paid shall be decreed delinquent taxes subject to interest, as hereinabove provided. If the tax court or the supreme court should decide that the appeal was reasonable or justifiable, it may remit all or any part of the

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Interest. If the final determination of the tax court or the supreme court shall result in increasing any assessment above that which was made final by the order of the commissioner from which the appeal is taken, then the taxes on such increased assessment shall be delinquent 30 days after notice of the amount of the increased tax shall have been given to the airline company by the commissioner.

[1945 c 418 s 8; 1965 c 698 s 3]

270.077 STATE AIRPORTS FUND CREATED. There is hereby created in the state treasury a fund to be known as the state Airports Fund to which shall be credited the proceeds of all taxes levied under sections 270.071 to 270.079 and all other moneys which may be deposited to the credit thereof pursuant to any other provision of law. All moneys in the state airports fund are hereby appropriated to the commissioner of aeronautics for the purpose of acquiring, constructing, improving, maintaining, and operating airports and other air navigation facilities for the state, and to assist municipalities within the state in the acquisition, construction, improvement, and maintenance of airports and other air navigation facilities.

[1945 c. 418 s. 9]

270.078 NOT TO CONFLICT WITH FEDERAL LAW. Subdivision 1. If any provision of sections 270.071 to 270.079 is contrary to any provision of any law of the United States of America, hereinafter enacted, providing for or relating to the ad valorem taxation by a state of aircraft or flying equipment of an airline company, such provision shall be of no effect and the commissioner is authorized and directed to prescribe by regulation such provisions as may be necessary to make sections 270.071 to 270.079 conform to the federal act and to effectuate the purposes of sections 270.071 to 270.079, provided such regulations do not prescribe a rate of taxation higher than that provided in section 270.075 or an assessed valuation based on a percentage higher than that provided in section 270.074, subdivision 2.

Subd. 2. No provision of any law of the United States of America providing for or relating to the ad valorem taxation by a state of aircraft or flying equipment of an airline company shall be effective for the purposes of subdivision 1 until the attorney general of Minnesota shall have certified to the commissioner that in his opinion such federal act is a valid exercise of federal authority under the Constitution of the United States.

Subd. 3. The provisions of this section shall not affect the validity of any tax imposed under sections 270.071 to 270.079 prior to the effective date of such federal law.

[1945 c. 418 s. 11]

270.079 RECIPROCAL ARRANGEMENT WITH OTHER STATES. The commissioner may enter into an agreement with the commissioner or other tax officials of another state for the interpretation and administration of the acts of their several states providing for the taxation of flight property of airline companies for the purpose of promoting uniformity of taxation of such companies thereunder.

[1945 c. 418 s. 12]

270.08 SUPERVISE INHERITANCE AND GIFT TAXES. All the powers and duties now vested in or imposed upon the attorney general under the provisions of any laws relating to inheritance taxes or gift taxes, except those prescribed by Mason's Minnesota Statutes of 1927, Sections 2317 and 2318, are hereby transferred to, vested in, and imposed upon the commissioner of revenue, who shall have charge of the administration of such laws.

[1939 c 431 art 6 s 6; 1973 c 582 s 3] (2362-6)

270.083 COMMISSIONER OF REVENUE TO EXAMINE; ATTORNEY GENERAL TO INSTITUTE ACTIONS. The commissioner of revenue, at least once a year, so far as practicable, shall visit all railroad and other corporations and companies which are required by law to pay taxes to the state upon a gross earnings basis, examine their books of account and all other records and papers bearing upon or evidencing their gross earnings upon which, under the law, taxes should be paid in this state; and in case he shall discover errors and omissions in their gross earnings, as reported by such companies, he shall certify the amount of such omitted earnings, together with the additional taxes and penalties due for collection as provided by law. All evasions and violations of the law in respect to such gross earnings taxes which he may discover he shall report to the governor and the

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attorney general. The commissioner of revenue and the attorney general shall institute such proceedings as the law and the public interest require.

[1913 c. 555 s. 9; 1945 c. 348 s. 1] (3282)

270.084 TRANSFERS. Subdivision 1. **Transfer of duties.** All the powers and duties and functions conferred by law upon the public examiner in respect to auditing railroads and other corporations for determining gross earnings tax liability, at the time of passage of Laws 1945, Chapter 348, shall hereafter be exercised, performed, and administered by the commissioner of revenue.

Subd. 2. **Transfer of records.** The public examiner shall transfer and deliver to the commissioner of revenue all contracts, books, maps, plans, papers, records, and property of every description within his jurisdiction or control, and shall also transfer thereto any or all employees engaged in the exercise of such functions, powers or duties pertaining to the auditing of railroads and other corporations paying gross earnings taxes. The commissioner of revenue is hereby authorized to take possession of said property, and shall take charge of said employees and shall employ them in the exercise of their respective functions, powers and duties transferred as aforesaid, without reduction of compensation, subject to change or termination of employment or compensation as may be otherwise provided by law.

[1945 c 348 s 2, 3; 1973 c 582 s 3]

270.09 OPINION OF ATTORNEY GENERAL; EFFECT. The commissioner of revenue may in writing request the opinion of the attorney general upon any matter within the scope of the functions of the department of revenue as now or hereafter prescribed by law. 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.

[1939 c 431 art 6 s 8; 1965 c 698 s 3; 1973 c 582 s 3] (2362-8)

270.10 ORDERS, DECISIONS, REPORTS. Subdivision 1. **In writing; approval by attorney general.** All orders and decisions of the commissioner of revenue, or any of his subordinates, respecting any tax, assessment, or other obligation, shall be in writing, filed in the offices of the department. No order or decision increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$300 on real or personal property, or the assessed valuation thereof, or other obligation relating thereto, the result of which is to increase or decrease the total amount payable including penalties and interest, by a sum exceeding \$500, and no order or decision increasing or decreasing any other tax by a sum exceeding \$300 exclusive of penalties and interest, shall be made without the written approval of the commissioner or his deputy in each case. Written notice of every order granting a reduction, abatement, or refundment exceeding \$500 of any tax exclusive of penalties and interest, shall be given within five days to the attorney general. The attorney general shall forthwith examine such order, and if he deems the same proper and legal he shall approve the same in writing, and may waive the right of appeal therefrom in behalf of the state; otherwise he shall take an appeal from the order in behalf of the state as herein provided; but written approval of the commissioner or his deputy and written notice to the attorney general, shall not be required with respect to the following orders: (1) orders reducing assessed valuation of property by reason of its classification as a homestead; (2) orders involving property of the Department of Rural Credits; (3) orders not involving refunds which have the effect only of correcting income and franchise tax assessments to conform to the amounts shown on final returns filed as provided by section 290.42, clause (5); (4) original orders for the refundment of gasoline and special fuel taxes.

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 of revenue, or any other members of the department, unless such recommendation or approval shall have been made upon official action by such county board or other agency, 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.

Subd. 3. **Reductions, abatements, refundments; statement.** The commissioner shall maintain as a public record in the department a statement of all abatements, reductions, and refundments of assessments, taxes, or other obligations granted

by the department during the biennium, which require the written approval of the commissioner or his deputy, and of which written notice to the attorney general is required, under the provisions of subdivision 1; and, all reductions of assessed valuation of more than \$50,000 and all reductions, refundments, or abatements of real estate tax of more than \$1,000 shall be separately shown in such statement. Such statement shall show the names of all taxpayers or other persons concerned, the original amount of each assessment, tax, or other obligation, the amount of abatement, reduction, or refundment allowed in each case, and the totals of the respective items, notwithstanding any provisions of law requiring secrecy to the contrary. The commissioner shall include in such statement the amount of all increases of taxes or assessments made by the department, classified in such manner as he may deem proper, but not showing the names of taxpayers or other persons concerned or the amounts in individual cases.

[1939 c 431 art 6 s 9; 1943 c 174 s 1, 2; 1943 c 652 s 1; 1951 c 611 s 1; 1965 c 102 s 1; 1969 c 97 s 2; 1973 c 582 s 3] (2362-9)

270.11 POWERS; MEETINGS. Subdivision 1. **To act as state board of equalization.** The commissioner of revenue shall have and exercise all the rights, powers and authority by law vested in the state board of equalization, which board of equalization is hereby continued, with full power and authority to review, modify, and revise all of the acts and proceedings of the commissioner in so far as they relate to the equalization and valuation of property assessed for taxation, as prescribed by section 270.12, which state board of equalization shall meet on August 15 of each year during its existence.

Subd. 2. **County auditor's reports of assessment filed with commissioner.** The commissioner of revenue shall require the auditor of each county in the state to file with him, on or before August 1, each year, complete abstracts of all real and personal property in the county, as equalized by the county board of equalization, and itemized by assessment districts, accompanied by a printed or typewritten copy of the proceedings of the county board of equalization, and it shall be the duty of the county auditor to so report to the commissioner of revenue.

The final abstract of assessments after adjustments by the state board of equalization and inclusion of any omitted property shall be submitted to the commissioner of revenue on or before January 1 of each calendar year.

Subd. 3. **Special assessors, deputies; reassessments.** The commissioner of revenue shall appoint a special assessor and deputies under him 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 his 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.

Subd. 4. **Omitted property.** The commissioner of revenue shall require the county auditor to carefully place upon the assessment rolls omitted property which may be discovered to have escaped assessment and taxation in previous years.

Subd. 5. **Examination of complaints; proceedings.** The commissioner of revenue shall receive complaints and carefully examine into 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 taxing of the state.

Subd. 6. **Change of assessed valuations.** The commissioner of revenue shall raise or lower the assessed valuation of any real or personal property, including the power to raise or lower the assessed valuation of the real or personal property of any individual, copartnership, company, association, or corporation; provided, that before any such assessment against the property of any individual, copartnership, company, association, or corporation is so raised, notice of his intention to raise such assessed valuation and of the time and place at which a hearing thereon will be held shall be given to such person, by mail, addressed to him at his place of residence as the same appears upon the assessment book, at least five days before the day of such hearing.

[1907 c 408 s 12; 1909 c 294 s 1, 5; 1971 c 564 s 1, 2; 1973 c 582 s 3; 1974 c 521 s 23] (2365)

270.12 STATE BOARD OF EQUALIZATION; DUTIES. The commissioner of

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revenue shall constitute the state board of equalization. The board may adjourn from day to day and employ necessary clerical assistance. The board shall meet annually on August 15 at the office of the commissioner of revenue and examine and compare the returns of the assessment of the property in the several counties, and equalize the same so that all the taxable property in the state shall be assessed at its true and full value, subject to the following rules:

(1) The board shall add to the aggregate valuation of the real property of every county, which the board believes to be valued below its true and full value in money, such percent as will bring the same to its true and full value in money;

(2) The board shall deduct from the aggregate valuation of the real property of every county, which the board believes to be valued above its true and full value in money, such percent as will reduce the same to its true and full value in money;

(3) If the board believes the valuation of the real property of any town or district in any county, or the valuation of the real property of any county not in towns, or cities, should be raised or reduced, without raising or reducing the other real property of such county, or without raising or reducing it in the same ratio, the board may add to, or take from, the valuation of any one or more of such towns, or cities, or of the property not in towns, or cities, such percent as the board believes will raise or reduce the same to its true and full value in money;

(4) The board shall add to the aggregate valuation of any class of personal property in any county, town, or city, which the board believes to be valued below the true and full value thereof, such percent as will raise the same to its true and full value in money;

(5) The board shall take from the aggregate valuation of any class of personal property in any county, town or city, which the board believes to be valued above the true and full value thereof, such percent as will reduce the same to its true and full value in money;

(6) The board shall not reduce the aggregate valuation of all the property of the state, as returned by the several county auditors, more than one percent on the whole valuation thereof; and

(7) When it would be of assistance in equalizing values the board may require any county auditor to furnish statements showing assessments of real and personal property of any individuals, firms, or corporations within the county. The board shall consider and equalize such assessments and may increase the assessment of individuals, firms, or corporations above the amount returned by the county board of equalization when it shall appear to be undervalued, first giving notice to such persons of the intention of the board so to do, which notice shall fix a time and place of hearing. The board shall not decrease any such assessment below the valuation placed by the county board of equalization.

[*R L s 863; 1971 c 564 s 3; 1973 c 123 art 5 s 7; 1973 c 582 s 3*] (2366)

270.13 RECORD OF PROCEEDINGS CHANGING ASSESSED VALUATION; DUTIES OF COUNTY AUDITOR. A record of all proceedings of the commissioner of revenue affecting any change in the assessed valuation of any property, as revised by the state board of equalization, shall be kept by the commissioner of revenue and a copy thereof, duly certified, shall be mailed to the auditor of each county wherein such property is situated, on or before October 15 each year. This record shall specify the amounts or amount, or both, added to or deducted from the valuation of the real property of each of the several towns, and cities, and of the real property not in towns, or cities, also the percent or amount of both, added to or deducted from the several classes of personal property in each of the towns, and cities, and also the amount added to or deducted from the assessments of individuals, copartnerships, associations, or corporations. The county auditor shall add to or deduct from such tract or lot, or portion thereof, of any real property in his county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding in each case a fractional sum of 50 cents or more, and deducting in each case any fractional sum of less than 50 cents, so that no valuation of any separate tract or lot shall contain any fraction of a dollar; and add to, or deduct from, the several classes of personal property in his county the required percent or amount, or both, on the valuation thereof as it stood after equalized by the county board, adding or deducting in manner aforesaid any fractional sum so that no valuation of any separate class of personal property shall

contain a fraction of a dollar, and add to or deduct from assessments of individuals, copartnerships, associations, or corporations, as they stood after equalization by the county board, the required amounts to agree with the assessments as returned by the commissioner of revenue.

[1907 c 408 s 13; 1949 c 543 s 6; 1971 c 564 s 4; 1973 c 123 art 5 s 7; 1973 c 582 s 3] (2367)

270.14 COUNTY AUDITOR TO CALCULATE TAX RATE. The county auditor shall calculate the rate percent necessary to raise the required amount of the various taxes on the assessed valuation of all property as returned by the commissioner of revenue.

[1907 c 408 s 14; 1973 c 582 s 3] (2368)

270.15 WITNESSES, HOW SWORN; FAILURE TO TESTIFY OR PRODUCE. Oaths to witnesses in any matter under the investigation or consideration of the commissioner of revenue may be administered by his secretary. In case any witness shall fail to obey any summons or appear before the commissioner of revenue or refuse to testify or answer any material questions or to produce records, books, papers, or documents when required so to do, such failure or refusal shall be reported to the attorney general, who shall thereupon proceed in the proper court to compel obedience to any summons or order of the commissioner of revenue, or to punish witnesses for any such neglect or refusal.

[1907 c 408 s 15; 1973 c 582 s 3] (2369)

270.16 PROPERTY OMITTED OR UNDERVALUED; REASSESSMENT. When it shall be made to appear to the commissioner of revenue, 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 of revenue, the commissioner of revenue shall examine into the facts in the matter and, if satisfied therefrom that it would be for the best interests of the state that a reassessment of such property be made, he 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 he 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.

[1907 c 408 s 16; 1909 c 294 s 2; 1965 c 185 s 1; 1973 c 123 art 5 s 7; 1973 c 582 s 3] (2370)

270.17 QUALIFICATION OF ASSESSORS; REASSESSMENT, HOW MADE. Every special assessor and deputy appointed under the provisions of section 270.16 shall subscribe and file with the commissioner of revenue his oath to faithfully and fairly perform the duties of his office. Such special assessor, assisted by his 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 of revenue 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. He shall file both copies of such list with the commissioner of revenue; and the commissioner of revenue 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 him 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 himself aggrieved by an assessment so made against him, or upon any property at that time owned by him, 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

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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 clerk 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.

[1909 c 294 s 3; 1973 c 582 s 3; 1973 c 776 s 1] (2371)

270.18 REASSESSMENT FUND; COMPENSATION; REIMBURSEMENT BY COUNTIES. Subdivision 1. There is hereby created a permanent reassessment revolving fund. Such fund shall consist of the sum of \$1,000,000. There is hereby appropriated from the general fund sufficient moneys to increase said funds to \$1,000,000.

Subd. 2. The compensation of each special assessor and of his deputies, appointed under the provisions of section 270.11, subdivision 3, and 270.16, and his expenses as such, shall be fixed by the commissioner of revenue and by him certified to the commissioner of finance and paid out of the fund provided for in subdivision 1 hereof. The commissioner of finance on October 1 shall notify the auditor of each affected county of the amount thereof paid on behalf of such county since October 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 of finance 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 fund described in subdivision 1 hereof. If any county fails to reimburse the state within the time specified herein, the commissioner of revenue is empowered to order withholding of state aids or distributions to such county equal to the amount delinquent.

[1909 c 294 s 4; 1963 c 714 s 1; 1965 c 743 s 1; 1969 c 399 s 1; 1971 c 932 s 1; 1973 c 492 s 14; 1974 c 98 s 1] (2372)

270.19 MUNICIPALITIES TO BE PARTY TO TAX HEARINGS. Any city, town, school district, or county (all of which governmental subdivisions shall be embraced in the word "municipality" as used hereinafter) may appear at and become a party to any proceedings before the commissioner of revenue held for the purpose of equalizing or assessing any real or personal property in such municipality, or reducing the assessed valuation of any such property. For that purpose any such municipality may employ counsel and disburse money for other expenses in connection with such 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 of revenue, at the time of such hearing, to grant the municipality, at its request, such further reasonable time as may be necessary for such municipality to prepare for further hearing. Before granting any reduction in assessed valuation exceeding \$50,000, it shall be the duty of the commissioner of revenue, when any taxpayer or property owner has applied for a reduction of the assessed valuation of any real or personal property in an amount exceeding \$50,000, to give written notice to the officials of the municipality wherein such property is located and to permit such municipality to have reasonable opportunity to be heard at any proceedings concerning such reduction.

[1931 c 304 s 1; 1965 c 642 s 1; 1974 c 362 s 1] (2372-1)

270.20 HEARINGS, REQUEST FOR, NOTICE OF, PREPARATION FOR. Any such municipality may, at any time within ten days after the final adjournment of the county board of equalization of the county in which such municipality is located or within ten days after the filing with the auditor of such county of any order of the commissioner of revenue reducing the assessed valuation of any property in such municipality, file a written request with the commissioner of revenue for a hearing upon the equalization or assessment of any property within such municl-

pality, specifying the property and the name and address of the owner thereof, as they appear from the assessment books. The commissioner of revenue shall thereupon order a hearing thereon and mail a notice stating the time and place of such hearing to the municipality and to the owner of such property. It shall be the duty of the commissioner of revenue, at the time of such hearing, to grant the municipality, at its request, such further reasonable time as may be necessary for such municipality to prepare for further hearing.

[1931 c 304 s 2; 1973 c 582 s 3] (2372-2)

270.21 WITNESSES SUMMONED. Upon any such hearing the commissioner of revenue shall, upon the request of such municipality or any party to such 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 such hearing the municipality shall have access to, and use of, all the data, records, and files of the commissioner of revenue pertaining to the property in question. Upon demand of any party a record shall be kept by the commissioner of revenue of all evidence offered or received upon such hearing, the cost thereof to be paid by the party making such demand.

[1931 c 304 s 3; 1973 c 582 s 3] (2372-3)

270.22 FINDINGS OF FACT. The commissioner of revenue shall determine the controversy upon the evidence produced at such hearing and shall make and file written findings of fact and his order determining the controversy. In the equalization and determination of valuations, the findings and values as given by the assessor of the local assessment district shall be considered as prima facie correct. Copies of such order and findings shall be mailed to all parties appearing at such hearing, and to the auditor of the county in which the property is located. Any municipality which has appeared in such proceedings, and which is aggrieved by the order of the commissioner of revenue reducing the assessed valuation of any such property, or failing to increase such assessed valuation, may have the order of the commissioner of revenue reviewed by appeal to the supreme court, on either of the following grounds: (a) that the determination of the commissioner of revenue was not in accordance with the laws relating to the assessment of property, or that the commissioner of revenue committed any other error of law; (b) that the findings of fact and determination of value were unwarranted by or were contrary to the weight of the evidence.

Any owner of property who has appeared in such proceedings and who is aggrieved by the order of the commissioner of revenue raising the assessed valuation of any such property, or failing to reduce such assessed valuation, may have the order of the commissioner of revenue reviewed on appeal to the supreme court in like manner and upon the same grounds as hereinabove provided for review on the appeal of any municipality, as hereinafter provided.

[1931 c 304 s 4; 1973 c 582 s 3] (2372-4)

270.23 NOTICE OF APPEAL. To secure such review, the municipality shall, within 30 days after mailing of notice of such determination by the commissioner of revenue, serve upon the commissioner of revenue a notice of appeal to the supreme court from the order of the commissioner of revenue and file the original thereof, with proof of service, with the clerk of the supreme court, paying the filing fee provided by law for appeals in civil actions. The filing of such notice of appeal shall vest the supreme court with jurisdiction thereof and such appeal shall be heard and disposed of as in the case of appeals from civil actions from the district court. Records and briefs shall be served and filed as provided by law or rule of court in such appeals.

The supreme court shall reverse or affirm the order of the commissioner of revenue or remand the cause to the commissioner of revenue for a new hearing or further proceedings or for other disposition thereof, with such directions as the court may deem proper.

[1931 c 304 s 5, 6; 1973 c 582 s 3] (2372-5, 2372-6)

270.24 APPEAL NOT TO STAY COLLECTION. The institution of any such appeal from the order of the commissioner of revenue shall not operate to stay in any way proceedings for the assessment or collection of taxes against the property involved therein. Notwithstanding such appeal, the commissioner of revenue shall file with the auditor of the county in which such property is situated his order confirming, increasing, decreasing, or determining the assessed value thereof,

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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 taxable valuation of the land or property referred to in the proceedings, the commissioner of revenue, 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 valuation thereof. If such tax has been paid, the county auditor, upon petition of the owner, approved by the county board and the commissioner of revenue, shall refund so much of such payment as is attributable to such excess valuation. 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.

[1931 c 304 s 7; 1973 c 582 s 3] (2372-7)

270.25 SHALL BE EXTENDED AS ADDITIONAL TAXES. If such final order and judgment result in raising the valuation 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 valuation as finally determined.

[1931 c. 304 s. 8] (2372-8)

270.26 PROCEEDINGS TO DETERMINE ASSESSED VALUATION. The proceedings provided hereby are for the purpose of determining the assessed valuation upon the basis of which taxes are spread against property, or the owner thereof, in the first instance. The order of the commissioner of revenue, or the final order for judgment of the supreme court thereon, shall not be a bar to any defense against such taxes interposed at the time of the proceedings for judgment thereon, and all defenses which may be set up against the proceedings for judgment upon such taxes under existing laws may be asserted notwithstanding the determination of the commissioner of revenue or the supreme court hereunder. In the event that taxes are levied or extended pending review of the order of the commissioner of revenue by the supreme court, as hereinbefore provided, a judgment entered upon such taxes in the tax delinquency proceedings shall not be a bar to the spreading of further taxes against such property for such year, in the event the assessed valuation of such 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 assessed valuation of any property hereunder the owner may answer separately to the proceedings to obtain judgment for such excess levy.

[1931 c 304 s 9; 1973 c 582 s 3] (2372-9)

270.27 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 of revenue or the department of revenue falls on Saturday, Sunday or a legal holiday, the performance of such act shall be considered 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.

[1973 c 104 s 1]

MINNESOTA TREE GROWTH TAX LAW

270.31 CITATION. Sections 270.31 to 270.39 may be cited as the "Minnesota tree growth tax law."

[1957 c 639 s 1]

270.32 PUBLIC POLICY. The present general system of ad valorem taxes in

the state of Minnesota as applied to forest lands does not provide an equitable basis of taxation and has resulted in inadequate taxes on some lands and excessive tax forfeiture on other lands.

Therefore it is the declared public policy of this state that the public interest would be best served by encouraging private forest landowners to retain and improve their holdings of forest lands upon the tax rolls of the state and to promote better forest management of such lands by appropriate tax measures, therefore, sections 270.31 to 270.39 are enacted for the purpose of permitting privately owned lands generally suitable for the planting, culture and growth of continuous forest products to be taxed on the basis of the annual increase in value in accordance with the following provisions.

[1957 c 639 s 2]

270.33 DEFINITIONS. Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the following words, terms and phrases for the purposes of sections 270.31 to 270.39 shall be given meanings as follows:

Subd. 2. Forest type means a stand of trees characterized by the predominance of one or more key species, which make up 50 percent or more of the sawlog volume in sawlog stands; of cordwood in pole-timber stands; or of the number of trees in seedling and sapling stands.

Subd. 3. Spruce fir type means a mixed hardwood and coniferous stand of trees with white spruce and balsam-fir the most common species.

Subd. 4. Swamp spruce type means a stand of trees in which swamp conifers predominate with black spruce the most common.

Subd. 5. Other swamp conifers type means a stand of trees in which conifers predominate with tamarack or cedar the most common.

Subd. 6. Jack pine type means a stand of trees in which pine species predominate with jack pine the most common.

Subd. 7. White and Norway pine type means a stand of trees in which pine species predominate with white or Norway pine the most common.

Subd. 8. Aspen-Birch type means a stand of trees in which a mixture of trembling or large-tooth aspen and paper birch predominates.

Subd. 9. Upland hardwood type means a stand of trees in which northern hardwood species (sugar and red maple, yellow birch, basswood and oak) predominate.

Subd. 10. Lowland hardwood type means a stand of trees on poorly drained land in which the bottomland hardwood, such as ash, elm and Balm of Gilead predominate.

Subd. 11. Stagnant spruce swamp type means a stand in which spruce predominates, but which will not produce standard pulpwood in 100 years, although it will produce Christmas trees of commercial value.

Subd. 12. Commercial forest type means any forest type which has three cords or more of standard pulpwood or sawlogs per acre or 500 stems or more of commercial tree species per acre.

Subd. 13. Temporarily non-productive type means land capable of producing a commercial forest type but does not at present meet the standards of subdivision 11.

Subd. 14. Permanently non-productive type means land such as muskeg, marsh and rock outcrops, which is unsuitable for growing a commercial forest type.

Subd. 15. Average annual growth rate means the estimated average amount of commercial forest product one acre of land will grow in one year.

Subd. 16. Stumpage value means the monetary value placed on standing timber before it is cut expressed in terms of dollars per cord or dollars per thousand board feet. Conversion from board feet to cords for the purposes of sections 270.31 to 270.39 shall be two and one-fourth per thousand board feet.

Subd. 17. Value of the annual growth means the average annual growth rate per acre for a type multiplied by the weighted average of the stumpage values of all species in the type. The proportions of the various species making up the type to be used in computing the weighted average of the stumpage values of all species in the type shall be determined with reference to the most recent official forest survey report for the county in which the land is located.

Subd. 18. Governmental subdivision shall mean a government lot or a sixteenth of a section commonly known as a forty.

[1957 c 639 s 3; 1959 c 441 s 1]

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270.34 AVERAGE ANNUAL GROWTH RATES, DETERMINATION. The average annual growth rates to be used in determining taxes applicable to property in each county under sections 270.31 to 270.39 shall be established by the county board of each county desiring to use the provisions of sections 270.31 to 270.39. The rates shall be established with due regard for the studies of average annual growth rates made by the division of lands and forestry for the state of Minnesota and the north central forest experiment station of the United States department of agriculture. The rates may be determined by each participating county after the passage of sections 270.31 to 270.39 and when determined and certified by the county board to the county auditor, shall remain in effect in each county without change until the calendar year 1966. In the calendar year 1966 and at the end of each ten-year period thereafter, the county board shall review and set such rates for the following ten-year period in the same manner, provided, however, that any mathematical or clerical errors in such rates may be corrected by the county board as soon as such error is discovered. Rates shall be certified by the county board to the county auditor and shall take effect with the calendar year following that in which the error is corrected. Any person aggrieved by a change of rate determination of the county board hereunder may appeal to the county board for readjustment. In the event of disagreement, the aggrieved person may test the correctness of the new rate or rates by applying directly to the commissioner of revenue within one year of such change in accordance with the provisions of section 270.07 and the commissioner shall have the power to grant the changes of any rate or rates as he may deem just and equitable and to order the refund in whole or in part of any taxes, costs, penalties or interest thereon which have been erroneously or unjustly paid since the changed rate. In the event of any change in rates on appeal from the determination by the county board, the rate as so changed shall remain in effect until the next revision period.

[1957 c 639 s 4; 1959 c 441 s 2; 1967 c 905 s 9; 1971 c 25 s 29; 1973 c 582 s 3]

270.35 STUMPAGE VALUE, USE IN COMPUTING TAX. The stumpage value for each species to be used in computing the tax in any county shall be computed in each even numbered year and shall be the average sale price received by the state upon all of its sales of sound standing timber of the species during the previous two calendar years. In the event there have been no sales of the species or products within the county within the previous two calendar years, or less than 500 cords of the various products have been sold which is insufficient to estimate a fair and equitable stumpage price for the various products grown, the commissioner of natural resources shall set a stumpage price for such species, with the right of appeal by any aggrieved persons to the commissioner of revenue as set forth in section 270.34 in the event any such person deems himself to be aggrieved by such determination.

[1957 c 639 s 5; 1963 c 418 s 3; 1969 c 1129 art 10 s 2; 1973 c 582 s 3; 1974 c 556 s 7]

270.36 COMPUTATION OF TAX. Subdivision 1. After the county board has determined the average annual growth rates in accordance with section 270.34, they shall make an order and cause a resolution regarding such order to be published in the minutes of the county board meeting. The county board shall file the order with the register of deeds. Thereafter the county auditor shall compute the values of the annual growth of the types of timber growing in the county as defined in section 270.33, subdivision 17, and shall post a tabulation of the values in his office and prepare copies of the same for dissemination to all persons who may request them.

Subd. 2. The forest lands made subject to taxation under sections 270.31 to 270.39 shall be taxed at the following rates:

1. Lands growing commercial forest type shall be taxed each year in the amount of 30 percent of the value of the estimated average annual growth as determined in accordance with sections 270.31 to 270.39.

2. Temporarily non-productive forest type shall be taxed five cents per acre per year, providing the owner complies with his agreement for reforestation within the time specified in the agreement. In the event of non-compliance, the land shall thereafter be subject to a 15 cents per acre per year tax.

3. Permanently non-productive lands shall be subject to a five cents per acre tax per year.

4. Lands described in this section and used for administrative or management purposes, such as roads, logging camps or worksites, and other harvest of timber, or

for free public recreation shall be classified the same as adjoining lands under the tree growth tax law.

5. Camp buildings or any temporary buildings shall be taxed as personal property and taxed and classed for the purpose of taxation as class 3.

[1957 c 639 s 6; 1963 c 418 s 4]

270.37 TAX CREDIT. Subdivision 1. For each acre of land which shall have been planted and maintained with a minimum of 500 trees of commercial species, the owner may be allowed a credit against his taxes on other lands within the same governmental subdivision on which the planting is made in the amount of 50 cents per acre per year. An application for such credit must accompany the annual report to the county board required by section 270.38, subdivision 3, and shall be handled in the same manner as other reclassification provided in said subdivision. The credit shall in no event exceed the amount of the tax due upon the land in such governmental subdivision. When the plantation is ten years old, the plantation shall be classified as a commercial forest type and taxed as such and the credit against tax set forth above shall cease.

Subd. 2. This section shall not apply to lands devoted to growing trees for ornamental purposes. In the event any such trees are severed, all credits received shall be repaid plus triple the tax as would otherwise have applied.

[1957 c 639 s 7; 1959 c 441 s 3]

270.38 APPLICATION TO COME UNDER TREE GROWTH TAX LAW. Subdivision 1. Any owner of forest lands desiring to place any governmental subdivision or portion thereof containing not less than five acres of forest land owned by him under the provisions of sections 270.31 to 270.39, shall make application in triplicate to the county board of the county in which the land is located upon a form prescribed by the commissioner of revenue specifying the legal description or list of descriptions of the land desired to be taxed under sections 270.31 to 270.39 and listing the number of acres of each forest type and the dominant species of each type in each such governmental subdivision or portion thereof. The application shall contain the statement signed and sworn to by the applicant that "while the land is under the tree growth tax law it will be used exclusively for the growing of continuous forest crops in accordance with sustained yield practice and will be open to use by the public for hunting and fishing except within one fourth mile of a permanent dwelling or during periods of high fire hazard as determined by the commissioner of natural resources." The application shall be accompanied by a forest type map and a statement concerning the owner's intentions with regard to reforestation of any temporarily non-productive land. If a tract under the tree growth tax law has any acreage devoted to administrative or management purposes, such as roads, logging camps, free public recreational areas, as shown on the map accompanying the application, the lands so used shall be classified the same as adjoining lands under this law.

Subd. 2. Within 90 days after the filing of any application the county board shall make an order approving or disapproving the application and file the order with the county auditor. The county board may appoint and set the salary of a qualified investigator to examine and review the applications and report his findings for their guidance. The application together with the county board's order approving the application or applications shall constitute the agreement herein referred to. The agreement shall be deemed a covenant running with the land and shall be recorded in the office of the register of deeds by the county auditor within ten days after the approval thereof. The expense of such recording shall be paid by the owner. In the event an application is approved, the land shall be deemed subject to sections 270.31 to 270.39 beginning with the calendar year next succeeding the one in which the agreement is recorded with the register of deeds. If no action is taken by the county board within 90 days after the filing of the application, the applicant may submit the application to the commissioner of revenue, who shall act on the application with all the powers of the county board relative to such application. An agreement may be amended or cancelled without formal hearing by mutual agreement between the land owner and the county board or by the following procedures in the absence of mutual agreement. In the event the county board wishes to amend or cancel an agreement, it may do so after a hearing held by the county board, notice of which shall have been sent by registered mail to the last owner of record at least 30 days prior to the hearing. Failure of the owner to object to such amendment or cancellation shall be deemed to be agreement in the proposed amendment

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or cancellation. In the event the owner wishes to amend or cancel an agreement, he shall file an application with the county board. Within 90 days after the filing of an application for amendment or cancellation the county board shall make an order approving or disapproving such application and file the order with the county auditor. If no action is taken by the county board within 90 days of filing, the applicant may submit the application for amendment or cancellation to the commissioner of revenue who shall act on the application with all the powers of the county board relative to such application. Amendments or cancellations ordered by the county board over objections from the owner may be subject to review by the district court. Rejection by the county board of an application for amendment or cancellation may be subject to review by the district court. Amendments and cancellations of agreements shall be recorded in the office of the register of deeds by the county auditor within ten days after action thereon by the county board, with the filing fee to be paid by the party originating the action, and changes shall become effective with the beginning of the calendar year next succeeding said recording.

Subd. 3. [Repealed, 1967 c 285 s 2]

Subd. 4. During the sixth year of each calendar decade in which any property is being taxed under sections 270.31 to 270.39, such lands so subject to taxation hereunder may be classified by the county board upon application of the owner with a proper showing of the reasons justifying such reclassification, or upon the initiative of the county board in cases where facts justifying such reclassification come to the attention of the county board.

Subd. 5. The owner of any timber lands made subject to sections 270.31 to 270.39 may at any time apply to withdraw any governmental subdivisions from taxation under sections 270.31 to 270.39. Such application made in writing and giving the reasons for withdrawal may be approved by the county board subject to the payment of all back taxes and penalties on the basis of ad valorem taxes in the area giving due credit for taxes paid under sections 270.31 to 270.39; provided that after an agreement has been in effect for more than ten years, penalties and ad valorem taxes as above specified shall be assessed and the owner shall be required to pay such penalties and ad valorem taxes only for the ten years prior to the date of withdrawal from the agreement. If approved, the lands shall be deemed to be withdrawn from taxation under sections 270.31 to 270.39 and shall be returned to taxation under the general real property tax law beginning with the calendar year next immediately following the date upon which the withdrawal was approved by the county board.

Subd. 6. The county assessor or his duly authorized representative may enter and examine the forest lands brought under sections 270.31 to 270.39 for tax purposes and may examine into any information submitted by the owner in connection with any application to enter any governmental subdivision for purposes of taxation under sections 270.31 to 270.39 whereby the county board has been deceived, and in the event any wilful misrepresentation of facts is made in any such application under sections 270.31 to 270.39, the county shall be entitled to triple the amount of tree growth taxes which should have been paid for all previous years as well as the current year in which such misrepresentation is discovered. In the event that such examination indicates that any such lands should be reclassified, the county board shall reclassify such lands and make such reclassification effective with the year in which the agreement containing such misrepresentation became effective. If any owner shall fail to comply with the requirements of sections 270.31 to 270.39, the county board may withdraw the land of such owner from taxation under sections 270.31 to 270.39 after a hearing held by the county board, notice of which shall have been sent by registered mail to the last owner of record 30 days prior to the hearing, but such action may be subject to review by the district court. Any lands so withdrawn from under sections 270.31 to 270.39 shall be withdrawn from such taxes at the end of the calendar year in which the actual withdrawal is made and in the succeeding calendar year shall be returned to taxation under the general provisions of the Minnesota Statutes relating to the taxation of lands.

Subd. 7. If at any time the county board deems the lands entered under sections 270.31 to 270.39 more valuable for other purposes than the production of timber crops such lands may be removed from the provisions of sections 270.31 to 270.39 by joint agreement of the county board and the taxpayer. In the event of disa-

greement, such lands may be removed from under sections 270.31 to 270.39 by the county board upon the recommendation of a three member committee, one member each appointed by the county board, the taxpayer and the commissioner of revenue.

Subd. 8. All taxes imposed by sections 270.31 to 270.39 shall be a lien upon the land and all forest products growing thereon and severed therefrom until the tax is paid. The tax shall be annually extended by the county auditor and shall be collected and distributed in the manner provided by law for the collection and distribution of ad valorem taxes.

Subd. 9. In determining the assessed value of property within any taxing district the value of the surface of lands subject to the provisions of sections 270.31 to 270.39 therein, as determined by the county board under provisions of section 88.48, subdivision 3, shall, for all purposes except the levying of taxes on such lands, be deemed the full and true value thereof.

Subd. 10. [Repealed, 1959 c 441 s 9]

[1957 c 639 s 8; 1959 c 441 s 4-8; 1963 c 418 s 5, 6; 1965 c 624 s 5; 1967 c 285 s 1; 1969 c 9 s 66; 1969 c 1129 art 10 s 2; 1973 c 582 s 3; 1974 c 556 s 8]

270.39 CONSTRUCTION. Sections 270.31 to 270.39 shall be broadly construed to achieve the purpose stated in the policy section. The invalidity of any provision shall be deemed not to affect the validity of other provisions.

[1957 c 639 s 9]

STATE BOARD OF ASSESSORS

270.41 STATE BOARD OF ASSESSORS. A board to be known as a state board of assessors, hereinafter called "the board" is hereby created. Such board shall be for the purpose of establishing, conducting, reviewing, supervising, coordinating or approving courses in assessment practices, and establishing criteria for determining assessor's qualifications. The board shall also have authority and responsibility to consider other matters relating to assessment administration brought before it by the commissioner of revenue. The board shall consist of seven members, who shall be appointed by the governor, in the manner provided herein.

1. Two from the department of revenue,
2. Two county assessors,
3. Two assessors who are not county assessors, one of whom shall be a township assessor, and
4. One from the private appraisal field holding a professional appraisal designation.

The appointment provided in 1, 2 and 3, may be made from a list of not less than three names submitted to the governor by the commissioner of revenue containing recommendations for appointees described in 1, the Minnesota Association of Assessing Officers or its successor organization containing recommendations for the appointment of appointees described in 2, and the Minnesota Association of Assessors, Inc. or its successor organization containing recommendations for the appointees described in 3, 30 days before the commencement of the term. In the case of a vacancy, a new list shall be furnished to the governor by the respective organization immediately. In the event any member of the board shall no longer be engaged in the capacity listed above, he shall automatically be disqualified from membership in the board.

The board shall designate one of the appointees from the department of revenue to be the secretary of the board.

[Ex1971 c 31 art 25 s 1; 1973 c 582 s 3]

270.42 TERM. The term of office shall be for a period of four years commencing July of the year appointed and members may be reappointed for subsequent terms at the discretion of the governor. In the first appointment, one of the two appointees from the first three groups described in section 270.41 shall be appointed for a two year term, thereafter the term shall be four years.

[Ex1971 c 31 art 25 s 2]

270.43 COMPENSATION AND EXPENSES. Members of the board shall receive no compensation but shall be entitled to actual expenses for the performance of their duties.

[Ex1971 c 31 art 25 s 3]

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270.44 CHARGES FOR COURSES, EXAMINATIONS OR MATERIALS. The board may establish reasonable fees or charges for courses, examinations or materials, the proceeds of which shall be used to finance the activities and operation of the board.

[*Ex1971 c 31 art 25 s 4*]

270.45 PAYMENT AND DISPOSITION OF CHARGES AND FEES. All fees so established shall be paid to the department of revenue. Fees so received by the department of revenue shall be paid to the state treasurer, and an amount of money equal to the amount so paid over is hereby appropriated to the board for the purpose of carrying out the provisions of sections 270.41 to 270.53.

[*Ex1971 c 31 art 25 s 5; 1973 c 582 s 3*]

270.46 TRAINING COURSES, ESTABLISHMENT; OTHER COURSES, REGULATION. The board shall establish training courses on assessment practices and shall review and approve courses on assessment practices offered by schools, colleges and universities as well as courses that are offered by any units of government on techniques of assessment. Courses shall be established in various places throughout the state and be offered on regular intervals.

[*Ex1971 c 31 art 25 s 6; 1973 c 641 s 1*]

270.47 RULES AND REGULATIONS. The board shall establish the rules and regulations necessary to accomplish the purpose of section 270.41, and shall establish criteria required of assessing officials in the state. Separate criteria may be established depending upon the responsibilities of the assessor. The board shall prepare and give examinations from time to time to determine whether assessing officials possess the necessary qualifications for performing the functions of his office. Such tests shall be given immediately upon completion of courses required by the board, or to persons who already possess the requisite qualifications under the regulations of the board.

[*Ex1971 c 31 art 25 s 7; 1973 c 641 s 2*]

270.48 CERTIFICATION OF QUALIFIED PERSONS. The board shall certify persons as possessing the necessary qualifications of an assessing official. Different levels of certification may be established as to classes of property which assessors may be certified to assess.

[*Ex1971 c 31 art 25 s 8*]

270.49 OPTION OF MUNICIPALITY TO CONTINUE EXISTING SYSTEM. Notwithstanding any other provisions of law to the contrary, on or before April 1, 1972, the governing body of any township, city, or statutory city of less than 10,000 population according to the latest federal census, which wishes to continue to employ an assessor must certify by resolution to the commissioner of revenue, in the form and containing the information he shall specify, its intention to employ or continue to employ, either singly or jointly with one or more other subdivisions, an accredited assessor and that they will bear the cost of any training courses on assessment practices and related expenses which are necessary to attain such certification. The commissioner of revenue shall notify, by January 1, 1972, the governing body of each affected township, or city that they must file a certificate pursuant to sections 270.41 to 270.53 if they wish to maintain the assessing function. If the governing body of any township or city, or statutory city fails to make such certification, that subdivision shall not employ an assessor after November 30, 1972, the assessor for the county in which the subdivision is located shall assume responsibility for the assessment of all real and personal property in the subdivision commencing December 1, 1972. The commissioner of revenue shall notify the county assessor of each county prior to June 1, 1972, as to which subdivisions of the county have certified such intent and which subdivisions have failed to certify such intent. Where a county assumes continuing authority and responsibility for the assessment of real and personal property under this subdivision, all assessment records of the local assessment district, shall become the property of the appropriate county assessor on December 1, 1972.

[*Ex1971 c 31 art 25 s 9; 1973 c 123 art 5 s 7; 1973 c 582 s 3*]

270.493 CERTAIN TOWNSHIPS AND CITIES OPTION TO CONTINUE EXISTING SYSTEM. Notwithstanding the provisions of section 270.49, any township in this state and any city of the fourth class within a county whose population exceeds 650,000 which failed to certify by resolution to the commissioner of revenue its intention to employ or continue to employ a certified assessor on or before April

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1, 1972, may if done prior to December 1, 1974, hire a certified assessor in which case the assessment function will be returned to the local assessor by the county assessor.

[1973 c 641 s 3; 1974 c 399 s 1]

270.50 EMPLOYMENT OF CERTIFIED ASSESSORS. Commencing June 15, 1975, no assessor shall be employed who has not been certified as qualified by the board, provided the time to comply may be extended after application to the board upon a showing that certified assessors are not available for employment. The board may certify that a county or local assessor who has not received the training, but possesses the necessary qualifications for performing the functions of his office by the passage of an approved examination or may waive the examination if such person has demonstrated competence in performing the functions of his office for a period of time the board deems reasonable. The county or local assessing district shall assume the cost of training of its assessors in courses approved by the board for the purpose of obtaining the assessor's certificate to the extent of course fees, mileage, meals and lodging, and recognized travel expenses not paid by the state. If the governing body of any township or city fails to employ an assessor as required by sections 270.41 to 270.53, the assessment shall be made by the county assessor.

A town shall pay its assessor \$20 for each day the assessor is attending approved courses or taking the examination. In addition, the town shall pay its assessor \$10 for each approved course successfully completed and \$20 upon his certification. The maximum payable to an assessor for successful completion of courses and certification shall not exceed \$50.

In the case of townships organized after the effective date of this act except towns located in counties enumerated in section 391.01 or which have elected a county assessor system in accordance with section 273.055, the board shall allow the town adequate time to employ a certified assessor.

[Ex1971 c 31 art 25 s 10; 1974 c 449 s 1]

270.51 PREVIOUSLY ACCREDITED ASSESSORS. All assessors previously accredited by the commissioner of revenue shall be considered as qualified under sections 270.41 to 270.53 and shall be so certified.

[Ex1971 c 31 art 25 s 11; 1973 c 582 s 3]

270.52 COSTS OF MAKING ASSESSMENTS. The cost of making any assessment provided in sections 270.41 to 270.53 shall be charged to the assessment district involved. The county auditor shall certify the costs incurred to the appropriate governing body not later than September 1 of each year, and if unpaid as of October 10, the county auditor shall levy a tax upon the taxable property of such taxing district sufficient to pay such costs. The amount so collected shall be credited to the general revenue fund of the county.

[Ex1971 c 31 art 25 s 12]

270.53 EXISTING CONTRACTS FOR ASSESSMENT OF PROPERTY. Sections 270.41 to 270.53 shall not supersede existing contracts executed pursuant to sections 273.072 or 471.59 except to the extent that such contracts may conflict with section 270.49 or 270.50 nor preclude contracts between a taxing district and the county for the assessment of property by the county assessor.

[Ex1971 c 31 art 25 s 13]