

## STATE OF MINNESOTA

## SEVENTY-FIFTH SESSION—1987

## THIRTY-EIGHTH DAY

SAINT PAUL, MINNESOTA, MONDAY, APRIL 27, 1987

The House of Representatives convened at 2:00 p.m. and was called to order by Fred C. Norton, Speaker of the House.

Prayer was offered by Father Tom Radaich, St. Alice Catholic Church, Pequot Lakes, Minnesota.

The roll was called and the following members were present:

Anderson, G.	Frerichs	Larsen	Onnen	Seaberg
Anderson, R.	Greenfield	Lasley	Orenstein	Segal
Battaglia	Gruenes	Lieder	Osthoff	Shaver
Bauerly	Gutknecht	Long	Otis	Simoneau
Beard	Hartle	Marsh	Ozment	Skoglund
Begich	Haukoos	McDonald	Pappas	Solberg
Bennett	Heap	McEachern	Pauly	Sparby
Bertram	Himle	McKasy	Pelowski	Stanius
Bishop	Hugoson	McLaughlin	Peterson	Steensma
Blatz	Jacobs	McPherson	Poppenhagen	Sviggum
Boo	Jaros	Milbert	Price	Swenson
Brown	Jefferson	Miller	Quist	Thiede
Burger	Jennings	Minne	Redalen	Tjornhom
Carlson, D.	Jensen	Morrison	Reding	Tompkins
Carlson, L.	Johnson, A.	Munger	Rest	Trimble
Carruthers	Johnson, R.	Murphy	Rice	Tunheim
Clark	Johnson, V.	Nelson, C.	Richter	Uphus
Clausnitzer	Kahn	Nelson, D.	Riveness	Valento
Cooper	Kalis	Nelson, K.	Rodosovich	Vanasek
Dauner	Kelly	Neuenschwander	Rose	Voss
DeBlieck	Kelso	O'Connor	Rukavina	Wagenius
Dempsey	Kinkel	Ogren	Sarna	Waltman
Dille	Kludt	Olsen, S.	Schafer	Welle
Dorn	Knuth	Olson, E.	Scheid	Wenzel
Forsythe	Kostohryz	Olson, K.	Schoenfeld	Winter
Frederick	Krueger	Omann	Schreiber	Wynia
				Spk. Norton

A quorum was present.

Knickerbocker and Vellenga were excused.

Quinn was excused until 3:00 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Kelly moved that further reading of the Journal be dispensed

with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

#### REPORTS OF CHIEF CLERK

Pursuant to Rules of the House, printed copies of H. F. Nos. 268, 828, 967, 1185, 1467, 1590, 88, 1002, 1392, 196, 226, 307, 403, 1274, 663, 85, 466, 487, 844, 1561, 242 and 945 have been placed in the members' files.

#### REPORTS OF STANDING COMMITTEES

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 21, A bill for an act relating to state employees; permitting direct deposit of pay in financial institutions; amending Minnesota Statutes 1986, section 16A.133, subdivision 1; repealing Minnesota Statutes 1986, section 16A.133, subdivision 3.

Reported the same back with the following amendments:

Page 1, line 21, after "union" insert "or financial institution"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

McEachern from the Committee on Education to which was referred:

H. F. No. 259, A bill for an act relating to missing children; requiring schools to develop policies on notifying parents whose children are absent from school; requiring that certain documents be provided to schools when new students enroll; proposing coding for new law in Minnesota Statutes, chapter 123.

Reported the same back with the following amendments:

Pages 1 and 2, delete section 2 and insert:

"Sec. 2. [123.752] [DOCUMENTS REQUIRED FOR SCHOOL ADMISSION; REPORTS; IMMUNITY.]

At the time a pupil initially enrolls in a public or nonpublic school, the person in charge of admissions at the school shall request the

parent or guardian to provide a copy of the pupil's birth certificate and to sign a form initiating the transfer of the pupil's education records from the school the pupil most recently attended. If copies of these documents are not provided by the parent or the school most recently attended within four weeks after the request is made to the parent or guardian, the person in charge of the school must inform the local law enforcement agency that the required documents have not been provided and that the pupil may be a missing child. The law enforcement agency shall proceed according to section 299C.53, subdivision 1. A person making a report to a law enforcement agency under this section is immune from any civil or criminal liability that might otherwise result from the person's actions, if the person is acting in good faith."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 295, A bill for an act relating to traffic regulations; repealing authorization of emergency speed limit by executive order; repealing Minnesota Statutes 1986, section 169.141.

Reported the same back with the following amendments:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1986, section 169.14, subdivision 2, is amended to read:

Subd. 2. [SPEED LIMITS.] Where no special hazard exists the following speeds shall be lawful, but any speeds in excess of such limits shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful; except that the speed limit within any municipality shall be a maximum limit and any speed in excess thereof shall be unlawful:

(1) 30 miles per hour in an urban district;

(2) 65 miles per hour in other locations during the daytime on interstate highways outside urbanized areas with a population of 50,000 or more, as determined by the commissioner;

(3) 55 miles per hour in such other locations during the nighttime other than those specified in clauses (1), (2), and (4);

(4) ten miles per hour in alleys.

"Daytime" means from a half hour before sunrise to a half hour after sunset, except at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet. "Nighttime" means at any other hour or at any time when due to weather or other conditions there is not sufficient light to render clearly discernible persons and vehicles at a distance of 500 feet.

Sec. 2. Minnesota Statutes 1986, section 169.99, subdivision 1b, is amended to read:

Subd. 1b. The uniform traffic ticket must provide a blank or space wherein an officer who issues a citation for a violation of section ~~169.141~~ 169.14, subdivision 2, clause (3), must specify whether the speed was greater than ten miles per hour in excess of the speed designated ~~under in that section clause.~~

Sec. 3. Minnesota Statutes 1986, section 171.12, subdivision 6, is amended to read:

Subd. 6. [CERTAIN CONVICTIONS NOT RECORDED.] The department shall not keep on the record of a driver any conviction for a violation of section ~~169.141~~ 169.14, subdivision 2, clause (3), unless the violation consisted of a speed greater than ten miles per hour in excess of the lawful speed designated ~~under in that section clause.~~

Page 1, line 8, delete "Section 1." and insert "Sec. 4."

Delete the title and insert:

"A bill for an act relating to highway traffic regulations; authorizing a 65 mile per hour speed limit on certain interstate highways; specifying speeding violations which are not recorded on permanent driving records; repealing authorization for designation of an emergency speed limit; amending Minnesota Statutes 1986, sections 169.14, subdivision 2; 169.99, subdivision 1b; and 171.12, subdivision 6; repealing Minnesota Statutes 1986, section 169.141."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kelly from the Committee on Judiciary to which was referred:

H. F. No. 384, A bill for an act relating to crimes; reclassifying the crimes of damage to property into degrees, including creating a new gross misdemeanor crime of damage to property; reclassifying the



crimes relating to forgery into degrees, including creating the crime of uttering a forged check; increasing the maximum fine for petty misdemeanor violations; increasing the maximum bail allowable for designated misdemeanor and gross misdemeanor violations; prescribing penalties; amending Minnesota Statutes 1986, sections 609.02, subdivision 4a; 609.224, subdivision 2; 609.52, subdivision 3; 609.595; 609.625; 609.63; 629.47; proposing coding for new law in Minnesota Statutes, chapters 609 and 629.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 171.07, subdivision 1a, is amended to read:

Subd. 1a. [PHOTOGRAPHIC NEGATIVES; FILING; DATA CLASSIFICATION.] The department shall file, or contract to file, all photographic negatives obtained in the process of issuing driver licenses or Minnesota identification cards. The negatives shall be private data pursuant to section 13.02, subdivision 12. Notwithstanding section 13.04, subdivision 3, the department shall not be required to provide copies of photographic negatives to data subjects. The use of the files is restricted to the issuance and control of driver licenses and for law enforcement purposes in the investigation and prosecution of felonies and violations of section 13, 169.09, 169.121, 169.123, 169.129, 171.22, 171.24, 171.30, or 609.41, 609.487, subdivision 3, or 609.821.

Sec. 2. Minnesota Statutes 1986, section 487.25, subdivision 10, is amended to read:

Subd. 10. [PROSECUTING ATTORNEYS.] Except as otherwise provided by law, violations of state law that are petty misdemeanors or misdemeanors must be prosecuted by the attorney of the statutory or home rule charter city where the violation is alleged to have occurred. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors and misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation or by the county attorney with whom it has contracted to prosecute these matters.

In the counties of Anoka, Carver, Dakota, Scott, and Washington, violations of state law that are petty misdemeanors, misdemeanors, or gross misdemeanors except as provided in section 388.051, subdivision 2, must be prosecuted by the attorney of the statutory or

home rule charter city where the violation is alleged to have occurred. In addition to those counties, in cities of the first and second class, the city attorney responsible for prosecuting misdemeanor violations of chapter 609 is responsible for prosecuting gross misdemeanor violations of sections 609.52, 609.595, section 13, and 609.821. The statutory or home rule charter city may enter into an agreement with the county board and the county attorney to provide prosecution services for any criminal offense. All other petty misdemeanors, misdemeanors, or gross misdemeanors must be prosecuted by the county attorney of the county in which the alleged violation occurred. All violations of a municipal ordinance, charter provision, rule, or regulation must be prosecuted by the attorney for the governmental unit that promulgated the municipal ordinance, charter provision, rule, or regulation or by the county attorney with whom it has contracted to prosecute these matters.

Sec. 3. Minnesota Statutes 1986, section 609.02, subdivision 4a, is amended to read:

Subd. 4a. [PETTY MISDEMEANOR.] "Petty misdemeanor" means a petty offense which is prohibited by statute, which does not constitute a crime and for which a sentence of a fine of not more than \$100 \$200 may be imposed.

Sec. 4. [609.0331] [INCREASED MAXIMUM PENALTIES FOR PETTY MISDEMEANORS.]

Except as provided in this section, a law of this state that provides, on or after August 1, 1987, for a maximum penalty of \$100 for a petty misdemeanor is considered to provide for a maximum fine of \$200. However, a petty misdemeanor under section 152.15, subdivision 2, clause (5), or chapter 168 or 169 remains subject to a maximum fine of \$100, except that a violation of chapter 168 or 169 that was originally charged as a misdemeanor and is being treated as a petty misdemeanor under section 6 or the rules of criminal procedure is subject to a maximum fine of \$200.

Sec. 5. [609.0332] [INCREASED MAXIMUM PENALTY FOR PETTY MISDEMEANOR ORDINANCE VIOLATIONS.]

Subdivision 1. [INCREASED FINE.] From August 1, 1987, if a state law or municipal charter sets a limit of \$100 or less on the fines that a statutory or home rule charter city, town, county, or other political subdivision may prescribe for an ordinance violation that is defined as a petty misdemeanor, that law or charter is considered to provide that the political subdivision has the power to prescribe a maximum fine of \$200 for the petty misdemeanor violation.

Subd. 2. [EXCEPTION.] Notwithstanding subdivision 1, no fine of more than \$100 may be imposed for a petty misdemeanor ordinance violation which conforms in substantial part to a petty misdemeanor

provision contained in section 152.15, subdivision 2, clause (5), or chapter 168 or 169.

**Sec. 6. [609.131] [CERTIFICATION OF MISDEMEANOR AS PETTY MISDEMEANOR.]**

Subdivision 1. [GENERAL RULE.] Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant not be imprisoned if convicted and certifies that belief to the court at or before the time of arraignment or pretrial hearing, and the court approves of the certification motion. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, the defendant's eligibility for court-appointed counsel must be evaluated as though the offense were a misdemeanor.

Subd. 2. [CERTAIN VIOLATIONS EXCEPTED.] Subdivision 1 does not apply to a misdemeanor violation of section 169.121, 609.224, 609.324, subdivision 3, 609.52, or 617.23, or an ordinance that conforms in substantial part to any of those sections. A violation described in this subdivision must be treated as a misdemeanor unless the defendant consents to the certification of the violation as a petty misdemeanor.

Subd. 3. [USE OF CONVICTION FOR ENHANCEMENT.] Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the rules of criminal procedure may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

Sec. 7. Minnesota Statutes 1986, section 609.224, subdivision 2, is amended to read:

Subd. 2. [GROSS MISDEMEANOR.] (a) Whoever violates the provisions of subdivision 1 against the same victim within five years of a previous conviction under subdivision 1 or sections 609.221 to 609.223 609.2231 may be sentenced to imprisonment for not more than one year or to a payment of a fine of not more than \$3,000, or both.

(b) Whoever violates the provisions of subdivision 1 within two years of a previous conviction under subdivision 1 or sections 609.221 to 609.2231 may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 8. Minnesota Statutes 1986, section 609.52, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] In this section:

(1) "Property" means all forms of tangible property, whether real or personal, without limitation including documents of value, electricity, gas, water, corpses, domestic animals, dogs, pets, fowl, and heat supplied by pipe or conduit by municipalities or public utility companies and articles, as defined in clause (4), representing trade secrets, which articles shall be deemed for the purposes of Extra Session Laws 1967, chapter 15 to include any trade secret represented by the article.

(2) "Movable property" is property whose physical location can be changed, including without limitation things growing on, affixed to or found in land.

(3) "Value" means the retail market value at the time of the theft, or if the retail market value cannot be ascertained, the cost of replacement of the property within a reasonable time after the theft, or in the case of a theft or the making of a copy of an article representing a trade secret, where the retail market value or replacement cost cannot be ascertained, any reasonable value representing the damage to the owner which the owner has suffered by reason of losing an advantage over those who do not know of or use the trade secret. For a theft committed within the meaning of subdivision 2, clause (5), (a) and (b), if the property has been restored to the owner, "value" means the value of the use of the property or the damage which it sustained, whichever is greater, while the owner was deprived of its possession, but not exceeding the value otherwise provided herein.

(4) "Article" means any object, material, device or substance, including any writing, record, recording, drawing, sample specimen, prototype, model, photograph, microorganism, blueprint or map, or any copy of any of the foregoing.

(5) "Representing" means describing, depicting, containing, constituting, reflecting or recording.

(6) "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process, that:

(i) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and

(ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

(7) "Copy" means any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article while in the presence of the article.

(8) "Property of another" includes property in which the actor is coowner or has a lien, pledge, bailment, or lease or other subordinate interest, and property of a partnership of which the actor is a member, unless the actor and the victim are husband and wife. It does not include property in which the actor asserts in good faith a claim as a collection fee or commission out of property or funds recovered, or by virtue of a lien, set-off, or counterclaim.

(9) "Services" include but are not limited to labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment services, advertising services, telecommunication services, and the supplying of equipment for use.

(10) "Financial transaction card" means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, or anything else of value.

Sec. 9. Minnesota Statutes 1986, section 609.52, subdivision 2, is amended to read:

Subd. 2. [ACTS CONSTITUTING THEFT.] Whoever does any of the following commits theft and may be sentenced as provided in subdivision 3:

(1) intentionally and without claim of right takes, uses, transfers, conceals or retains possession of movable property of another without the other's consent and with intent to deprive the owner permanently of possession of the property; or

(2) having a legal interest in movable property, intentionally and without consent, takes the property out of the possession of a pledgee or other person having a superior right of possession, with intent thereby to deprive the pledgee or other person permanently of the possession of the property; or

(3) obtains for the actor or another the possession, custody or title to property of or performance of services by a third person by intentionally deceiving the third person with a false representation which is known to be false, made with intent to defraud, and which does defraud the person to whom it is made. "False representation" includes without limitation:

(a) the issuance of a check, draft, or order for the payment of money, except a forged check as defined in section 13, or the delivery of property knowing that the actor is not entitled to draw upon the drawee therefor or to order the payment or delivery thereof; or

(b) a promise made with intent not to perform. Failure to perform is not evidence of intent not to perform unless corroborated by other substantial evidence; or

(c) the ~~unauthorized use of a financial transaction card, or the number thereof, or other identification device issued by an organization to a person for use in purchasing goods or services on credit;~~  
or

(d) the preparation or filing of a claim for reimbursement, a rate application, or a cost report used to establish a rate or claim for payment for medical care provided to a recipient of medical assistance under chapter 256B, which intentionally and falsely states the costs of or actual services provided by a vendor of medical care; or

(4) by swindling, whether by artifice, trick, device, or any other means, obtains property or services from another person; or

(5) intentionally commits any of the acts listed in this subdivision but with intent to exercise temporary control only and;

(a) the control exercised manifests an indifference to the rights of the owner or the restoration of the property to the owner; or

(b) the actor pledges or otherwise attempts to subject the property to an adverse claim; or

(c) the actor intends to restore the property only on condition that the owner pay a reward or buy back or make other compensation; or

(6) finds lost property and, knowing or having reasonable means of ascertaining the true owner, appropriates it to the finder's own use or to that of another not entitled thereto without first having made reasonable effort to find the owner and offer and surrender the property to the owner; or

(7) intentionally obtains property or services, offered upon the deposit of a sum of money or tokens in a coin or token operated machine or other receptacle, without making the required deposit or otherwise obtaining the consent of the owner; or

(8) intentionally and without claim of right converts any article representing a trade secret, knowing it to be such, to the actor's own use or that of another person or makes a copy of an article representing a trade secret, knowing it to be such, and intentionally

and without claim of right converts the same to the actor's own use or that of another person. It shall be a complete defense to any prosecution under this clause for the defendant to show that information comprising the trade secret was rightfully known or available to the defendant from a source other than the owner of the trade secret; or

(9) leases or rents personal property under a written instrument and who with intent to place the property beyond the control of the lessor conceals or aids or abets the concealment of the property or any part thereof, or any lessee of the property who sells, conveys or encumbers the property or any part thereof without the written consent of the lessor, without informing the person to whom the lessee sells, conveys, or encumbers that the same is subject to such lease and with intent to deprive the lessor of possession thereof. Evidence that a lessee used a false or fictitious name or address in obtaining the property or fails or refuses to return the property to lessor within five days after written demand for the return has been served personally in the manner provided for service of process of a civil action or sent by certified mail to the last known address of the lessee, whichever shall occur later, shall be evidence of intent to violate this clause. Service by certified mail shall be deemed to be complete upon deposit in the United States mail of such demand, postpaid and addressed to the person at the address for the person set forth in the lease or rental agreement, or, in the absence of the address, to the person's last known place of residence; or

(10) alters, removes or obliterates numbers or symbols placed on movable property for purpose of identification by the owner or person who has legal custody or right to possession thereof with the intent to prevent identification, if the person who alters, removes or obliterates the numbers or symbols is not the owner and does not have the permission of the owner to make the alteration, removal or obliteration; or

(11) with the intent to prevent the identification of property involved, so as to deprive the rightful owner of possession thereof, alters or removes any permanent serial number, permanent distinguishing number or manufacturer's identification number on personal property or possesses, sells or buys any personal property with knowledge that the permanent serial number, permanent distinguishing number or manufacturer's identification number has been removed or altered; or

(12) intentionally deprives another of a lawful charge for cable television service by

(i) making or using or attempting to make or use an unauthorized external connection outside the individual dwelling unit whether physical, electrical, acoustical, inductive or other connection, or by

(ii) attaching any unauthorized device to any cable, wire, microwave, or other component of a licensed cable communications system as defined in chapter 238. Nothing herein shall be construed to prohibit the electronic video rerecording of program material transmitted on the cable communications system by a subscriber for fair use as defined by Public Law Number 94-553, section 107; or

(13) except as provided in paragraphs (12) and (14), obtains the services of another with the intention of receiving those services without making the agreed or reasonably expected payment of money or other consideration; or

(14) intentionally deprives another of a lawful charge for telecommunications service by:

(i) making, using, or attempting to make or use an unauthorized connection whether physical, electrical, by wire, microwave, radio or other means to a component of a local telecommunication system as provided in chapter 237; or

(ii) attaching an unauthorized device to a cable, wire, microwave, radio or other component of a local telecommunication system as provided in chapter 237.

The existence of an unauthorized connection is prima facie evidence that the occupier of the premises:

(i) made or was aware of the connection; and

(ii) was aware that the connection was unauthorized; or

(15) with intent to defraud, diverts corporate property other than in accordance with general business purposes or for purposes other than those specified in the corporation's articles of incorporation; or

(16) with intent to defraud, authorizes or causes a corporation to make a distribution in violation of section 302A.551, or any other state law in conformity with it.

Sec. 10. Minnesota Statutes 1986, section 609.52, subdivision 3, is amended to read:

Subd. 3. [SENTENCE.] Whoever commits theft may be sentenced as follows:

(1) To imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property or services stolen exceeds \$2,500, or if the property stolen was a controlled substance listed in schedule 1 or 2 pursuant to section 152.02 with the exception of marijuana; or



(2) To imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the value of the property or services stolen is more than \$250 \$500 but not more than \$2,500; or

(b) if the property stolen was a controlled substance listed in schedule 3, 4, or 5 pursuant to section 152.02; or

(c) the value of the property or services stolen is more than \$200 but not more than \$500 and the person has been convicted within the preceding five years for an offense under this section, section 13, or sections 609.24; 609.245; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; and 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(3) To imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, notwithstanding the value of the property or services stolen is not more than \$250 \$200, if any of the following circumstances exist:

(a) The property is taken from the person of another or from a corpse, or grave or coffin containing a corpse; or

(b) The property is a record of a court or officer, or a writing, instrument or record kept, filed or deposited according to law with or in the keeping of any public officer or office; or

(c) The property is taken from a burning building or upon its removal therefrom, or from an area of destruction caused by civil disaster, riot, bombing, or the proximity of battle; or

(d) The property consists of public funds belonging to the state or to any political subdivision or agency thereof; or

(e) The property is a firearm; or

(4) To imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the property stolen is an article representing a trade secret; or if the property stolen is an explosive or an incendiary device; or

(5) To imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property or services stolen is more than \$200 but not more than \$500; or

(6) In all other cases where the value of the property or services stolen is \$250 \$200 or less, to imprisonment for not more than 90 days or to payment of a fine of not more than \$700, or both, provided, however, in any prosecution under clauses (1), (2), (3), (4), and (13) of subdivision 2 the value of the money or property or services received by the defendant in violation of any one or more of the above provisions within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this subdivision; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

A peace officer may lawfully arrest a person for a gross misdemeanor violation of section 609.52 without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Sec. 11. Minnesota Statutes 1986, section 609.595, is amended to read:

609.595 [DAMAGE TO PROPERTY.]

Subdivision 1. [~~AGGRAVATED CRIMINAL DAMAGE TO PROPERTY IN THE FIRST DEGREE.~~] Whoever intentionally causes damage to physical property of another without the latter's consent may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(1) The damage to the property caused a reasonably foreseeable risk of bodily harm; or

(2) The property damaged belongs to a public utility or a common carrier and the damage impairs the service to the public rendered by them; or

(3) The damage reduces the value of the property by more than \$300 \$500 measured by the cost of repair and replacement; or

(4) The damage reduces the value of the property by more than \$250 measured by the cost of repair and replacement and the defendant has been convicted within the preceding three years of an offense under this subdivision or subdivision 2.

In any prosecution under clause (3), the value of any property damaged by the defendant in violation of that clause within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section; provided that when two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in

which one of the offenses was committed for all of the offenses aggregated under this paragraph.

Subd. 2. [CRIMINAL DAMAGE TO PROPERTY IN THE SECOND DEGREE.] (a) Whoever intentionally ~~so~~ causes such damage under any other circumstances is guilty of a misdemeanor to another person's physical property without the other person's consent may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the damage reduces the value of the property by more than \$250 but not more than \$500 as measured by the cost of repair and replacement.

(b) In any prosecution under paragraph (a), the value of property damaged by the defendant in violation of that clause within any six-month period may be aggregated and the defendant charged accordingly in applying this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the offenses was committed for all of the offenses aggregated under this paragraph.

(c) A peace officer may lawfully arrest a person for a violation of this subdivision without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Subd. 3. [CRIMINAL DAMAGE TO PROPERTY IN THE THIRD DEGREE.] Whoever intentionally causes damage described in subdivision 2 under any other circumstances is guilty of a misdemeanor.

Sec. 12. Minnesota Statutes 1986, section 609.625, is amended to read:

609.625 [AGGRAVATED FORGERY.]

Subdivision 1. [MAKING OR ALTERING WRITING OR OBJECT.] Whoever, with intent to defraud, falsely makes or alters a writing or object of any of the following kinds so that it purports to have been made by another or by the maker or alterer under an assumed or fictitious name, or at another time, or with different provisions, or by authority of one who did not give such authority, is guilty of aggravated forgery and may be sentenced to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both:

(1) a writing or object whereby, when genuine, legal rights, privileges, or obligations are created, terminated, transferred, or evidenced, or any writing normally relied upon as evidence of debt or property rights, other than a check as defined in section 13 or a financial transaction card as defined in section 609.821; or

- (2) an official seal or the seal of a corporation; or
- (3) a public record or an official authentication or certification of a copy thereof; or
- (4) an official return or certificate entitled to be received as evidence of its contents; or
- (5) a court order, judgment, decree, or process; or
- (6) the records or accounts of a public body, office, or officer; or
- (7) the records or accounts of a bank or person, with whom funds of the state or any of its agencies or subdivisions are deposited or entrusted, relating to such funds; or
- (8) a financial transaction card as defined in section 609.52.

Subd. 2. [MEANS FOR FALSE REPRODUCTION.] Whoever, with intent to defraud, makes, engraves, possesses or transfers a plate or instrument for the false reproduction of a writing or object mentioned in subdivision 1, a check as defined in section 13, or a financial transaction card as defined in section 609.821, may be sentenced as provided in subdivision 1.

Subd. 3. [UTTERING OR POSSESSING.] Whoever, with intent to defraud, utters or possesses with intent to utter any forged writing or object mentioned in subdivision 1, not including a check as defined in section 13 or a financial transaction card as defined in section 609.821, knowing it to have been so forged, may be sentenced as provided in subdivision 1.

Sec. 13. [609.631] [CHECK FORGERY; OFFERING A FORGED CHECK.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Check" means a check, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument.

(c) "Property" and "services" have the meanings given in section 609.52.

Subd. 2. [CHECK FORGERY; ELEMENTS.] A person who, with intent to defraud, falsely makes or alters a check so that it purports to have been made by another or by the maker under an assumed or fictitious name, or at another time, or with different provisions, or by the authority of one who did not give authority, is guilty of check forgery and may be sentenced as provided in subdivision 4.

Subd. 3. [OFFERING A FORGED CHECK; ELEMENTS.] A person who, with intent to defraud, offers, or possesses with intent to offer, a forged check, whether or not it is accepted, is guilty of offering a forged check and may be sentenced as provided in subdivision 4.

Subd. 4. [SENTENCING.] A person who is convicted under subdivision 2 or 3 may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than \$2,500 or the aggregate amount of the forged check or checks is more than \$2,500;

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if:

(a) the forged check or checks are used to obtain or in an attempt to obtain, property or services of more than \$200 but not more than \$2,500, or the aggregate face amount of the forged check or checks is more than \$200 but not more than \$2,500; or

(b) the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than \$200, or have an aggregate face value of no more than \$200, and the person has been convicted within the preceding five years for an offense under this section, sections 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or 609.821, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; and

(3) to imprisonment for not more than one year or to a fine of not more than \$3,000, or both, if the forged check or checks are used to obtain or in an attempt to obtain, property or services of no more than \$200, or the aggregate face amount of the forged check or checks is no more than \$200.

In any prosecution under this subdivision, the value of the checks forged or offered by the defendant in violation of this subdivision within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the checks was forged or offered for all of the offenses aggregated under this paragraph.

A peace officer may lawfully arrest a person for a gross misdemeanor violation of this section without a warrant upon probable cause, without regard to whether the violation was committed in the officer's presence.

Sec. 14. Minnesota Statutes 1986, section 609.821, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the following terms have the meanings given them:

(a) "Financial transaction card" or "card" ~~has the meaning given in section 609.52~~ means any instrument or device, whether known as a credit card, credit plate, charge plate, courtesy card, bank services card, banking card, check guarantee card, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining credit, money, goods, services, or anything else of value, and includes the account or identification number or symbol of a financial transaction card.

(b) "Cardholder" means a person in whose name a card is issued.

(c) "Issuer" means a person or firm, or a duly authorized agent, that issues a financial transaction card.

(d) "Property" includes money, goods, services, or anything else of value.

Sec. 15. Minnesota Statutes 1986, section 609.821, subdivision 2, is amended to read:

Subd. 2. [VIOLATIONS; PENALTIES.] A person who does any of the following commits financial transaction card fraud:

(1) without the consent of the cardholder, and knowing that the cardholder has not given consent, uses or attempts to use a card to obtain the property of another;

(2) uses or attempts to use a card knowing it to be forged, false, fictitious, or obtained in violation of clause (6);

(3) sells or transfers a card knowing that the cardholder and issuer have not authorized the person to whom the card is sold or transferred to use the card, or that the card is forged, false, fictitious, or was obtained in violation of clause (6);

(4) without a legitimate business purpose, and without the consent of the cardholders, receives or possesses, with intent to use, or with intent to sell or transfer in violation of clause (3), two or more cards issued in the name of another, or two or more cards knowing

the cards to be forged, false, fictitious, or obtained in violation of clause (6);

(5) being authorized by an issuer to furnish money, goods, services, or anything else of value, knowingly and with an intent to defraud the issuer or the cardholder;

(i) furnishes money, goods, services, or anything else of value upon presentation of a financial transaction card knowing it to be forged, expired, or revoked, or knowing that it is presented by a person without authority to use the card; or

(ii) represents in writing to the issuer that the person has furnished money, goods, services, or anything else of value which has not in fact been furnished;

(6) upon applying for a financial transaction card to an issuer:

(i) knowingly gives a false name or occupation; or

(ii) knowingly and substantially overvalues assets or substantially undervalues indebtedness for the purpose of inducing the issuer to issue a financial transaction card; or

(7) with intent to defraud, falsely notifies the issuer or any other person of a theft, loss, disappearance, or nonreceipt of a financial transaction card; or

(8) without the consent of the cardholder and knowing that the cardholder has not given consent, falsely alters, makes, or signs any written document pertaining to a card transaction to obtain or attempt to obtain the property of another.

Sec. 16. Minnesota Statutes 1986, section 609.821, subdivision 3, is amended to read:

Subd. 3. [SENTENCE.] A person who commits financial transaction card fraud may be sentenced as follows:

(1) for a violation of clause (1), (2) ~~or~~, (5), or (8) of subdivision 2, ~~in the manner provided in section 609.52, subdivision 3;~~

(i) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000, or both, if the value of the property the person obtained or attempted to obtain was more than \$2,500, or the aggregate amount of the transactions under this subdivision was more than \$2,500; or

(ii) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the property

the person obtained or attempted to obtain was more than \$200 but not more than \$2,500, or the aggregate amount of the transactions under this subdivision was more than \$200 but not more than \$2,500; or

(iii) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both, if the value of the property the person obtained or attempted to obtain was not more than \$200, or the aggregate amount of the transactions under this subdivision was not more than \$200, and the person has previously been convicted within the preceding five years for an offense under this section, sections 609.24; 609.245; 609.52; 609.53; 609.582, subdivision 1, 2, or 3; 609.625; 609.63; or section 13, or a statute from another state in conformity with any of those sections, and the person received a felony or gross misdemeanor sentence for the offense, or a sentence that was stayed under section 609.135 if the offense to which a plea was entered would allow imposition of a felony or gross misdemeanor sentence; or

(iv) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both, if the value of the property the person obtained or attempted to obtain was not more than \$200, or the aggregate amount of the transactions under this subdivision was not more than \$200; and

(v) in any prosecution under clauses (i) to (iv) of this subdivision, the value of the transactions made or attempted within any six-month period may be aggregated and the defendant charged accordingly in applying the provisions of this section. When two or more offenses are committed by the same person in two or more counties, the accused may be prosecuted in any county in which one of the card transactions occurred for all of the transactions aggregated under this paragraph;

(2) for a violation of clause (3) or (4) of subdivision 2, to imprisonment for not more than three years or to payment of a fine of not more than \$5,000, or both; or

(3) for a violation of clause (6) or (7) of subdivision 2;

(a) (i) if no property, other than a financial transaction card, has been obtained by the defendant by means of the false statement or false report, to imprisonment for not more than 90 days one year or to payment of a fine of not more than ~~\$300~~ \$3,000, or both; or

(b) (ii) if property, other than a financial transaction card, is so obtained, in the manner provided in section 609.52, subdivision 3 clause (1) of this subdivision.

Sec. 17. Minnesota Statutes 1986, section 626A.05, subdivision 2, is amended to read:



Subd. 2. [OFFENSES FOR WHICH INTERCEPTION OF WIRE OR ORAL COMMUNICATION MAY BE AUTHORIZED.] A warrant authorizing interception of wire or oral communications by investigative or law enforcement officers may only be issued when the interception may provide evidence of the commission of gambling or any criminal felony offense involving murder, manslaughter, aggravated assault, aggravated robbery, kidnapping, aggravated rape, prostitution, bribery, perjury, escape from custody, theft, receiving stolen property, embezzlement, burglary, forgery, aggravated forgery, check forgery, financial transaction card fraud, and offenses relating to controlled substances, or an attempt or conspiracy to commit any of these offenses, as punishable under sections 609.185, 609.19, 609.195, 609.20, 609.225, 609.245, 609.25, 609.291, 609.321 to 609.324, 609.42, 609.48, 609.485, subdivision 4, clause (1), 609.52, 609.53, 609.54, 609.58, 609.625, 609.63, section 13, 609.76, 609.821, 609.825, and chapter 152.

Sec. 18. Minnesota Statutes 1986, section 629.47, is amended to read:

**629.47 [HEARING OR TRIAL ADJOURNED; RECOGNIZANCE ALLOWED.]**

Subject to the right of the accused to a speedy trial as prescribed by the rules of criminal procedure, a court may adjourn a hearing or trial from time to time, as the need arises and reconvene it at the same or a different place in the county. During the adjournment, the person being tried may be released in accordance with rule 6.02 of the rules of criminal procedure. The maximum cash bail that may be required for a person charged with a misdemeanor is double the highest cash fine which may be imposed for the offense.

**Sec. 19. [629.471] [MAXIMUM BAIL ON MISDEMEANORS; GROSS MISDEMEANORS.]**

Subdivision 1. [DOUBLE THE FINE.] Except as provided in subdivision 2, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor offense is double the highest cash fine that may be imposed for that offense.

Subd. 2. [QUADRUPLE THE FINE.] For offenses under sections 169.09, 169.121, 169.129, 518B.01, 609.2231, subdivision 2, 609.224, 609.487, and 609.525, the maximum cash bail that may be required for a person charged with a misdemeanor or gross misdemeanor violation is quadruple the highest cash fine that may be imposed for the offense.

**Sec. 20. [REVISOR'S INSTRUCTION.]**

In the next and subsequent editions of Minnesota Statutes, the revisor of statutes shall change laws that provide for a maximum

fine of \$100 as a penalty for a petty misdemeanor violation to provide for a maximum fine of \$200. The change must be consistent with sections 3 and 4. The maximum fines for a petty misdemeanor under section 152.15, subdivision 2, clause (5), and chapters 168 and 169, must remain \$100 and must not be changed under this section.

Sec. 21. [EFFECTIVE DATE.]

Sections 1 to 19 are effective August 1, 1987, and apply to crimes committed on or after that date."

Delete the title and insert:

"A bill for an act relating to crimes; providing for prosecution of certain gross misdemeanor violations; increasing the maximum fine for petty misdemeanor violations; creating a gross misdemeanor crime of damage to property; creating the crimes of check forgery and offering a forged check; increasing the maximum bail for certain misdemeanors and gross misdemeanors; prescribing penalties; amending Minnesota Statutes 1986, sections 171.07, subdivision 1a; 487.25, subdivision 10; 609.02, subdivision 4a; 609.224, subdivision 2; 609.52, subdivisions 1, 2, and 3; 609.595; 609.625; 609.821, subdivisions 1, 2, and 3; 626A.05, subdivision 2; and 629.47; proposing coding for new law in Minnesota Statutes, chapters 609 and 629."

With the recommendation that when so amended the bill pass.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 438, A bill for an act relating to human services; authorizing the commissioner of human services to establish a study committee on problems of elderly persons with mental retardation or related conditions.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 516, A bill for an act relating to human services; creating the office of ombudsman for mental health; defining terms; estab-

lishing the office of ombudsman; providing for the powers and duties of the ombudsman; creating the ombudsman committee; creating the mental health board; requiring reporting of abuse and neglect to the ombudsman for mental health; amending Minnesota Statutes 1986, sections 13.66; 626.556, subdivision 10, and by adding a subdivision; and 626.557, subdivision 11, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 245.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 13.46, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] As used in this section:

(a) "Individual" means an individual pursuant to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system pursuant to statute or federal law.

(c) "Welfare system" includes the department of human services, county welfare boards, county welfare agencies, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and mental retardation, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, ~~or~~ mental health divisions of counties and other providers under contract to deliver mental health services, or the ombudsman for mental health and mental retardation.

Sec. 2. [245.91] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For the purposes of sections 2 to 8, the following terms have the meanings given them.

Subd. 2. [MENTAL HEALTH OR MENTAL RETARDATION AGENCY.] "Mental health or mental retardation agency" or "agency" means the divisions, officials, or employees of the state departments of human services and health, that are engaged in monitoring, providing, or regulating services to mental health or

mental retardation clients. It does not include a political subdivision of the state.

Subd. 3. [MENTAL HEALTH OR MENTAL RETARDATION CLIENT.] "Mental health or mental retardation client" or "client" means a patient, resident, or other person served by a mental health or mental retardation agency or facility, who is receiving residential treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance.

Subd. 4. [MENTAL HEALTH OR MENTAL RETARDATION FACILITY.] "Mental health or mental retardation facility" or "facility" means a regional center operated by the commissioner of human services, a residential facility as defined in section 245.782, subdivision 6, that is required to be licensed by the commissioner of human services, and an acute care inpatient facility, that provides treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance.

Subd. 5. [REGIONAL CENTER.] "Regional center" means a regional center as defined in section 253B.02, subdivision 18.

Sec. 3. [245.92] [OFFICE OF OMBUDSMAN; CREATION; QUALIFICATIONS; FUNCTION.]

The ombudsman for mental health and mental retardation shall promote the highest attainable standards of treatment, competence, efficiency, and justice for people receiving care or treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance. The ombudsman may gather information about decisions, acts, and other matters of an agency or facility. The ombudsman serves at the pleasure of the governor in the unclassified service and is accountable to the governor. The ombudsman must be selected without regard to political affiliation and must be a person who has knowledge and experience concerning the treatment, needs, and rights of mental health and mental retardation clients, and who is highly competent and qualified. No person may serve as ombudsman while holding another public office.

Sec. 4. [245.93] [ORGANIZATION OF OFFICE OF OMBUDSMAN.]

Subdivision 1. [STAFF.] The ombudsman may appoint a deputy and a confidential secretary in the unclassified service and may appoint other employees as authorized by the legislature. The ombudsman and the full-time staff are members of the Minnesota state retirement association.

Subd. 2. [ADVOCACY.] The function of mental health and mental retardation client advocacy in the department of human services is transferred to the office of ombudsman according to section 15.039.

The ombudsman shall maintain at least one client advocate in each regional center.

Subd. 3. [DELEGATION.] The ombudsman may delegate to members of the staff any authority or duties of the office except the duty of formally making recommendations to an agency or facility or reports to the governor or the legislature.

Sec. 5. [245.94] [POWERS OF OMBUDSMAN; REVIEWS AND EVALUATIONS; RECOMMENDATIONS.]

Subdivision 1. [POWERS.] (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

(b) The ombudsman may mediate or advocate on behalf of a client.

(c) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of a client who is not capable of requesting assistance have been adversely affected, the ombudsman may gather information about and analyze, on behalf of the client, the actions of an agency or facility.

(d) The ombudsman may examine, on behalf of a client, records of an agency or facility to which the client is entitled to access if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and confidential and the client is capable of providing consent, the ombudsman shall first obtain the client's consent.

(e) The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency or facility.

(f) The ombudsman may attend department of human services review board and special review board proceedings; proceedings regarding the transfer of patients or residents, as defined in section 246.50, subdivisions 4 and 4a, between institutions operated by the department of human services; and, subject to the consent of the affected patient or resident, other proceedings affecting the rights of residents or patients.

(g) To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility.

(h) Sections 2 to 8 are in addition to other provisions of law under which any other remedy or right is provided.

Subd. 2. [MATTERS APPROPRIATE FOR REVIEW.] (a) In selecting matters for review by the office, the ombudsman shall give particular attention to unusual deaths or injuries of a client served by an agency or facility, or actions of an agency or facility that:

- (1) may be contrary to law or rule;
- (2) may be unreasonable, unfair, oppressive, or inconsistent with a policy or order of an agency or facility;
- (3) may be mistaken in law or arbitrary in the ascertainment of facts;
- (4) may be unclear or inadequately explained, when reasons should have been revealed;
- (5) may result in abuse or neglect of a person receiving treatment;  
or
- (6) may disregard the rights of a client or other individual served by an agency or facility.

(b) The ombudsman shall, in selecting matters for review and in the course of the review, avoid duplicating other investigations or regulatory efforts.

Subd. 3. [COMPLAINTS.] The ombudsman may receive a complaint from any source concerning an action of an agency or facility. After completing a review, the ombudsman shall inform the complainant and the agency or facility. No client may be punished nor may the general condition of the client's treatment be unfavorably altered as a result of a complaint by the client or by another person on the client's behalf.

Subd. 4. [RECOMMENDATIONS TO AGENCY.] (a) If, after reviewing a complaint and considering the response of an agency or facility and any other pertinent material, the ombudsman determines that the complaint has merit, the ombudsman may recommend that the agency or facility:

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a rule, order, or internal policy;
- (4) explain more fully the action in question; or
- (5) take any other action the ombudsman recommends to the agency or facility involved.

(b) At the ombudsman's request, the agency or facility shall, within a reasonable time, inform the ombudsman about the action taken on the recommendation or the reasons for not complying with it.

Sec. 6. [245.95] [RECOMMENDATIONS AND REPORTS TO GOVERNOR.]

Subdivision 1. [SPECIFIC REPORTS.] The ombudsman may send conclusions and suggestions concerning any matter reviewed to the governor. Before making public a conclusion or recommendation that expressly or implicitly criticizes an agency or facility or any person, the ombudsman shall consult with the governor and the agency, facility, or person concerning the conclusion or recommendation. When sending a conclusion or recommendation to the governor that is adverse to an agency or facility or any person, the ombudsman shall include any statement of reasonable length made by that agency, facility, or person in defense or mitigation of the office's conclusion or recommendation.

Subd. 2. [GENERAL REPORTS.] In addition to whatever conclusions or recommendations the ombudsman may make to the governor on an ad hoc basis, the ombudsman shall at the end of each year report to the governor concerning the exercise of the ombudsman's functions during the preceding year.

Sec. 7. [245.96] [CIVIL ACTIONS.]

The ombudsman and the ombudsman's designated representatives are not civilly liable for any action taken under sections 2 to 8 if the action was taken in good faith, was within the scope of the ombudsman's authority, and did not constitute willful or reckless misconduct.

Sec. 8. [245.97] [OMBUDSMAN COMMITTEE.]

Subdivision 1. [MEMBERSHIP.] The ombudsman committee consists of 15 members appointed by the governor to three-year terms. Members shall be appointed on the basis of their knowledge of and interest in the health and human services system subject to the ombudsman's authority. In making the appointments, the governor shall try to ensure that the overall membership of the committee adequately reflects the agencies, facilities, and programs within the ombudsman's authority and that members include consumer representatives, including clients, former clients, and relatives of present or former clients; representatives of advocacy organizations for clients and other individuals served by an agency or facility; human services and health care professionals, including specialists in psychiatry, psychology, internal medicine, and forensic pathology; and other providers of services to mental health or mental retardation clients or other individuals served by an agency or facility.

Subd. 2. [COMPENSATION; CHAIR.] Members do not receive compensation, but are entitled to receive reimbursement for reasonable and necessary expenses incurred. The governor shall designate one member of the committee to serve as its chair at the pleasure of the governor.

Subd. 3. [MEETINGS.] The committee shall meet at least four times a year at the request of its chair or the ombudsman.

Subd. 4. [DUTIES.] The committee shall advise and assist the ombudsman in selecting matters for attention; developing policies, plans, and programs to carry out the ombudsman's functions and powers; and making reports and recommendations for changes designed to improve standards of competence, efficiency, justice, and protection of rights. The committee shall function as an advisory body.

Subd. 5. [MEDICAL REVIEW SUBCOMMITTEE.] At least five members of the committee, including at least three physicians, one of whom is a psychiatrist, must be designated by the governor to serve as a medical review subcommittee. Terms of service, vacancies, and compensation are governed by subdivision 2. The governor shall designate one of the members to serve as chair of the subcommittee. The medical review subcommittee may:

(1) make a preliminary determination of whether the death of a client that has been brought to its attention is unusual or reasonably appears to have resulted from causes other than natural causes and warrants investigation;

(2) review the causes of and circumstances surrounding the death;

(3) request the county coroner or medical examiner to conduct an autopsy;

(4) assist an agency in its investigations of unusual deaths and deaths from causes other than natural causes; and

(5) submit a report regarding the death of a client to the committee, the ombudsman, the client's next-of-kin, and the facility where the death occurred and, where appropriate, make recommendations to prevent recurrence of similar deaths to the head of each affected agency or facility.

Subd. 6. [TERMS, COMPENSATION, AND REMOVAL.] The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section 15.0575.



Sec. 9. Minnesota Statutes 1986, section 626.556, subdivision 9, is amended to read:

Subd. 9. [MANDATORY REPORTING TO A MEDICAL EXAMINER OR CORONER.] When a person required to report under the provisions of subdivision 3 knows or has reason to believe a child has died as a result of neglect or physical or sexual abuse, the person shall report that information to the appropriate medical examiner or coroner instead of the local welfare agency, police department or county sheriff. Medical examiners or coroners shall notify the local welfare agency or police department or county sheriff in instances in which they believe that the child has died as a result of neglect or physical or sexual abuse. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff and the local welfare agency. If the child was receiving residential treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance from a mental health or mental retardation agency or facility as defined in section 2, the medical examiner or coroner shall also notify and report findings to the ombudsman for mental health and mental retardation.

Sec. 10. Minnesota Statutes 1986, section 626.556, subdivision 10, is amended to read:

Subd. 10. [DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.] (a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a mental health or mental retardation client, as defined in section 2, has been the subject of physical abuse or neglect at a mental health or mental retardation agency or facility, as defined in section 2, it shall, in addition to its other duties under this section, immediately inform the ombudsman for mental health and mental retardation.

(c) Authority of the local welfare agency responsible for assessing the child abuse report and of the local law enforcement agency for investigating the alleged abuse includes, but is not limited to, authority to interview, without parental consent, the alleged victim

and any other minors who currently reside with or who have resided with the alleged perpetrator. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found and may take place outside the presence of the perpetrator or parent, legal custodian, guardian, or school official. Except as provided in this clause, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under paragraph (c), and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(e) (d) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the county welfare board or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded. Until that time, the local welfare or law enforcement agency shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged perpetrator is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement

agency. Where the school fails to comply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(d) (e) Where the perpetrator or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the perpetrator or any person responsible for the child's care at reasonable places and times as specified by court order.

(e) (f) Before making an order under paragraph (d), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(f) (g) The commissioner, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

Sec. 11. Minnesota Statutes 1986, section 626.557, subdivision 9, is amended to read:

Subd. 9. [MANDATORY REPORTING TO A MEDICAL EXAMINER OR CORONER.] A person required to report under the provisions of subdivision 3 who has reasonable cause to believe that a vulnerable adult has died as a direct or indirect result of abuse or neglect shall report that information to the appropriate medical examiner or coroner in addition to the local welfare agency, police department, or county sheriff or appropriate licensing agency or agencies. The medical examiner or coroner shall complete an investigation as soon as feasible and report the findings to the police department or county sheriff, the local welfare agency, and, if applicable, each licensing agency. A person or agency that receives

a report under this subdivision concerning a vulnerable adult who was receiving residential treatment for mental illness, mental retardation, chemical dependency, or emotional disturbance from a mental health or mental retardation agency or facility as defined in section 2, shall also report the information and findings to the ombudsman for mental health and mental retardation.

Sec. 12. [INITIAL APPOINTMENTS.]

Notwithstanding section 8, the governor shall appoint the initial members of the ombudsman committee as follows:

- (1) five members to one-year terms;
- (2) five members to two-year terms; and
- (3) five members to three-year terms."

Delete the title and insert:

"A bill for an act relating to human services; creating the office of ombudsman for mental health and mental retardation; providing for the powers and duties of the ombudsman; creating a medical review board; requiring reporting of abuse and neglect to the ombudsman for mental health and mental retardation; amending Minnesota Statutes 1986, sections 13.46, subdivision 1; 626.556, subdivisions 9 and 10; and 626.557, subdivision 9; proposing coding for new law in Minnesota Statutes, chapter 245."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Governmental Operations.

The report was adopted.

Voss from the Committee on Taxes to which was referred:

H. F. No. 529, A bill for an act relating to taxation; individual income, updating provisions to the Internal Revenue Code of 1986; eliminating or simplifying certain modifications, exclusions, deductions, credits, carryovers, and basis adjustments; reducing income tax rates; defining terms; making technical corrections and administrative changes; appropriating money; amending Minnesota Statutes 1986, sections 10A.31, subdivisions 1, 3, and by adding a subdivision; 16A.275; 290.01, subdivisions 7, 19, 20, and by adding subdivisions; 290.032, subdivisions 1 and 2; 290.06, subdivisions 2c and 2d; 290.067, subdivision 1; 290.077, subdivision 1; 290.081; 290.091, subdivisions 1 and 4; 290.095, subdivisions 9 and 11; 290.10; 290.12, by adding a subdivision; 290.131, by adding a subdivision; 290.134, by adding a subdivision; 290.14; 290.15; 290.16, subdivision 1a; 290.17, subdivision 2; 290.23, subdivisions 3

and 5; 290.31, subdivisions 2, 3, 5, and by adding a subdivision; 290.37, subdivisions 1 and 3; 290.38; 290.39, subdivision 3; 290.431; 290.45, subdivisions 1 and 2; 290.48, subdivision 10; 290.491; 290.92, subdivisions 2a, 4a, 5, 5a, and 6; 290.93, subdivision 10; 290.9726, subdivisions 1, 2, and 4; and 290.974; repealing Minnesota Statutes 1986, sections 290.01, subdivisions 20a, 20b, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.067, subdivisions 2, 3, 4, and 5; 290.077, subdivision 3; 290.079; 290.08; 290.085; 290.088; 290.089; 290.09; 290.091, subdivisions 2 and 3; 290.12, subdivision 4; 290.139; 290.17, subdivision 1a; 290.18, subdivision 2; and 290.9726, subdivisions 3, 5, and 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

## "ARTICLE 1

### INCOME TAX

Section 1. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 6a. [ABODE.] For purposes of section 290.01, subdivision 7, the term "abode" means a dwelling maintained by an individual, whether or not owned by the individual and whether or not occupied by the individual, and includes a dwelling place owned or leased by the individual's spouse.

Sec. 2. Minnesota Statutes 1986, section 290.01, subdivision 7, is amended to read:

Subd. 7. [RESIDENT.] (a) The term "resident" means

(1) any individual domiciled in Minnesota and any other individual maintaining an abode therein during any portion of the tax year who shall not, during the whole of such tax year, have been domiciled outside the state, except that an individual is not a resident for the period of time that the individual is a "qualified individual" as defined in section 911(d)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1986 unless during the period the individual is a qualified individual a Minnesota homestead application is filed for property in which the individual has an interest; and

(2) an individual domiciled outside the state who maintains a place of abode in the state and spends in the aggregate more than one-half of the tax year in Minnesota, unless the individual is in the armed forces of the United States.

(b) For purposes of this subdivision, presence within the state for any part of a calendar day constitutes a day spent in the state. Individuals shall keep adequate records to substantiate the days spent outside the state.

Sec. 3. Minnesota Statutes 1986, section 290.01, subdivision 19, is amended to read:

Subd. 19. [NET INCOME.] The term "net income" means the gross federal taxable income, as defined in subdivision 20, less the following deductions to the extent allowed by section 290.18, subdivision 1:

(a) for corporations, the deductions allowed by section 290.09;

(b) for individuals, the deductions allowed in section 290.088, without regard to sections 290.18, subdivision 1 if the taxpayer elects to compute the taxes under sections 290.06, subdivision 2e, paragraph (a) or (c); 290.089; and 290.09; and

(c) for estates and trusts, the deduction allowed by section 290.088, without regard to section 290.18, subdivision 1 if the taxpayer elects to compute the taxes under section 290.06, subdivision 2e, paragraph (e) section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, with the modifications provided in subdivisions 19a to 19f.

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

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

Sec. 4. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

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

(1) interest income on obligations of any state other than Minnesota or a political subdivision of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute and including exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1986 unless the exempt-interest dividends were derived solely from tax exempt interest income on obligations of the state of Minnesota or its political subdivisions; and

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

Sec. 5. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

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

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

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability and the amount of any credit received under chapter 290A, whether received as a refund or credit to another taxable year's income tax liability; and

(3) the amount paid to others not to exceed \$650 for each dependent in grades K to 6 and \$1,000 for each dependent in grades 7 to 12, for tuition, textbooks, and transportation of each dependent in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363. As used in this clause, "textbooks" includes books and other instructional materials and equipment used in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. In order to qualify for the subtraction under this clause the taxpayer must elect to itemize deductions under section 63(e) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 6. Minnesota Statutes 1986, section 290.01, subdivision 20, is amended to read:

Subd. 20. [GROSS INCOME.] For taxable years beginning before January 1, 1987, except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source.

For tax years beginning after December 31, 1986, the term "gross income" means the gross income as defined in section 61 of the Internal Revenue Code of 1986, as amended through the date named in subdivision 19 for the applicable taxable year, plus any additional items of income taxable under this chapter but not taxable under federal law, less any items of a character exempt from state income tax under the federal law.

For tax years beginning before January 1, 1987, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and in subdivisions 20a to 20f. For estates and trusts the adjusted gross income shall be their federal taxable income as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this subdivision and in Minnesota Statutes 1986, section 290.01, subdivisions 20a to 20f.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1980, and as amended by sections 302(b) and 501 to 509 of Public Law Number 97-34, shall be in effect for taxable years beginning after December 31, 1980 including the provisions of section 404 (relating to partial exclusions of dividends and interest received by individuals) of the Crude Oil Windfall Profit Tax Act of 1980, Public Law Number 96-223. The provisions of Public Law Number 96-471 (relating to installment sales) sections 122, 123, 126, 201, 202, 203, 204, 211, 213, 214, 251, 261, 264, 265, 311(g)(3), 313, 314(a)(1), 321(a), 501 to 507, 811, and 812 of the Economic Recovery Tax Act of 1981, Public Law Number 97-34 and section 113 of Public Law Number 97-119 shall be effective at the same time that they become effective for federal income tax purposes.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1981, shall be in effect for taxable years beginning after December 31, 1981. The provisions of sections 205(a), 214 to 222, 231, 232, 236, 247, 251, 252, 253, 265, 266, 285, 288, and 335 of



the Tax Equity and Fiscal Responsibility Act of 1982, Public Law Number 97-248, section 6(b)(2) and (3) of the Subchapter S Revision Act of 1982, Public Law Number 97-354, section 517 of Public Law Number 97-424, sections 101(c) and (d), 102(a), (aa), (f)(4), (g), (j), (l), 103(c), 104(b)(3), 105, 305(d), 306(a)(9) of Public Law Number 97-448, and sections 101 and 102 of Public Law Number 97-473, and section 243 of the Tax Reform Act of 1986, Public Law Number 99-514 shall be effective at the same time that they become effective for federal income tax purposes. The Payment-in-Kind Tax Treatment Act of 1983, Public Law Number 98-4, shall be effective at the same time that it becomes effective for federal income tax purposes.

(iii) (ii) The Internal Revenue Code of 1954, as amended through January 15, 1983, shall be in effect for taxable years beginning after December 31, 1982. The provisions of sections 905, 1708, and 1879(m) of the Tax Reform Act of 1986, Public Law Number 99-514 shall be effective at the same time that they become effective for federal income tax purposes.

(iv) (iii) The Internal Revenue Code of 1954, as amended through December 31, 1983, shall be in effect for taxable years beginning after December 31, 1983. The provisions of sections 13, 17, 25(b), 31, 32, 41 to 43, 52, 55, 56, 71 to 74, 77, 81, 82, 91, 92, 94, 101 to 103, 105 to 108, 111 to 113, 147(c), 171, 172, 174, 175, 179(a), 221, 223, 224, 421(b), 432, 481, 491, 512, 522 to 524, 554 to 557, 561, 611(a), 621 to 623, 626 to 628, 711(c), 712(d), 713(b), (e), (g), and (h), 721(a), (b), (d), (g), (i), (o), (p), (r), (t), and (w), 722(e), 1001, 1026, 1061 to 1064, 1066, 1076, 1078, and 2638(b) of the Deficit Reduction Act of 1984, Public Law Number 98-369, and section 1 of Public Law Number 98-611, and sections 1801, 1802, 1805 to 1809, 1812, 1842, 1853 to 1855, 1866, 1869 to 1873, 1875, and 1878(g) and (h) of the Tax Reform Act of 1986, Public Law Number 99-514 shall be effective at the same time that they become effective for federal income tax purposes.

(v) (iv) The Internal Revenue Code of 1954, as amended through May 25, 1985, shall be in effect for taxable years beginning after December 31, 1984. The provisions of sections 101, 102, 103, 201, and 202 of Public Law Number 99-121 and sections 402, 403, 1803, 1804, 1852, and 1861 of the Tax Reform Act of 1986, Public Law Number 99-514 shall be effective at the same time that they become effective for federal income tax purposes.

(vi) (v) The Internal Revenue Code of 1954, as amended through December 31, 1985, shall be in effect for taxable years beginning after December 31, 1985.

The provisions of sections 121 to 123, 201, 202, 241, 401, 405, 411 to 413, 653, 654, 804, 811, 822, 1001, 1003, 1122, 1162, 1164, 1166, 1301, 1401, 1402, 1707, 1826, 1827, 1843, 1867, 1868, 1879(f), and 1895 of the Tax Reform Act of 1986, Public Law Number 99-514,

shall be effective at the same time that they become effective for federal income tax purposes.

References to the Internal Revenue Code of 1954 in subdivisions 20a, 20b, 20e, and 20f mean the code in effect for the purpose of defining gross income for the applicable taxable year.

Sec. 7. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 29. [REFERENCES TO THE INTERNAL REVENUE CODE.] Except when inappropriate, a reference in this chapter (1) to the Internal Revenue Code of 1954 includes a reference to the Internal Revenue Code of 1986, and (2) to the Internal Revenue Code of 1986 includes a reference to the provisions of law formerly known as the Internal Revenue Code of 1954.

Sec. 8. Minnesota Statutes 1986, section 290.032, subdivision 1, is amended to read:

Subdivision 1. There is hereby imposed as an addition to the annual income tax for a taxable year of a taxpayer in the classes described in section 290.03 a tax with respect to any distribution received by such taxpayer that is treated as a lump sum distribution under section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, and that is subject to tax for such taxable year under section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986.

Sec. 9. Minnesota Statutes 1986, section 290.032, subdivision 2, is amended to read:

Subd. 2. The amount of tax imposed by subdivision 1 shall be computed in the same way as the tax imposed under section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, except that the initial separate tax shall be an amount equal to ~~ten~~ five times the tax which would be imposed by section 290.06, subdivision 2c, if the recipient was an unmarried individual electing to deduct federal income taxes, and the taxable net income, ~~excluding the credits allowed in section 290.06, subdivision 3f,~~ was an amount equal to ~~one-tenth~~ one-fifth of the excess of

(i) the total taxable amount of the lump sum distribution for the year, over

(ii) the minimum distribution allowance, and except that references in section 402(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, to paragraph (I)(A) thereof shall instead be references to subdivision 1 of this section.

The amount of any distribution from a qualified pension or profit-sharing plan which is received as a lump sum distribution shall be reduced to the extent of any contribution:

(1) not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota for a taxable year beginning in 1974 or thereafter; or

(2) designated as an employee contribution but which the employing unit picks up and which is treated as an employer contribution and which was taxed on the Minnesota return but not the federal return in the year the contribution was made.

Sec. 10. Minnesota Statutes 1986, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.] (a) The income taxes imposed by this chapter upon married individuals filing joint returns who elect to deduct federal income taxes under section 290.088 must be computed by applying to their taxable net income the following schedule of rates:

If taxable net income is:  
not over \$875

over \$875 but not  
over \$1,750  
over \$1,750 but not  
over \$3,500  
over \$3,500 but not  
over \$5,375  
over \$5,375 but not  
over \$7,000  
over \$7,000 but not  
over \$7,125  
over \$7,125 but not  
over \$8,875  
over \$8,875 but not  
over \$12,375  
over \$12,375 but not  
over \$14,000  
over \$14,000 but not  
over \$16,000  
over \$16,000 but not  
over \$21,500  
over \$21,500 but not  
over \$22,125  
over \$22,125 but not  
over \$25,500  
over \$25,500 but not  
over \$28,500  
over \$28,500 but not  
over \$31,750  
over \$31,750

The tax is:  
1.5 percent

\$13 plus 2.0 percent of the  
excess over \$875  
\$31 plus 2.9 percent of the  
excess over \$1,750  
\$81 plus 4.8 percent of  
the excess over \$3,500  
\$171 plus 5.9 percent of  
the excess over \$5,375  
\$267 plus 6.1 percent of  
the excess over \$7,000  
\$275 plus 7.2 percent of  
the excess over \$7,125  
\$401 plus 8.3 percent of  
the excess over \$8,875  
\$691 plus 9.3 percent of  
the excess over \$12,375  
\$842 plus 10 percent of  
the excess over \$14,000  
\$1,042 plus 11 percent  
of the excess over \$16,000  
\$1,647 plus 11.3 percent  
of the excess over \$21,500  
\$1,718 plus 12.3 percent  
of the excess over \$22,125  
\$2,133 plus 12.6 percent  
of the excess over \$25,500  
\$2,511 plus 13.7 percent  
of the excess over \$28,500  
\$2,957 plus 14.0 percent  
of the excess over \$31,750

(b) The income taxes imposed by this chapter upon all other married individuals filing joint returns must be computed by applying to their taxable net income the following schedule of rates:

If taxable net income is:	The tax is:
not over \$1,200	1.7 percent
over \$1,200 but not over \$1,700	\$20 plus 2.1 percent of the excess over \$1,200
over \$1,700 but not over \$2,700	\$31 plus 2.3 percent of the excess over \$1,700
over \$2,700 but not over \$5,600	\$54 plus 3.3 percent of the excess over \$2,700
over \$5,600 but not over \$9,100	\$150 plus 5.3 percent of the excess over \$5,600
over \$9,100 but not over \$12,600	\$335 plus 6.8 percent of the excess over \$9,100
over \$12,600 but not over \$17,800	\$573 plus 8.5 percent of the excess over \$12,600
over \$17,800 but not over \$30,800	\$1,015 plus 9.3 percent of the excess over \$17,800
over \$30,800	\$2,224 plus 9.9 percent of the excess over \$30,800

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

if taxable income is:	the tax is:
not over 5,000	4.3 percent
over \$5,000, but not over \$13,000	\$215 plus 6.3 percent of the excess over \$5,000
over \$13,000, but not over \$23,000	\$719 plus 8.3 percent of the excess over \$13,000
over \$23,000	\$1,549 plus 9.3 percent of the excess over \$23,000

(2) For taxable years beginning after December 31, 1987

if taxable income is:	the tax is:
not over \$5,000	4.2 percent
over \$5,000, but not over \$19,000	\$210 plus 6.2 percent of the excess over \$5,000
over \$19,000, but not over \$28,000	\$1,078 plus 8.2 percent of the excess over \$19,000
over \$28,000	\$1,816 plus 9.2 percent of the excess over \$28,000

(3) Notwithstanding clause (2) if the increase in tax rates is imposed pursuant to article 10, section 5, for taxable years beginning after December 31, 1987

<u>if taxable income is:</u>	<u>the tax is:</u>
<u>not over \$5,000</u>	<u>4.4 percent</u>
<u>over \$5,000, but not</u>	<u>\$220 plus 6.4 percent of</u>
<u>over \$19,000</u>	<u>the excess over \$5,000</u>
<u>over \$19,000, but not</u>	<u>\$1,116 plus 8.4 percent of</u>
<u>over \$28,000</u>	<u>the excess over \$19,000</u>
<u>over \$28,000</u>	<u>\$1,872 plus 9.4 percent of</u>
	<u>the excess over \$28,000</u>

(e) (b) The income taxes imposed by this chapter upon unmarried individuals, married individuals filing separate returns, estates, and trusts that elect to deduct federal income taxes under section 290-088 must be computed by applying to taxable net income the following schedule of rates:

<u>If taxable net income is:</u>	<u>The tax is:</u>
<u>not over \$700</u>	<u>1.3 percent</u>
<u>over \$700 but not</u>	<u>\$9 plus 1.9 percent of the</u>
<u>over \$1,400</u>	<u>excess over \$700</u>
<u>over \$1,400 but not</u>	<u>\$22 plus 3.2 percent of the</u>
<u>over \$2,800</u>	<u>excess over \$1,400</u>
<u>over \$2,800 but not</u>	<u>\$67 plus 5.4 percent of</u>
<u>over \$4,300</u>	<u>the excess over \$2,800</u>
<u>over \$4,300 but not</u>	<u>\$148 plus 6.9 percent of</u>
<u>over \$5,700</u>	<u>the excess over \$4,300</u>
<u>over \$5,700 but not</u>	<u>\$245 plus 8.4 percent of</u>
<u>over \$7,100</u>	<u>the excess over \$5,700</u>
<u>over \$7,100 but not</u>	<u>\$362 plus 9.8 percent of</u>
<u>over \$9,900</u>	<u>the excess over \$7,100</u>
<u>over \$9,900 but not</u>	<u>\$637 plus 11.1 percent of</u>
<u>over \$12,800</u>	<u>the excess over \$9,900</u>
<u>over \$12,800 but not</u>	<u>\$959 plus 12.4 percent of</u>
<u>over \$15,400</u>	<u>the excess over \$12,800</u>
<u>over \$15,400 but not</u>	<u>\$1,281 plus 13.6 percent of</u>
<u>over \$19,400</u>	<u>the excess over \$15,400</u>
<u>over \$19,400</u>	<u>\$1,825 plus 14 percent</u>
	<u>of the excess over \$19,400</u>

(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

<u>if taxable income is:</u>	<u>the tax is:</u>
<u>not over \$4,000</u>	<u>4.3 percent</u>
<u>over \$4,000, but not</u>	<u>\$172 plus 6.3 percent</u>
<u>over \$11,000</u>	<u>of the excess over \$4,000</u>
<u>over \$11,000, but not</u>	<u>\$613 plus 8.3 percent</u>
<u>over \$18,000</u>	<u>of the excess over \$11,000</u>
<u>over \$18,000</u>	<u>\$1,194 plus 9.3 percent</u>
	<u>of the excess over \$18,000</u>

(2) For taxable years beginning after December 31, 1987

if taxable income is:

not over \$4,000over \$4,000, but notover \$13,000over \$13,000, but notover \$19,000over 19,000

the tax is:

4.2 percent\$168 plus 6.2 percentof the excess over \$4,000\$726 plus 8.2 percentof the excess over \$13,000\$1,218 plus 9.2 percentof the excess over \$19,000(3) Notwithstanding clause (2) if the increase in tax rates is imposed pursuant to article 10, section 5, for taxable years beginning after December 31, 1987

if taxable income is:

not over \$4,000over \$4,000, but notover \$13,000over \$13,000, but notover \$19,000over \$19,000

the tax is:

4.4 percent\$176 plus 6.4 percentof the excess over \$4,000\$752 plus 8.4 percentof the excess over \$13,000\$1,256 plus 9.4 percentof the excess over \$19,000

(4) (c) The income taxes imposed by this chapter upon all other unmarried individuals, married individuals filing separate returns, estates, and trusts qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, must be computed by applying to taxable net income the following schedule of rates:

If taxable net income is:

not over \$300over \$300 but notover \$600over \$600 but notover \$900over \$900 but notover \$1,300over \$1,300 but notover \$2,000over \$2,000 but notover \$2,800over \$2,800 but notover \$4,300over \$4,300 but notover \$6,400over \$6,400 but notover \$9,400over \$9,400 but notover \$16,200over \$16,200

The tax is:

1 percent\$3 plus 1.3 percent of the  
excess over \$300\$7 plus 1.6 percent of the  
excess over \$600\$12 plus 2.1 percent of  
the excess over \$900\$20 plus 2.7 percent of  
the excess over \$1,300\$39 plus 3.7 percent of  
the excess over \$2,000\$69 plus 4.5 percent of  
the excess over \$2,800\$136 plus 6.1 percent of  
the excess over \$4,300\$264 plus 7.5 percent of  
the excess over \$6,400\$489 plus 9.3 percent of  
the excess over \$9,400\$1,122 plus 9.9 percent  
of the excess over \$16,200(1) For taxable years beginning after December 31, 1986, and before January 1, 1988

<u>if taxable income is:</u>	<u>the tax is:</u>
<u>not over \$4,500</u>	<u>4.3 percent</u>
<u>over \$4,500, but not</u>	<u>\$194 plus 6.3 percent</u>
<u>over \$12,000</u>	<u>of the excess over \$4,500</u>
<u>over \$12,000, but not</u>	<u>\$666 plus 8.3 percent</u>
<u>over \$20,500</u>	<u>of the excess over \$12,000</u>
<u>over \$20,500</u>	<u>\$1,372 plus 9.3 percent</u>
	<u>of the excess over \$20,500</u>

(2) For taxable years beginning after December 31, 1987

<u>if taxable income is:</u>	<u>the tax is:</u>
<u>not over \$4,500</u>	<u>4.2 percent</u>
<u>over \$4,500, but not</u>	<u>\$189 plus 6.2 percent</u>
<u>over \$16,000</u>	<u>of the excess over \$4,500</u>
<u>over \$16,000, but not</u>	<u>\$902 plus 8.2 percent</u>
<u>over \$24,000</u>	<u>of the excess over \$16,000</u>
<u>over \$24,000</u>	<u>\$1,558 plus 9.2 percent</u>
	<u>of the excess over \$24,000</u>

(3) Notwithstanding clause (2), if the increase in tax rates is imposed pursuant to article 10, section 5, for taxable years beginning after December 31, 1987

<u>if taxable income is:</u>	<u>the tax is:</u>
<u>not over \$4,500</u>	<u>4.4 percent</u>
<u>over \$4,500, but not</u>	<u>\$198 plus 6.4 percent</u>
<u>over \$16,000</u>	<u>of the excess over \$4,500</u>
<u>over \$16,000, but not</u>	<u>\$934 plus 8.4 percent</u>
<u>over \$24,000</u>	<u>of the excess over \$16,000</u>
<u>over \$24,000</u>	<u>\$1,606 plus 9.4 percent</u>
	<u>of the excess over \$24,000</u>

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

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

(1) The numerator is the individual's Minnesota sourced federal adjusted gross income, computed as if as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31,

1986, after applying the provisions of section 290.081, clause (a), 290.17, subdivision 2, or 290.171 applied; and

(2) the denominator is the individual's federal adjusted gross income, as defined in section 62 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 11. Minnesota Statutes 1986, section 290.06, subdivision 2d, is amended to read:

Subd. 2d. [INFLATION ADJUSTMENT OF BRACKETS.] (a) For taxable years beginning after December 31, 1985 1990, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning after December 31, 1984 1987, and before January 1, 1986 1991. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

(b) The commissioner shall adjust the rate brackets by the percentage determined under pursuant to the provisions of section 1(f) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, 1985 1986, except that in section 1(f)(3)(B) the word "1984 1989" shall be substituted for the word "~~1983~~ 1987." For 1991, the commissioner shall then determine the percent change from the 12 months ending on September 30, 1984 August 31, 1989, to, for 1986, the 12 months ending on September 30, ~~1985~~ August 31, 1990, and in each subsequent year, from the 12 months ending on September 30, 1984 August 31, 1989, to the 12 months ending on September 30 August 31 of the preceding year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the administrative procedure act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets; the maximum standard deduction amount; and the personal credit amounts.

Sec. 12. Minnesota Statutes 1986, section 290.06, is amended by adding a subdivision to read:

Subd. 20. [RETIREMENT INCOME CREDIT.] (a) A credit against the tax imposed by this chapter is allowed in an amount equal to six percent of the smallest of the following amounts: (1) pension income,



(2) taxable income, or (3) the maximum credit base for the taxable year.

(b) For purposes of this section, the following terms have the meanings given.

(1) "Federal adjusted gross income" means adjusted gross income as determined under the Internal Revenue Code, plus any lump sum distribution as defined in section 402(e) of the Internal Revenue Code.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1986.

(3) "Pension income" means to the extent included in the taxpayer's federal adjusted gross income the amount received by the taxpayer

(i) from the United States, its agencies or instrumentalities, or from a state or a political or governmental subdivision of a state or from a Minnesota volunteer firefighter's relief association, by way of a payment as a pension, public employee retirement benefit, or any combination thereof, or

(ii) as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 408, 409, or 457 of the Internal Revenue Code.

(c) The maximum credit base equals the following amounts:

Married joint	\$11,000
Single	\$ 8,500
Married separate	\$ 5,500

The amounts must be reduced by the sum of the following amounts for the taxable year:

(1) Social security, railroad retirement, or other retirement benefits to the extent they were not included in the computation of federal taxable income;

(2) The dollar amount of the personal exemptions claimed in computing federal taxable income;

(3) Any other income received by the taxpayer and not subject to taxation under this chapter; and

(4) The amount of federal adjusted gross income in excess of (i) \$8,000 for married joint, (ii) \$6,000 for single, and (iii) \$4,000 for married separate filers. For purposes of this computation, federal adjusted gross income is reduced by the amount of pension income,

but the reduction may not exceed (i) \$11,000 for married joint, (ii) \$8,500 for single, and (iii) \$5,500 for married separate filers.

(d) In order to qualify for a credit under this subdivision, the taxpayer must elect to itemize deductions under section 63(e) of the Internal Revenue Code.

Sec. 13. Minnesota Statutes 1986, section 290.077, subdivision 1, is amended to read:

Subdivision 1. [INCLUSION IN GROSS INCOME.] Notwithstanding any other provision, income in respect of a decedent ~~shall be included in gross income in accordance with the method set forth in section 691(a) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985~~ 1986, is included in the gross income of the estate in the year any right to receive it is transferred to a nonresident by the personal representative of an estate. The fair market value of the right at the date of the transfer must be included in the gross income of the estate for the year in which the transfer occurs and the value of the right may not be allowed as a deduction in computing the taxable net income of the estate. The estate must not include the value of the right in its gross income and the personal representative is relieved of any further liability with respect to that right if the nonresident: (1) includes the fair market value of the right (as of the date the right is received) in the nonresident's gross income for the year the right is received and pays the tax thereon; or (2) elects to include the amount received in payment of the right in the nonresident's gross income for the year in which the payment is received and pays the tax on it in the same manner as a resident of this state and files a bond with the commissioner of revenue during the year the right is received, in the form and in the amount as the commissioner considers necessary to assure payment of the tax. A bond required under clause (2) is sufficient if it is in an amount equivalent to the tax that would be due if the method provided in clause (1) were followed.

Sec. 14. Minnesota Statutes 1986, section 290.081, is amended to read:

290.081 [INCOME OF NONRESIDENTS, RECIPROCITY TAXES PAID TO ANOTHER STATE, CREDIT.]

(a) The compensation received for the performance of personal or professional services within this state by an individual whose residence, place of abode, and place customarily returned to at least once a month is in another state, shall be excluded from gross income to the extent such compensation is subject to an income tax imposed by the state of residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein, or

(b) If any taxpayer who is a resident of this state, or a domestic corporation or corporation commercially domiciled therein, has become liable for taxes on or measured by net income to another state or a province or territory of Canada upon, if the taxpayer is an individual, or if the taxpayer is an athletic team and all of the team's income is apportioned to Minnesota, any income, or if it is a corporation, estate, or trust, upon income derived from the performance of personal or professional services within such other state or province or territory of Canada and subject to taxation under this chapter the taxpayer shall be entitled to a credit against the amount of taxes payable under this chapter, of such proportion thereof, as such gross income subject to taxation in such state or province or territory of Canada bears to the taxpayer's entire gross income subject to taxation under this chapter; provided (1) that such credit shall in no event exceed the amount of tax so paid to such other state or province or territory of Canada on the gross income earned within such other state or province or territory of Canada and subject to taxation under this chapter, and (2) the allowance of such credit shall not operate to reduce the taxes payable under this chapter to an amount less than would have been payable if the gross income earned in such other state or province or territory of Canada had been excluded in computing net income under this chapter. A taxpayer who is a resident of this state pursuant to section 290.01, subdivision 7(a)(2) and is subject to income tax as a resident of the state of domicile is not allowed this credit unless the state of domicile does not allow a similar credit.

(c) The commissioner shall by rule determine with respect to gross income earned in any other state the applicable clause of this section. When it is deemed to be in the best interests of the people of this state, the commissioner may determine that the provisions of clause (a) shall not apply. As long as the provisions of clause (a) apply between Minnesota and Wisconsin, the provisions of clause (a) shall apply to any individual who is domiciled in Wisconsin.

(d) "Tax So Paid" as used in this section means taxes on or measured by net income payable to another state or province or territory of Canada on income earned within the taxable year for which the credit is claimed, provided that such tax is actually paid in that taxable year, or subsequent taxable years.

For purposes of clause (b), where a Minnesota resident reported an item of income to Minnesota and is assessed tax in another state or a province or territory of Canada on that same item of income after the Minnesota statute of limitations has expired, the taxpayer shall be allowed to receive a credit for that year based on clause (b), notwithstanding the provisions of sections 290.49, 290.50, and 290.56. For purposes of the preceding sentence, the burden of proof shall be on the taxpayer to show entitlement to a credit.

(e) For the purposes of clause (a), whenever the Wisconsin tax on Minnesota residents which would have been paid Wisconsin without

clause (a) exceeds the Minnesota tax on Wisconsin residents which would have been paid Minnesota without clause (a), or vice versa, then the state with the net revenue loss resulting from clause (a) shall receive from the other state the amount of such loss. This provision shall be effective for all years beginning after December 31, 1972. The data used for computing the loss to either state shall be determined on or before September 30 of the year following the close of the previous calendar year.

Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1977. The commissioner of revenue is authorized to enter into agreements with the state of Wisconsin specifying the reciprocity payment due date, conditions constituting delinquency, interest rates, and a method for computing interest due on any delinquent amounts.

If an agreement cannot be reached as to the amount of the loss, the commissioner of revenue and the taxing official of the state of Wisconsin shall each appoint a member of a board of arbitration and these members shall appoint the third member of the board. The board shall select one of its members as chair. Such board may administer oaths, take testimony, subpoena witnesses, and require their attendance, require the production of books, papers and documents, and hold hearings at such places as are deemed necessary. The board shall then make a determination as to the amount to be paid the other state which determination shall be final and conclusive.

Notwithstanding the provisions of section 290.61, the commissioner may furnish copies of returns, reports, or other information to the taxing official of the state of Wisconsin, a member of the board of arbitration, or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of making a determination as to the amount to be paid the other state under the provisions of this section. Prior to the release of any information under the provisions of this section, the person to whom the information is to be released shall sign an agreement which provides that the person will protect the confidentiality of the returns and information revealed thereby to the extent that it is protected under the laws of the state of Minnesota.

Sec. 15. Minnesota Statutes 1986, section 290.091, subdivision 1, is amended to read:

Subdivision 1. [IMPOSITION OF TAX.] In addition to all other taxes imposed by this chapter a tax is imposed on individuals, estates, and trusts equal to the excess (if any) of

(a) an amount equal to ~~four~~ five percent of alternative minimum taxable income after subtracting the exemption amount, over

(b) the regular tax for the taxable year.

Sec. 16. Minnesota Statutes 1986, section 290.091, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal adjusted gross alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal tax preference items alternative minimum taxable income;

(3) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 20a, clauses (1), (3), and (4) 19a, clause (1); less the sum of

(i) interest income as defined in section 290.01, subdivision 20b 19b, clause (1);

(ii) an overpayment of state income tax as provided by section 290.01, subdivision 20b 19b, clause (4) (2); and

(iii) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed qualified net investment income, as defined in section 55(e)(5) 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(iv) to the extent included in the taxpayer's federal adjusted gross income, gain excluded from gross income under section 290.01, subdivision 20b, clause (13).

In the case of an estate or trust, adjusted gross alternative minimum taxable income must be modified computed as provided in section 55(e)(6)(B) 59(c) of the Internal Revenue Code and reduced by the deductions allowed under sections 642(e), 651(a), and 661(a) of the Internal Revenue Code.

(b) "Federal tax preference items" means items as defined in sections 57, 58, and 443(d) of the Internal Revenue Code, modified as follows:

(1) The capital gain preference item shall be reduced

(i) where the gain would be modified because some or all of the assets have a higher basis for Minnesota purposes than for federal purposes; and

(ii) to the extent it includes gain excluded from gross income under section 290.01, subdivision 20b, clause (13).

(2) In the case of a nonresident individual, or an estate or trust, with a net operating loss that is a larger amount for Minnesota than for federal, the capital gain preference item shall be reduced to the extent it was reduced in the allowance of the net operating loss.

(3) Federal preference items from the business of mining or producing iron ore and other ores which are subject to the occupation tax and exempt from taxation under section 290.05, subdivision 1, shall not be a preference item for Minnesota.

(4) Other federal preference items to the extent not allowed in the computation of Minnesota gross income, as determined by the commissioner, are not preference items for Minnesota.

(e) "Internal Revenue Code" means the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

(c) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

Sec. 17. Minnesota Statutes 1986, section 290.091, subdivision 3, is amended to read:

Subd. 3. [EXEMPTION AMOUNT.] For purposes of computing the alternative minimum tax, the exemption amount is:

(a) \$40,000 in the case of a married couple filing a joint return;

(b) \$30,000 in the case of an individual who is not married, as defined in section 143 of the Internal Revenue Code;

(c) \$20,000 in the case of

(1) an estate or trust or

(2) a married individual who files a separate tax return the exemption determined under section 55(d) of the Internal Revenue

Code, except that alternative minimum taxable income as determined under this section must be substituted in the computation of the phase out under section 55(d)(3).

Sec. 18. Minnesota Statutes 1986, section 290.095, subdivision 9, is amended to read:

Subd. 9. [SPECIAL PERIOD OF LIMITATION WITH RESPECT TO NET OPERATING LOSS CARRYBACKS.] For the purposes of sections 290.46 and 290.50 if the claim for refund relates to an overpayment attributable to a net operating loss carryback under this section or as the result in the case of an individual of an adjustment of "federal adjusted gross income" because of the carryback under section 172 of the Internal Revenue Code of 1954, as amended through December 31, 1985, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period shall be that period which ends with the expiration of the 15th day of the 46th month (or the 45th month, in the case of a corporation) following the end of the taxable year of the net operating loss which results in such carryback or adjustment of "federal adjusted gross income," plus any extension of time granted for filing the return, but only if the return was filed within the extended time. During this extended period, for taxable years beginning before January 1, 1985, married individuals who elected to file separate returns or a combined return may change their election and file a joint return.

Sec. 19. Minnesota Statutes 1986, section 290.095, subdivision 11, is amended to read:

Subd. 11. [CARRYBACK OR CARRYOVER ADJUSTMENTS.] (a) For individuals the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal adjusted gross income. For estates and trusts the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal taxable income.

(b) Notwithstanding any other law, estates and trusts must apply the following adjustments to the amount of the net operating loss that may be carried back or carried over must be made for:

(1) Nonassignable income or losses for estates and trusts as required by section 290.17, subdivision 2.

(2) Adjustments to the determination of federal adjusted gross income that must be made because of changes in the Internal Revenue Code that have not yet been adopted by the legislature by updating the reference to the Internal Revenue Code contained in section 290.01, subdivision 20.

(3) Gains or losses which result from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes subject to the limitations contained in section 290.01, subdivision 20b, clauses (2) and (3).

(4) Interest, taxes, and other Expenses, losses and other deductions not allowed allocated to Minnesota under section 290.10, clause (9), for estates and trusts 290.17.

(5) The modification for accelerated cost recovery system depreciation as provided in section 290.01, subdivision 20f.

(e)(1) (b) The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal adjusted gross income (or federal taxable income for provided that trusts and estates) subject to must apply the following modifications contained in clause (b) and to the following modifications:

(A) (1) Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and interest, taxes and other, expenses, and other deductions not assignable or allowable to Minnesota incurred in the taxable year.

(B) (2) Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year.

(C) A taxpayer who is not a resident of Minnesota during any part of the taxable year and who has no income assignable to Minnesota during the taxable year shall apply no net operating loss carryback or carryover in the taxable year.

(2) The provisions of section 172(b) of the Internal Revenue Code of 1954 as amended through December 31, 1985 (relating to carrybacks and carryovers) shall apply. For estates and trusts, the net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in clause (e)(1) (b) less the amount applied in the earlier taxable year(s). No additional net operating loss carryback or carryover shall be allowed to estates and trusts if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. However, if a net operating loss carryback or carryover that was allowed to offset federal income in a year earlier than was possible on the Minnesota return, an estate or trust shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.



(d) A net operating loss shall be allowed to be carried back or carried forward only to the extent that loss was assignable to Minnesota in the year the loss occurred or in the year to which the loss was carried over, whichever would allow more of the loss to be allowed for Minnesota purposes.

Sec. 20. Minnesota Statutes 1986, section 290.23, subdivision 3, is amended to read:

Subd. 3. [UNUSED LOSS CARRYOVERS AND EXCESS DEDUCTIONS ON TERMINATION AVAILABLE TO BENEFICIARIES.] If on the termination of an estate or trust, the estate or trust has

(1) a net operating loss carryover under section 290.095, a capital loss carryover under section 290.01, subdivisions 20 to 20f or any other loss or credit carryover allowed under this chapter; or

(2) for the last taxable year of the estate or trust deductions (other than the charitable deduction) in excess of gross income for such year,

then such carryover or such excess shall be allowed as a deduction, in accordance with rules prescribed by the commissioner, to the beneficiaries succeeding to the property of the estate or trust. This provision does not apply to individuals, and the carryovers and deductions must be reported as provided in section 290.01, subdivisions 19 to 19b.

Sec. 21. Minnesota Statutes 1986, section 290.23, subdivision 5, is amended to read:

Subd. 5. [DISTRIBUTABLE NET INCOME, INCOME, BENEFICIARY; DEFINED.] (1) For purposes of sections 290.22 through 290.25, the term "distributable net income" means the same as that term is defined in section 643(a) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986 with the following modification:

There shall be included any tax-exempt interest to which section 290.01, subdivision ~~20b~~ 19b, clause (1) applies, ~~reduced by any amounts which would be deductible in respect of disbursements allocable to such interest but for the provisions of section 290.10(9) (relating to disallowance of certain deductions).~~

If the estate or trust is allowed a deduction under section 642(c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, the amount of the modification shall be reduced to the extent that the amount of income which is paid, permanently set aside, or to be used for the purposes specified in

that section of the Internal Revenue Code is deemed to consist of items specified in the modification. For this purpose, such amount shall (in the absence of specific provisions in the governing instrument) be deemed to consist of the same proportion of each class of items of income of the estate or trust as the total of each class bears to the total of all classes.

(2) The term "income," and the term "beneficiary" have the same meaning as those terms are defined in section 643(b) and (c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. The treatment of property distributed in kind and of multiple trusts shall be the same as provided in section 643 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

Sec. 22. Minnesota Statutes 1986, section 290.31, subdivision 2, is amended to read:

Subd. 2. [INCOME AND CREDITS OF PARTNER.] (1) In determining income tax, each partner shall take into account separately the partner's distributive share of the partnership's

(a) gains and losses from sales or exchanges of short-term capital assets as defined in section 290.16, subdivision 3,

(b) gains and losses from sales or exchanges of long-term capital assets as defined in section 290.16, subdivision 3,

(c) gains and losses from sales or exchanges of property described in section 1231 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986 (relating to certain property used in a trade or business and involuntary conversions),

(d) charitable contributions as defined in section 170(c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986,

(e) dividends with respect to which there is provided an exclusion under section ~~116~~ or a deduction under sections 241 to 247 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986,

(f) other items of income, gain, loss, deduction, or credit, to the extent provided by rules prescribed by the commissioner, and

(g) taxable net income or loss, exclusive of items requiring separate computation under other subparagraphs of this paragraph (1).

(2) The character of any item of income, gain, loss, deduction, or credit included in a partner's distributive share under paragraphs (a) through (f) of paragraph (1) shall be determined as if such item were realized directly from the source from which realized by the partnership, or incurred in the same manner as incurred by the partnership.

(3) In any case where it is necessary to determine the gross income of a partner for purposes of this chapter, such amount shall include the partner's distributive share of the gross income of the partnership.

Sec. 23. Minnesota Statutes 1986, section 290.31, is amended by adding a subdivision to read:

Subd. 2a. The provisions of subdivisions 2 and 5 do not apply to individuals, and items of income, gain, loss, or deduction must be reported as provided in section 290.01, subdivisions 19 to 19b.

Sec. 24. Minnesota Statutes 1986, section 290.31, subdivision 3, is amended to read:

Subd. 3. [PARTNERSHIP COMPUTATIONS.] The taxable net income of a partnership shall be computed in the same manner as in the case of an individual except that

(1) the items described in subdivision 2(1) shall be separately stated, and

(2) the following deductions shall not be allowed to the partnership:

(a) the deduction for taxes provided in section 164(a) of the Internal Revenue Code of 1954, as amended through December 31, 1985, with respect to taxes, described in section 901 of the Internal Revenue Code of 1954, as amended through December 31, 1985, paid or accrued to foreign countries and to possessions of the United States,

(b) the deduction for charitable contributions provided in section 290.21, subdivision 3 or section 170 of the Internal Revenue Code of 1954, as amended through December 31, 1985,

(c) the net operating loss deduction provided in section 290.095,

(d) the additional itemized deductions for individuals provided in sections 211 to 223 of the Internal Revenue Code of 1954, as amended through December 31, 1985, and,

(c) the deduction for depletion under section 290.09, subdivision 8 with respect to oil and gas wells as provided in section 703(a) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Any election affecting the computation of taxable net income derived from a partnership shall be made by the partnership except as provided in section 703(b) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

Sec. 25. Minnesota Statutes 1986, section 290.31, subdivision 5, is amended to read:

Subd. 5. [DETERMINATION OF BASIS OF PARTNER'S INTEREST.] The adjusted basis of a partner's interest in a partnership shall, except as provided in the last paragraph of this subdivision, be the basis of such interest determined under section 722 or 742 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, relating to contributions to a partnership or transfers of partnership interests

(1) increased by the sum of the partner's distributive share for the taxable year and prior taxable years of

(a) net income of the partnership as determined under subdivision 3(1) and (2),

(b) income of the partnership exempt from tax under this chapter,

(c) the excess of the deductions for depletion over the basis of the property subject to depletion, and

(2) decreased (but not below zero) by distributions by the partnership as provided in section 733 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, and by the sum of the partner's distributive share for the taxable year and prior taxable years of

(a) losses of the partnership, and

(b) expenditures of the partnership not deductible in computing its taxable net income and not properly chargeable to capital account, and

(3) decreased, but not below zero, by the amount of the partner's deduction for depletion for any partnership oil and gas property to the extent the deduction does not exceed the proportionate share of the adjusted basis of the property allocated to the partner under section 613A(c)(7)(D) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. For corporate partners,

the deduction for depletion with respect to oil and gas wells shall be computed as provided in section 290.09, subdivision 8 290.01, subdivisions 19c and 19d.

The commissioner shall prescribe by rule the circumstances under which the adjusted basis of a partner's interest in a partnership may be determined by reference to the partner's proportionate share of the adjusted basis of partnership property upon a termination of the partnership.

Sec. 26. Minnesota Statutes 1986, section 290.37, subdivision 1, is amended to read:

Subdivision 1. [PERSONS MAKING RETURNS.] (a) ~~The commissioner of revenue shall annually determine the gross income levels at which individuals, trusts, and estates shall be required to file a return for each taxable year. A taxpayer shall file a return for each taxable year the taxpayer is required to file a return under section 6012 of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that an individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's Minnesota gross income computed under section 290.06, subdivision 2e, clause (1) derived from Minnesota sources under section 290.17, is less than the filing requirements for an a single individual who is a full year resident of Minnesota with the same marital status and number of personal credits.~~

The decedent's final income tax return, and all other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, shall be filed by the decedent's personal representative, if any. If there is no personal representative, the return or returns shall be filed by the transferees as defined in section 290.29, subdivision 3, who receive any property of the decedent.

The trustee or other fiduciary of property held in trust shall file a return with respect to the taxable net income of such trust if that exceeds an amount determined by the commissioner if such trust belongs to the class of taxable persons.

Every corporation shall file a return. The commissioner may adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report if the affiliated group includes a corporation subject to tax under section 290.361. The return in the case of a corporation shall be signed by a person designated by the corporation.

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer shall file a return with respect to the taxable net income of such taxpayer if a return is required.

(b) Such return shall (1) contain a written declaration that it is correct and complete, and (2) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

(c) For purposes of this subdivision the term "gross income" shall mean gross income as defined in section 61 of the Internal Revenue Code of 1954, as amended through December 31, 1985, modified and adjusted in accordance with the provisions of sections 290.01, subdivision 20b, clauses (1), (6), (7), and (8), 290.08, and 290.17.

Sec. 27. Minnesota Statutes 1986, section 290.37, subdivision 3, is amended to read:

Subd. 3. [INFORMATION INCLUDED IN RETURN.] The return provided for herein shall require a statement of the name of the taxpayer, or taxpayers, if the return be a joint return, and the address of such taxpayer in the same name or names and same address as the taxpayer has used in making the taxpayer's income tax return to the United States under the terms of the Internal Revenue Code of 1954 1986, and shall include the social security number of the taxpayer, or taxpayers, if a social security number has been issued by the United States with respect to said taxpayers, and shall include the amount of the adjusted gross taxable income of such taxpayer as the same appears on said return to the United States internal revenue service for the taxable year to which such Minnesota state return is applicable; and the commissioner may require. The taxpayer to shall attach to the taxpayer's Minnesota state income tax return a copy of the federal income tax return which the taxpayer has filed or is about to file for such period.

Sec. 28. Minnesota Statutes 1986, section 290.38, is amended to read:

#### 290.38 [RETURNS OF MARRIED PERSONS.]

A husband and wife must file a joint Minnesota income tax return if they filed a joint federal income tax return. If a joint return is made the tax shall be computed on the aggregate income and the liability with respect to the tax shall be joint and several. If the husband and wife have elected to file separate federal income tax returns they must file separate Minnesota income tax returns. This election to file a joint or separate returns must be changed if they change their election for federal purposes. In the event taxpayers desire to change their election, such change shall be done in the manner and on such form as the commissioner shall prescribe by rule.

The determination of whether an individual is married is must be made as of the close of that person's taxable year; except that if that person's spouse dies during the taxable year the determination is made as of the time of the death. An individual who is legally separated from a spouse under a decree of divorce, dissolution, or of separate maintenance is not considered to be married under the provisions of section 7703 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

In the case of the death of one spouse or both spouses the joint return with respect to the decedent may be made only by the personal representative of the decedent's estate; except that in the case of the death of one spouse the joint return may be made by the surviving spouse with respect to both the survivor and the decedent if (a) no return for the taxable year has been made by the decedent, (b) no personal representative has been appointed, and (c) no personal representative is appointed before the last day prescribed by law for filing the return of the surviving spouse. If a personal representative of the estate of the decedent is appointed after the joint return has been filed by the surviving spouse, the personal representative may disaffirm such joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was made, in which case the return made by the survivor shall constitute the survivor's separate return provided that the election has been also disaffirmed for federal purposes.

Sec. 29. Minnesota Statutes 1986, section 290.39, subdivision 3, is amended to read:

Subd. 3. [SHORT FORM.] The commissioner may provide for use of a short form individual income tax return which shall be in the form and provide for items as the commissioner may prescribe which are consistent with the provisions of this chapter, notwithstanding any other law to the contrary. The political checkoff provided in section 10A.31, the nongame wildlife checkoff provided in section 290.431, and the dependent care credit provided in section 290.067 shall be included on the short form.

Sec. 30. Minnesota Statutes 1986, section 290.45, subdivision 1, is amended to read:

Subdivision 1. [DATE DUE, INSTALLMENTS.] The tax imposed by this chapter shall be paid to the commissioner of revenue at the time fixed for filing the return on which the tax is based; except that at the election of estates the balance of tax due may be paid in two equal installments.

The first shall be paid at the time fixed for filing the return, and the second on or before six months thereafter.

If any installment is not paid on or before the date fixed for its payment the whole amount of the tax unpaid shall become due and payable. They shall be paid to the commissioner or to the local officers designated by the commissioner with whom the return is filed as hereinbefore provided.

Sec. 31. Minnesota Statutes 1986, section 290.45, subdivision 2, is amended to read:

Subd. 2. [EXTENSIONS.] At the request of the taxpayer, and for good cause shown, the commissioner may extend the time for payment of the amount determined as the tax by the taxpayer, ~~or any installment thereof~~, or any amount determined as a deficiency, for a period not to exceed six months from the date prescribed for the payment of the tax ~~or an installment thereof~~. In such case the amount in respect of which the extension is granted shall be paid together with interest at the rate specified in section 270.75 on or before the date of the expiration of the period of the extension.

Sec. 32. Minnesota Statutes 1986, section 290.46, is amended to read:

290.46 [EXAMINATION OF RETURNS; ASSESSMENTS, REFUNDS.]

The commissioner shall, as soon as practicable after the return is filed, examine the same and make any investigation or examination of the taxpayer's records and accounts that the commissioner may deem necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of such examination and investigation shall be the tax to be paid by such taxpayer. If the tax found due shall be greater than the amount reported as due on the taxpayer's return, the commissioner shall assess a tax in the amount of such excess and the whole amount of such excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment shall have been mailed to the taxpayer by the commissioner. If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the taxpayer on the return which have not yet been paid shall be paid to the commissioner within 60 days after notice of the amount thereof and demand for payment shall have been mailed to the taxpayer by the commissioner. If the amount of the tax found due by the commissioner shall be less than that reported as due on the taxpayer's return, the excess shall be refunded to the taxpayer in the manner provided by section 290.50 (except that no demand therefor shall be necessary), if the taxpayer has already paid the whole of such tax, or credited against any unpaid installment thereof; provided, that no refundment shall be made except as provided in section 290.50.



The commissioner, on examining returns of a taxpayer for more than one year, may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by sections 290.46 to 290.48 shall be in such form as the commissioner may determine (including a statement) and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the taxpayer at the address given in the return, or to the taxpayer's last known address.

In cases where there has been an overpayment of a self-assessed liability as shown on the return filed by the taxpayer, the commissioner may refund such overpayment to the taxpayer and no demand therefor shall be necessary; further, written findings by the commissioner, notice by mail to the taxpayer and certificate for refundment by the commissioner shall not be necessary and the provisions of section 270.10, in such case, shall not be applicable.

~~In the case of an individual, estate or trust, The commissioner may audit and adjust the taxpayer's computation of federal adjusted gross income (or federal taxable income for estates or trusts) to make it properly conform with the provisions of section 290.01, subdivision 20 subdivisions 19 to 19b, or the items of federal tax preferences or federal credit amounts to make them properly conform with the provisions of this chapter. In the case of an individual, the commissioner may audit and adjust the taxpayer's computation of itemized deductions to make them properly conform with the provisions of section 290.089.~~

Sec. 33. Minnesota Statutes 1986, section 290.48, subdivision 10, is amended to read:

Subd. 10. [PRESUMPTIONS WHERE OWNER OF LARGE AMOUNT OF CASH IS NOT IDENTIFIED.] (a) If the individual who is in physical possession of cash in excess of \$10,000 does not claim such cash, or does not claim it belongs to another person whose identity the commissioner can readily ascertain and who acknowledges ownership of such cash, then, for purposes of subdivisions 3 and 4, it shall be presumed that the cash represents gross income of a single individual for the taxable year in which the possession occurs, and that the collection of tax will be jeopardized by delay.

(b) In the case of any assessment resulting from the application of clause (a), the entire amount of the cash shall be treated as taxable income for the taxable year in which the possession occurs, such income shall be treated as taxable at an eight percent rate, and except as provided in clause (c), the possessor of the cash shall be treated (solely with respect to the cash) as the taxpayer for purposes of this chapter and the assessment and collection of the tax.

(c) If, after an assessment resulting from the application of clause (a), the assessment is abated and replaced by an assessment against the owner of the cash, the later assessment shall be treated for purposes of all laws relating to lien, levy, and collection as relating back to the date of the original assessment.

(d) For purposes of this subdivision, the definitions contained in section 6867 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply.

Sec. 34. Minnesota Statutes 1986, section 290.491, is amended to read:

290.491 [TAX ON GAIN; DISCHARGE IN BANKRUPTCY.]

(a) Any tax due under this chapter on a gain realized on a forced sale pursuant to foreclosure of a mortgage or other security interest in agricultural production property, other real property, or equipment, used in a farm business that was owned and operated by the taxpayer shall be a dischargeable debt in a bankruptcy proceeding under United States Code, title 11, section 727.

(b) Income realized on a sale or exchange of agricultural production property, other real property, or equipment, used in a farm business that was owned and operated by the taxpayer shall be exempt from taxation under this chapter, if the taxpayer was insolvent at the time of the sale and the proceeds of the sale were used solely to discharge indebtedness secured by a mortgage, lien or other security interest on the property sold. For purposes of this section, "insolvent" means insolvent as defined in section 108(d)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985. This paragraph applies only to the extent that the gain is includable in federal adjusted gross income or in the computation of the alternative minimum taxable income under section 290.091 for purposes of the alternative minimum tax. The amount of the exemption is limited to the excess of the taxpayer's (1) liabilities over (2) the total assets and any exclusion claimed under section 108 of the Internal Revenue Code of 1954, as amended through December 31, 1985, determined immediately before application of this paragraph.

(c) For purposes of this section, any tax due under this chapter specifically includes, but is not limited to, tax imposed under sections 290.02 and 290.03 on income derived from a sale or exchange, whether constituting gain, discharge of indebtedness or recapture of depreciation deductions, or the alternative minimum tax imposed under section 290.091.

Sec. 35. Minnesota Statutes 1986, section 290.56, subdivision 2, is amended to read:

Subd. 2. [CHANGE IN FEDERAL RETURN.] If the amount of gross income, items of tax preference, deductions, or credits for any year of any taxpayer as reported to the Internal Revenue Service is changed or corrected by the Commissioner of Internal Revenue or other officer of the United States or other competent authority, or where a renegotiation of a contract or subcontract with the United States results in a change in gross income, items of tax preference, deductions, or credits, such taxpayer shall report in writing to the commissioner, in such form as the commissioner may require, such change or correction, or the results of such renegotiation, within 90 days ~~thereafter~~ after the final determination of the change or correction, and shall ~~concede the accuracy of such determination or state wherein it is erroneous~~. Any taxpayer filing an amended federal income tax return shall also file within 90 days thereafter a copy of such amended return with the commissioner of revenue.

Sec. 36. Minnesota Statutes 1986, section 290.92, subdivision 2a, is amended to read:

Subd. 2a. [COLLECTION AT SOURCE.] (1) [DEDUCTIONS.] Every employer making payment of wages shall deduct and withhold upon such wages a tax as provided in this section.

(2) [WITHHOLDING ON PAYROLL PERIOD.] The employer shall withhold the tax on the basis of each payroll period or as otherwise provided in this section.

(3) [WITHHOLDING TABLES.] Unless the amount of tax to be withheld is determined as provided in subdivision 3, the amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of exemptions allowed under this section; and the amounts computed for withholding shall be such that the amount withheld for any individual during the individual's taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under this chapter for that taxable year, upon the individual's salary, wages, or compensation for personal services of any kind for the employer; ~~and shall take into consideration the deduction allowable under section 290.089, subdivision 3, and the personal credits allowed against the tax.~~

(4) [MISCELLANEOUS PAYROLL PERIOD.] If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(5) [MISCELLANEOUS PAYROLL PERIOD.] (a) In any case in which wages are paid by an employer without regard to any payroll

period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(b) In any case in which the period, or the time described in clause (a), in respect of any wages is less than one week, the commissioner, under rules prescribed by the commissioner, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(6) [WAGES COMPUTED TO NEAREST DOLLAR.] If the wages exceed the highest bracket, in determining the amount to be deducted and withheld under this subdivision, the wages may, at the election of the employer, be computed to the nearest dollar.

(7) [RULES ON WITHHOLDING.] The commissioner may, by rule, authorize employers:

(a) to estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) to determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) to deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this paragraph (7).

(8) [ADDITIONAL WITHHOLDING.] The commissioner is authorized to provide by rule for increases or decreases in the amount of withholding otherwise required under this section in cases where the employee requests the changes. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this section.

(9) [TIPS.] In the case of tips which constitute wages, this subdivision shall be applicable only to such tips as are included in a written statement furnished to the employer pursuant to section 6053 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, and only to the extent that the tax

can be deducted and withheld by the employer, at or after the time such statement is so furnished and before the close of the calendar year in which such statement is furnished, from such wages of the employee (excluding tips, but including funds turned over by the employee to the employer for the purpose of such deduction and withholding) as are under the control of the employer; and an employer who is furnished by an employee a written statement of tips (received in a calendar month) pursuant to section 6053 of the Internal Revenue Code of 1954 1986 as amended through December 31, 1985 1986, to which subdivision 1 is applicable may deduct and withhold the tax with respect to such tips from any wages of the employee (excluding tips) under the employer's control, even though at the time such statement is furnished the total amount of the tips included in statements furnished to the employer as having been received by the employee in such calendar month in the course of employment by such employer is less than \$20. Such tax shall not at any time be deducted and withheld in an amount which exceeds the aggregate of such wages and funds as are under the control of the employer minus any tax required by other provisions of state or federal law to be collected from such wages and funds.

(10) [VEHICLE FRINGE BENEFITS.] An employer shall not deduct and withhold any tax under this section with respect to any vehicle fringe benefit provided to an employee if the employer has so elected for federal purposes and the requirement of and the definition contained in section 3402(s) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, are complied with.

Sec. 37. Minnesota Statutes 1986, section 290.92, subdivision 4a, is amended to read:

Subd. 4a. [TAX WITHHELD FROM NONRESIDENTS.] (1) [“WAGES” PAID TO NONRESIDENT EMPLOYEES.] For the purposes of this section: The term “wages” means all remuneration taxable under this chapter including all remuneration paid to a nonresident employee for services performed in this state.

(2) [“EMPLOYER,” “WAGES” AND “EMPLOYEE” CONCERNING NONRESIDENTS.] Notwithstanding any other provision of this section, under rules to be prescribed by the commissioner of revenue, for purposes of this section any person having control, receipt, custody, disposal or payment of compensation taxable under this chapter and earned by a nonresident for personal services, shall be deemed an employer, any compensation taxable under this chapter and earned by a nonresident for personal services shall be deemed wages, and a nonresident entitled to compensation taxable under this chapter and earned by the nonresident for personal services shall be deemed an employee.

When compensation for personal services is paid to a corporation in which all or substantially all of the shareholders are individual

entertainers, performers or athletes who gave an entertainment or athletic performance in this state for which the compensation was paid, the compensation shall be deemed wages of the individual entertainers, performers or athletes and shall be subject to the provisions of this section. Advance payments of compensation for personal services to be performed in Minnesota shall be deemed wages and subject to the provisions of this section. ~~The individual, and not the corporation, shall be subject to the Minnesota income tax as provided in this chapter on the compensation for personal services.~~

(3) [NONRESIDENTS, EMPLOYER'S DUTY.] The employer of any employee domiciled in a state with which Minnesota has reciprocity under section 290.081 is not required to withhold under this chapter from the wages earned by such employee in this state.

The employee must annually submit to the employer an affidavit of residency in the form prescribed by the commissioner. The affidavit must be submitted by the later of

(i) 30 days after the employment date or

(ii) August 31 for calendar year 1987 and February 28 for subsequent calendar years.

Sec. 38. Minnesota Statutes 1986, section 290.92, subdivision 5, is amended to read:

Subd. 5. [EXEMPTIONS.] (1) [ENTITLEMENT.] An employee receiving wages shall on any day be entitled to claim withholding exemptions equal to the same number as the personal credits that the employee is entitled to claim under the provisions of section 290.06, subdivision 3f, (not including those credits that the taxpayer's spouse may claim) in a number not to exceed the number of withholding exemptions that the employee claims and that are allowable for federal withholding purposes under section 3402(f) and (m) of the Internal Revenue Code of 1986, as amended through December 31, 1986.

(2) [WITHHOLDING EXEMPTION CERTIFICATE.] The provisions concerning exemption certificates contained in section 3402(f)(2) and (3) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply.

(3) [FORM OF CERTIFICATE.] Withholding exemption certificates shall be in such form and contain such information as the commissioner may by rule prescribe.

(4) [NUMBER MAY BE SAME AS THAT FOR FEDERAL PURPOSES.] Notwithstanding the provisions of this subdivision, an

employee may elect to claim a number not to exceed the number of withholding exemptions that the employee claims and which are allowable for federal withholding purposes.

Sec. 39. Minnesota Statutes 1986, section 290.92; subdivision 5a, is amended to read:

Subd. 5a. [VERIFICATION OF WITHHOLDING EXEMPTIONS; APPEAL.] (1) An employer shall submit to the commissioner a copy of any withholding exemption certificate or affidavit of residency received from an employee on which the employee claims any of the following:

(a) a total number of withholding exemptions in excess of 14 ten or a number prescribed by the commissioner, or

(b) a status that would exempt the employee from Minnesota withholding, including where the employee is a nonresident exempt from withholding under subdivision 4a, clause (3), except where the employer reasonably expects, at the time that the certificate is received, that the employee's wages under subdivision 1 from the employer will not then usually exceed \$200 per week, or

(c) any number of withholding exemptions which the employer has reason to believe is in excess of the number to which the employee is entitled.

(2) Copies of exemption certificates and affidavits of residency required to be submitted by clause (1) shall be submitted to the commissioner within 30 days after receipt by the employer unless the employer is also required by federal law to submit copies to the Internal Revenue Service, in which case the employer may elect to submit the copies to the commissioner at the same time that the employer is required to submit them to the Internal Revenue Service.

(3) An employer who submits a copy of a withholding exemption certificate in accordance with clause (1) shall honor the certificate until notified by the commissioner that the certificate is invalid. The commissioner shall mail a copy of any such notice to the employee. Upon notification that a particular certificate is invalid, the employer shall not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner in accordance with clause (4).

(4) The commissioner may require an employee to verify entitlement to the number of exemptions or to the exempt status claimed on the withholding exemption certificate or, to verify nonresidency. The employee shall be allowed at least 30 days to submit the

verification, after which time the commissioner shall, on the basis of the best information available to the commissioner, determine the employee's status and allow the employee the maximum number of withholding exemptions allowable under this chapter. The commissioner shall mail a notice of this determination to the employee at the address listed on the exemption certificate in question or to the last known address of the employee. Notwithstanding the provisions of section 290.61, the commissioner may notify the employer of this determination and instruct the employer to withhold tax in accordance with the determination.

However, where the commissioner has reasonable grounds for believing that the employee is about to leave the state or that the collection of any tax due under this chapter will be jeopardized by delay, the commissioner may immediately notify the employee and the employer, notwithstanding section 290.61, that the certificate is invalid, and the employer must not honor that certificate or any subsequent certificate unless instructed to do so by the commissioner. The employer shall allow the employee the number of exemptions and compute the withholding tax as instructed by the commissioner.

(5) The commissioner's determination under clause (4) shall be appealable to tax court in accordance with section 271.06, and shall remain in effect for withholding tax purposes pending disposition of any appeal.

Sec. 40. Minnesota Statutes 1986, section 290.92, subdivision 6, is amended to read:

Subd. 6. [RETURNS, DEPOSITS.] (1)(a) [RETURNS.] Every employer who is required to deduct and withhold tax under subdivision 2a or 3 shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided. However, any return may be filed on or before the tenth day of the second calendar month following the period if the return shows timely deposits in full payment of the taxes due for that period. For the purpose of the preceding sentence, a deposit which is not required to be made within the return period, may be made on or before the last day of the first calendar month following the close of the period. Every employer, in preparing a quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return, but no extension shall be granted for more than ~~six months~~ 60 days.



(b) [ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.] (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3 exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer shall deposit the undeposited taxes with the commissioner within three banking days after the close of the eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of the month.

(c) [OTHER METHODS.] The commissioner may by rule prescribe other return periods or deposit requirements. In prescribing the reporting period, the commissioner may classify employers according to the amount of their tax liability and may adopt an appropriate reporting period for each class which the commissioner deems to be consistent with efficient tax collection. In no event shall the duration of the reporting period be more than one year.

(2) If less than the correct amount of tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in the manner and at the times as the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment shall be assessed and collected in the manner and at the times as the commissioner prescribes.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed, or makes and files a false or fraudulent return, the commissioner shall make for the employer a return from the commissioner's own knowledge and from information the commissioner obtains through testimony, or otherwise, and assess a tax on the basis of it. The amount of tax shown on it shall be paid to the commissioner at the times as the commissioner prescribes. Any return or assessment made by the commissioner shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect to it.

(4) The commissioner, in any case, on having reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, may immediately assess the tax, whether or

not the time otherwise prescribed by law for making and filing the return and paying the tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer in the office of the commissioner in accordance with rules prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within  $3\frac{1}{2}$  years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later. In the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time. The tax may be assessed within  $6\frac{1}{2}$  years after the due date of the return or the date the return was filed, whichever is later, where the employer omitted withholding tax from the return which is properly includable therein and the omitted withholding tax is in excess of 25 percent of the amount of withholding tax stated on the return.

(7)(a) Except as provided in (b) of this paragraph, every employer who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state for the sum or sums (and any added penalties and interest). Any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or 3 shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, in violation of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld shall not be collected from the employer; but this does not relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

(8) Upon the failure of any employer to pay to or deposit with the commissioner, within the time provided by paragraph (1), (2), or (3) of this subdivision, any tax required to be withheld in accordance with the provisions of subdivision 2a or 3, or if the commissioner has assessed a tax pursuant to paragraph (4), the tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from the employer. The statement shall also give the address of the employer owing the tax, the period for which the tax is due, the date of the delinquency, and any other information required by the attorney general. The attorney general shall institute legal action in the name of the state to recover the amount of the tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts stated in it and that the

amount shown in it is due from the employer named in the statement. If an action is instituted, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding it as security for any judgment which has been or may be recovered. Any action must be brought within five years after the date of assessment of any tax under this subdivision.

(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

(9) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may appeal the judgment as in other civil cases.

(10) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added to it.

Sec. 41. Minnesota Statutes 1986, section 290.93, subdivision 10, is amended to read:

Subd. 10. [UNDERPAYMENT OF ESTIMATED TAX.] (1) In the case of any underpayment of estimated tax by an individual, except as provided in paragraph (5) or (6), there must be added to and become a part of the taxes imposed by this chapter, for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of the underpayment for the period of the underpayment.

(2) For purposes of the preceding paragraph, the amount of underpayment shall be the excess of

(a) the amount of the installment required to be paid over

(b) the amount, if any, of the installment paid on or before the last day prescribed for such payment.

(3) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier

(a) The 15th day of the fourth month following the close of the taxable year.

(b) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this subparagraph, a payment of estimated tax on any installment date shall be considered a payment of any unpaid required installments in the order in which the installments are required to be paid.

(4) The amount of any installment required to be paid shall be 25 percent of the required annual payment except as provided in paragraph (c). The term "required annual payment" means the lesser of

(a) 80 90 percent ( $66\frac{2}{3}$  percent in the case of farmers referred to in subdivision 5, paragraph (2)), of the tax shown on the return for the taxable year or 80 90 percent ( $66\frac{2}{3}$  percent in the case of farmers referred to above) of the tax for the year if no return is filed, or

(b) The total tax liability shown on the return of the individual for the preceding taxable year (if a return showing a liability for such taxes was filed by the individual for the preceding taxable year of 12 months), or

(c) An amount equal to the applicable percentage of the tax for the taxable year (~~after deducting personal credits~~) computed by placing on an annualized basis the taxable income and alternative minimum taxable income for the months in the taxable year ending before the month in which the installment is required to be paid. The applicable percentage of the tax is 20 22.5 percent in the case of the first installment, 40 45 percent for the second installment, 60 67.5 percent for the third installment, and 80 90 percent for the fourth installment. For purposes of this subparagraph, the taxable income and alternative minimum taxable income shall be placed on an annualized basis by

(i) Multiplying by 12 (or in the case of a taxable year of less than 12 months, the number of months in the taxable year) the taxable income and alternative minimum taxable income computed for the months in the taxable year ending before the month in which the installment is required to be paid.

(ii) Dividing the resulting amount by the number of months in the taxable year ending before the month in which such installment date falls.

(5) No addition to the tax shall be imposed under this subdivision for any taxable year if:

(a) the individual did not have any liability for tax for the preceding taxable year,

(b) the preceding taxable year was a taxable year of 12 months, and

(c) the individual was a resident of Minnesota throughout the preceding taxable year.

(6) No addition to the tax shall be imposed under this subdivision with respect to any underpayment to the extent the commissioner determines that the provisions of section 6654(e)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1985, apply.

(7) For the purposes of applying this subdivision, the estimated tax shall be computed without any reduction for the amount which the individual estimates as the individual's credit under section 290.92, subdivision 12 (relating to tax withheld at source on wages), and any other refundable credits which are allowed against income tax liability, and the amount of such credits for the taxable year shall be deemed a payment of estimated tax, and an equal part of such amounts shall be deemed paid on each installment date (determined under subdivisions 6 and 7) for such taxable year, unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts so withheld shall be deemed payments of estimated tax on the dates on which such amounts were actually withheld.

Sec. 42. Minnesota Statutes 1986, section 290.9726, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULE.] The gross income of the shareholders of corporations described in section 290.9725 shall be computed under the provisions of section 290.01, subdivisions subdivision 20 to 20f.

Sec. 43. Minnesota Statutes 1986, section 290.9726, subdivision 2, is amended to read:

Subd. 2. [CHARACTER OF ITEMS DISTRIBUTED OR CONSIDERED DISTRIBUTED.] The character of any item of income, gain, loss, or deduction included in shareholder's income, for the period of time that the shareholder is not a resident of Minnesota, shall be assignable as provided in section 290.17, subdivision 2, determined as if the item were realized directly from the source from which it was realized by the corporation or incurred in the same manner as incurred by the corporation.

Sec. 44. Minnesota Statutes 1986, section 290.9726, subdivision 4, is amended to read:

Subd. 4. [TREATMENT OF FAMILY GROUPS.] Any amount of taxable income apportioned or allocated to a shareholder may be apportioned reapportioned or allocated by the commissioner between or among shareholders of the corporation who are members of the shareholder's family, as defined in section 290.10, clause (6) reallocated under the provisions of section 1366(e) of the Internal Revenue Code of 1986, as amended through December 31, 1986, if the commissioner determines that the apportionment or allocation is it necessary in order to correctly reflect the value of services rendered to the corporation by the shareholders.

Sec. 45. Minnesota Statutes 1986, section 290.974, is amended to read:

#### 290.974 [RETURN OF S CORPORATION.]

Every S corporation shall make a return for each taxable year during which said election is in effect stating specifically the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, each shareholder's pro rata share of each item of the corporation for the taxable year, and such other information for the purposes of carrying out the provisions of sections 290.01, subdivisions ~~20 19 to 20f 19b~~ and 290.9725 as the commissioner may by forms and rules prescribe.

Sec. 46. Minnesota Statutes 1986, section 462C.11, subdivision 2, is amended to read:

Subd. 2. [PROGRAM REQUIREMENTS.] Mortgage credit certificate programs adopted by the city shall comply with all of the provisions of section 25 of the Internal Revenue Code of ~~1954, as amended through July 18, 1984~~ 1986.

Sec. 47. Minnesota Statutes 1986, section 462C.11, subdivision 3, is amended to read:

Subd. 3. [CORRECTION AMOUNTS.] Correction amounts determined by the secretary of the treasury because of the failure of a mortgage credit certificate program to comply with a federal statute or regulation shall be assessed pursuant to section 462C.09, subdivision 5 against the amount of qualified mortgage bonds allocated by chapter 474A to the issuer which adopted the program. If no allocation exists or it is less than the correction amount determined by the secretary of the treasury, then the amount of the correction amount in excess of the allocation shall be assessed against the multifamily housing pool.

## Sec. 48. [LUMP SUM DISTRIBUTIONS.]

If an individual elects to treat a lump sum distribution received after December 31, 1986 and before March 16, 1987 as if it were received in taxable year 1986 under section 1124 of the Tax Reform Act of 1986, Public Law Number 99-514, the individual shall treat the distribution as if it were received in taxable year 1986 for purposes of the lump sum distribution tax imposed under Minnesota Statutes 1986, section 290.032.

## Sec. 49. [ALTERNATIVE MINIMUM TAX.]

In taxable years beginning prior to January 1, 1988, for purposes of the tax imposed by Minnesota Statutes, section 290.091, section 13208(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, Public Law Number 99-272 is effective at the same time that it is effective for federal income tax purposes. The time limit for filing a claim or an amended return for the year 1982 shall be the same as the time provided under section 1896 of the Tax Reform Act of 1986, Public Law Number 99-514, for the filing of a similar claim or amended return for federal purposes.

## Sec. 50. [MINISTERS; MILITARY PERSONNEL.]

Mortgage interest and property taxes paid by a minister or by military personnel allocable to a parsonage allowance or an off base military allowance are deductible for all taxable years to the extent allowed by section 144 of the Tax Reform Act of 1986, Public Law Number 99-514.

## Sec. 51. [ESTIMATED TAX, EXCEPTION.]

No addition to tax, penalties, or interest may be made under Minnesota Statutes, section 290.53 or 290.93 for any period before January 15, 1988 with respect to an underpayment of estimated tax, to the extent that the underpayment was created or increased by elimination of the subtractions for pension income, military pay, or unemployment compensation.

## Sec. 52. [INSTRUCTION TO REVISOR.]

In the next edition of Minnesota Statutes, the revisor of statutes shall substitute the phrase "Internal Revenue Code of 1986, as amended through December 31, 1986" for the words "Internal Revenue Code of 1954 as amended through December 31, 1985" wherever that phrase occurs in chapters 290, except in section 290.01, subdivision 20, and 291.

## Sec. 53. [REPEALER.]

Minnesota Statutes 1986, sections 290.01, subdivisions 20a, 20b, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.077, subdivision 3; 290.079; 290.08; 290.085; 290.088; 290.089; 290.09; 290.12, subdivision 4; 290.139; and 290.9726, subdivisions 3, 5, and 6, are repealed.

Sec. 54. [PURPOSE.]

It is the intent of the legislature to simplify Minnesota's income tax. In order to simplify, many complicating provisions are repealed by this article and the revenue is used to fund income tax relief. It is the clear intent of the legislature to eliminate all carryovers and basis adjustments of these complicating provisions and conform with federal tax law as quickly as possible.

Sec. 55. [EFFECTIVE DATE.]

Sections 1 to 5, 8 to 29, 32, 34, 42 to 45, and 53 are effective for taxable years beginning after December 31, 1986. Sections 30 and 31 are effective for taxable years ending after the date of final enactment. Section 33 is effective August 1, 1986. Sections 35 to 40 are effective the day after final enactment. Section 41 is effective for taxable years beginning after December 31, 1987. Section 6 is effective for taxable years beginning after December 31, 1986, except as otherwise provided in clauses (i) to (v) of that section.

ARTICLE 2

BUSINESS AND INSURANCE TAXES

Section 1. Minnesota Statutes 1986, section 60A.13, subdivision 1a, is amended to read:

Subd. 1a. In addition, on or before March 1 of each year, an insurance company, including reciprocal exchanges and fraternal benefit societies, doing business in Minnesota shall file with the commissioner of revenue a copy of the annual statement required by subdivision 1. A company that fails to file a copy of the statement with the commissioner is subject to the penalties in section 72A.061.

Sec. 2. Minnesota Statutes 1986, section 60A.15, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC AND FOREIGN COMPANIES OTHER THAN TOWN AND FARMERS' MUTUAL AND DOMESTIC MUTUALS OTHER THAN LIFE.] On or before April 15, June 15, and December 15 of each year, every domestic and foreign company, except including town and farmers' mutual insurance companies and, domestic mutual insurance companies other than



life, and fraternal benefit societies, shall pay to the commissioner of revenue installments equal to one-third of the insurer's total estimated tax for the current year based on a sum equal to two percent of the gross premiums less return premiums on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during such year, excepting premiums written for marine insurance as specified in subdivision 6. Failure of a company to make payments of at least one-third of either (a) the total tax paid during the previous calendar year or (b) 80 percent of the actual tax for the current calendar year shall subject the company to the penalty and interest provided in this subdivision section. A foreign fraternal benefit society is subject to the rate of gross premiums tax imposed on fraternal benefit societies by the state in which it is domiciled. A foreign fraternal benefit society is domiciled in the state in which it is incorporated and where its principal offices are located.

Sec. 3. Minnesota Statutes 1986, section 60A.199, subdivision 1, is amended to read:

Subdivision 1. [EXAMINATION OF BOOKS AND RECORDS.] If the commissioner considers it necessary, the commissioner may examine the books and records of a surplus lines licensee to determine whether the licensee is conducting business in accordance with sections 60A.195 to 60A.209. For the purposes of facilitating examinations, the licensee shall allow the commissioner free access at reasonable times to all of the licensee's books and records relating to the transactions to which sections 60A.195 to 60A.209 apply. If an examination is conducted, the cost of the examination shall be paid by the insurer surplus line agent or agency.

Sec. 4. Minnesota Statutes 1986, section 60A.199, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF RETURNS; ASSESSMENT; REFUNDS.] The commissioner of revenue shall, as soon as practicable after a return required by section 60A.198 is filed, examine it and make any investigation or examination of the ~~company's~~ licensee's records and accounts that the commissioner deems necessary for determining the correctness of the return. The tax computed by the commissioner on the basis of the examination and investigation is the tax to be paid by the ~~company~~ licensee. If the tax found due is greater than the amount reported due on the ~~company's~~ licensee's return, the commissioner shall assess a tax in the amount of the excess and the whole amount of the excess shall be paid to the commissioner within 60 days after notice of the amount and demand for its payment is mailed to the ~~company~~ licensee by the commissioner. ~~If the understatement of the tax on the return was false and fraudulent with intent to evade the tax, the installments of the tax shown by the company on its return which are not paid shall be paid to the state treasurer within 60 days after notice of the amount thereof and demand for payment is mailed to the company by the~~

~~commissioner.~~ If the amount of the tax found due by the commissioner is less than that reported due on the ~~company's~~ licensee's return, the excess shall be refunded to the ~~company~~ licensee in the manner provided by this section; ~~except that no demand therefor is necessary, if the whole of the tax has been paid or credited against any unpaid installment thereof.~~ No refund shall be made except as provided in this section after the expiration of 3½ years after the filing of the return.

If the commissioner examines returns of a ~~company~~ licensee for more than one year, the commissioner may issue one order covering the several years under consideration reflecting the aggregate refund or additional tax due.

The notices and demands provided for by this section shall be in the form the commissioner determines, including a statement, and shall contain a brief explanation of the computation of the tax and shall be sent by mail to the ~~company~~ licensee at the address given in its on the return. If the address is not given, then they will be sent to the last known address.

At the request of the commissioner of revenue, the commissioner of commerce may examine and investigate the returns under section 60A.198 that the commissioner of revenue designates. The commissioner of commerce shall report to the commissioner of revenue the results of the examination in the manner required by the commissioner of revenue.

Sec. 5. Minnesota Statutes 1986, section 60A.199, subdivision 3, is amended to read:

Subd. 3. [FAILURE TO FILE; FALSE OR FRAUDULENT RETURN.] If any ~~company~~ licensee required by section 60A.198 to file any return fails to do so within the time prescribed or makes, willfully or otherwise, an incorrect, false, or fraudulent return, ~~it the licensee must, on the written demand of the commissioner of revenue, file the return, or corrected return, within 60 days after the mailing of the written demand and at the same time pay the whole tax, or additional tax, due on the basis thereof.~~ If the ~~company~~ licensee fails within that time to file the return, or corrected return, ~~the commissioner shall make for it a return, or corrected return, from personal knowledge and from the information obtainable through testimony, or otherwise, and assess a tax on the basis thereof.~~ The tax assessed, less any payments theretofore made on account of the tax for the taxable year covered by the return, must be paid within 60 days after the commissioner has mailed to the ~~company~~ licensee a written notice of the amount thereof and demand for its payment. Any return or assessment made by the commissioner on account of the failure of the ~~company~~ licensee to make a return, or a corrected return, is prima facie correct and valid,

and the company licensee has the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 6. Minnesota Statutes 1986, section 60A.199, subdivision 5, is amended to read:

Subd. 5. [INTENT TO EVADE TAX; PENALTY.] If any company licensee with intent to evade the tax imposed by this chapter, fails to file any return required by this chapter or with such intent files a false or fraudulent return there shall also be imposed on it a penalty as provided in section 290.53, subdivision 3.

Sec. 7. Minnesota Statutes 1986, section 60A.199, subdivision 7, is amended to read:

Subd. 7. [COLLECTION OF TAX.] The tax required to be paid by section 60A.198 may be collected in any ordinary action at law by the commissioner of revenue against the company licensee. In any action commenced pursuant to this section, upon the filing of an affidavit of default, the court administrator of the district court wherein the action was commenced shall enter judgment for the state for the amount demanded in the complaint together with costs and disbursements.

Sec. 8. Minnesota Statutes 1986, section 60A.199, subdivision 8, is amended to read:

Subd. 8. [REFUND PROCEDURE; TIME LIMIT; APPROPRIATION.] A company licensee which has paid, voluntarily or otherwise, or from which there was collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner of revenue a claim for a refund of the excess. Except as provided in subdivision 3, no claim or refund shall be allowed or made after 3½ years from the date prescribed for filing the return (plus any extension of time granted for filing the return but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the company licensee. For this purpose, a return or amended return claiming an overpayment constitutes a claim for refund.

Upon the filing of a claim the commissioner shall examine ~~the same it~~, shall make and file written findings thereon denying or allowing the claim in whole or in part, and shall mail a notice thereof to the company licensee at the address stated upon the return. If the claim is allowed in whole or in part, the commissioner shall issue a certificate for a refund of the excess paid by the company licensee, with interest at the rate specified in section 270.76 computed from the date of the payment of the tax until the date the refund is paid or credit is made to the company licensee. The commissioner of finance shall cause the refund to be paid as

other state moneys are expended. So much of the proceeds of the taxes as is necessary are appropriated for that purpose.

Sec. 9. Minnesota Statutes 1986, section 60A.199, subdivision 9, is amended to read:

Subd. 9. [DENIAL OF CLAIM; COURT PROCEEDINGS.] If the claim is denied in whole or in part, the commissioner shall mail an order of denial to the company licensee in the manner prescribed in this section. An appeal from this order may be taken to the Minnesota tax court in the manner prescribed in section 271.06, or the company licensee may commence an action against the commissioner to recover the denied overpayment. The action may be brought in the district court of the district in which lies the county of its principal place of business, or in the district court for Ramsey county. The action in the district court shall be commenced within 18 months following the mailing of the order of denial to the company licensee. If a claim for refund is filed by a company licensee and no order of denial is issued within six months of the filing, the company licensee may commence an action in the district court as in the case of a denial, but the action must be commenced within two years of the date that the claim for refund was filed.

Sec. 10. Minnesota Statutes 1986, section 60A.199, subdivision 10, is amended to read:

Subd. 10. [CONSENT TO EXTEND TIME.] If the commissioner and the company licensee have, within the periods prescribed in subdivision 4 by this section, consented in writing to any extension of time for the assessment of the tax, the period within which a claim for refund may be filed, or a refund may be made or allowed, if no claim is filed, is the period within which the commissioner and the company licensee have consented to an extension for the assessment of the tax and six months thereafter, the period within which a claim for refund may be filed shall not expire prior to two years after the tax was paid.

Sec. 11. Minnesota Statutes 1986, section 60A.199, subdivision 11, is amended to read:

Subd. 11. [OVERPAYMENT; REFUNDS.] If the amount determined to be an overpayment exceeds the taxes imposed by section 60A.198, the amount of excess shall be considered an overpayment. An amount paid as tax shall constitute an overpayment even if in fact there was no tax liability with respect to which the amount was paid.

Notwithstanding any other provision of law to the contrary, in the case of any overpayment the commissioner, within the applicable period of limitations, shall refund any balance of more than \$1 to the company \$10 if the company licensee so requests.

Sec. 12. Minnesota Statutes 1986, section 60A.209, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION; REGULATION.] A resident of this state may obtain insurance from an ineligible surplus lines insurer in this state through a surplus lines licensee. The licensee shall first attempt to place the insurance with a licensed insurer, or if that is not possible, with an eligible surplus lines insurer. If coverage is not obtainable from a licensed insurer or an eligible surplus lines insurer, the licensee shall certify to the commissioner, on a form prescribed by the commissioner, that these attempts were made. Upon obtaining coverage from an ineligible surplus lines insurer, the licensee shall:

(a) Have printed, typed, or stamped in red ink upon the face of the policy in not less than 10 point type the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THIS INSURANCE IS PLACED WITH AN INSURER THAT IS NOT LICENSED BY THE STATE NOR RECOGNIZED BY THE COMMISSIONER OF COMMERCE AS AN ELIGIBLE SURPLUS LINES INSURER. IN CASE OF ANY DISPUTE RELATIVE TO THE TERMS OR CONDITIONS OF THE POLICY OR THE PRACTICES OF THE INSURER, THE COMMISSIONER OF COMMERCE WILL NOT BE ABLE TO ASSIST IN THE DISPUTE. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." The notice may not be covered or concealed in any manner; and

(b) Collect from the insured appropriate premium taxes and report the transaction to the commissioner of revenue on a form prescribed by the commissioner. If the insured fails to pay the taxes when due, the insured shall be subject to a civil fine of not more than \$3,000, plus accrued interest from the inception of the insurance.

Sec. 13. Minnesota Statutes 1986, section 60A.209, subdivision 3, is amended to read:

Subd. 3. [DUTY TO REPORT.] Each insured in this state who procures, causes to be procured, or continues or renews insurance with an ineligible surplus lines insurer or any self-insurer in this state who procures or continues excess of loss, catastrophe, or other insurance upon a subject of insurance resident, located, or to be performed within this state, other than insurance procured pursuant to section 60A.201 or subdivision 1 of this section shall file a written report regarding the insurance with the commissioner of revenue on forms prescribed by the commissioner of revenue and furnished to the insured upon request. The report shall be filed within 30 days after the date the insurance was procured, continued, or renewed and shall be accompanied by the tax on the premiums of two percent. The report shall show all of the following:

- (a) The name and address of the insured;
- (b) The name and address of the insurer;
- (c) The subject of the insurance;
- (d) A general description of the coverage;
- (e) The amount of premium currently charged for the insurance; and
- (f) Any additional pertinent information reasonably requested by the commissioner of revenue.

Sec. 14. Minnesota Statutes 1986, section 60A.24, is amended to read:

**60A.24 [EXEMPTIONS FROM INSURANCE LAWS OF THIS STATE.]**

The following are exempt from all insurance laws of the state except for laws dealing with taxation: All organizations listed in section 64B.38 of the laws relating to fraternal beneficiary associations benefit societies.

Sec. 15. Minnesota Statutes 1986, section 60C.06, is amended by adding a subdivision to read:

Subd. 5. [SURCHARGE.] (a) The plan of operation adopted pursuant to section 60C.07 must require each member insurer to recoup over a reasonable length of time a sum reasonably calculated to recoup the assessments paid by the member insurer under this article by way of a surcharge on premiums charged for insurance policies to which this chapter applies.

(b) The amount of any surcharge must be separately stated on either a billing or policy declaration sent to an insured. The association shall determine the rate of the surcharge and the collection period for each category and these are mandatory for all member insurers of the association who write business in those categories.

(c) The plan of operation may permit a member insurer to omit collection of the surcharge from its insured when the expense of collecting the surcharge would exceed the amount of the surcharge. However, nothing in this section shall relieve the member insurer of its obligation to recoup the amount of the surcharge otherwise collectible.

Sec. 16. Minnesota Statutes 1986, section 64B.39, subdivision 4, is amended to read:

Subd. 4. [RESERVE; TAXATION.] Every association may create and maintain a reserve fund for that purpose and shall be held to be an institution of public charity, and shall be exempt from payment of any taxes for state, county, or municipal purposes, except that the real estate of the association shall be taxed as other real estate in the state and the association shall be subject to the gross premiums tax imposed by section 60A.15.

Sec. 17. Minnesota Statutes 1986, section 67A.11, subdivision 3, is amended to read:

Subd. 3. [ANNUAL STATEMENT.] (a) On or before March first, following the end of each fiscal year, the president and the secretary shall file with the commissioner a verified statement of the entire business and condition of the company, which statement shall contain such data and information in reference to the business of the preceding fiscal year as shall be required by the commissioner.

(b) On or before March 1 of each year, the president and secretary shall also file with the commissioner of revenue a copy of the verified statement required by paragraph (a). Failure to file the statement on or before March 1 will subject the company to a penalty of \$10 a day up to a maximum of \$100.

Sec. 18. Minnesota Statutes 1986, section 69.011, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] Unless the language or context clearly indicates that a different meaning is intended, the following words and terms shall for the purposes of this chapter and chapters 423, 423A, 424 and 424A have the meanings ascribed to them:

(a) "Commissioner" means the commissioner of revenue.

(b) "Municipality" means any home rule charter or statutory city, organized town or park district subject to chapter 398, and the University of Minnesota.

(c) "Minnesota Firetown Premium Report" means a form prescribed by the commissioner containing space for reporting by insurers of fire, lightning, sprinkler leakage and extended coverage premiums received upon risks located or to be performed in this state less return premiums and dividends.

(d) "Firetown" means the area serviced by any municipality having a qualified fire department or a qualified incorporated fire

department having a subsidiary volunteer firefighters' relief association.

(e) "Assessed property valuation" means latest available assessed value of all property in a taxing jurisdiction, whether the property is subject to taxation, or exempt from ad valorem taxation obtained from information which appears on abstracts filed with the commissioner of revenue or equalized by the state board of equalization.

(f) "Minnesota Aid to Police Premium Report" means a form prescribed by the commissioner for reporting by each fire and casualty insurer of all premiums received upon direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for insuring against the perils contained in auto liability-bodily injury, auto liability property damage, and auto physical damage insurance coverages as reported in the Minnesota business schedule of the fire and casualty insurance companies annual financial statement which each insurer is required to file with the commissioner in accordance with the governing laws or rules less return premiums and dividends.

(g) "Peace officer" means any person:

(1) whose primary source of income derived from wages is from direct employment by a municipality or county as a law enforcement officer on a full-time basis of not less than 30 hours per week;

(2) who has been employed for a minimum of six months prior to December 31 preceding the date of the current year's certification pursuant to subdivision 2, clause (b);

(3) who is sworn to enforce the general criminal laws of the state and local ordinances;

(4) who is licensed by the peace officers standards and training board and is authorized to arrest with a warrant; and

(5) who is a member of a local police relief association to which section 69.77 applies or the public employees police and fire fund.

(h) "Full-time equivalent number of peace officers providing contract service" means the integral or fractional number of peace officers which would be necessary to provide the contract service if all peace officers providing service were employed on a full-time basis as defined by the employing unit and the municipality receiving the contract service.



(i) "Retirement benefits other than a service pension" means any disbursement authorized pursuant to section 424A.05, subdivision 3, clauses (2), (3) and (4).

(j) "Municipal clerk, municipal clerk-treasurer or county auditor" means the person who was elected or appointed to the specified position or, in the absence of the person, another person who is designated by the applicable governing body. In a park district the clerk is the secretary of the board of park district commissioners. In the case of the University of Minnesota, the clerk is that official designated by the board of regents.

Sec. 19. Minnesota Statutes 1986, section 69.011, subdivision 2, is amended to read:

**Subd. 2. [QUALIFICATION FOR FIRE OR POLICE STATE AID.]**

(a) In order to qualify to receive fire state aid, on or before July 1, annually, in conjunction with the financial report required pursuant to section 69.051, the clerk of each municipality having a duly organized fire department as provided in subdivision 4, or the secretary of each independent nonprofit firefighting corporation having a subsidiary incorporated firefighters' relief association whichever is applicable, and the ~~secretary and the treasurer of the firefighters' relief association~~ fire chief, shall jointly certify the existence of the municipal fire department or of the independent nonprofit firefighting corporation, whichever is applicable, which meets the minimum qualification requirements set forth in this subdivision, and the fire personnel and equipment of the municipal fire department or the independent nonprofit firefighting corporation as of the preceding December 31. Certification shall be made to the commissioner on a form prescribed by the commissioner and shall include any other facts the commissioner may require. The certification shall be made to the commissioner in duplicate. Each copy of the certificate shall be duly executed and deemed an original. The commissioner shall forward one copy to the auditor of the county wherein the fire department is located and retain one copy.

(b) On or before July 1 annually the clerk of each municipality having a duly organized police department and having a duly incorporated relief association shall certify that fact to the county auditor of the county where the police department is located and to the commissioner on a form prescribed by the commissioner together with the other facts the commissioner or auditor may require.

On or before July 1 annually, the clerk of each municipality and the auditor of each county employing one or more peace officers as defined in subdivision 1, clause (h), shall certify the number of such peace officers to the commissioner on forms prescribed by the commissioner. Credit for officers employed less than a full year shall be apportioned. Each full month of employment of a qualifying officer during the calendar year shall entitle the employing munic-

ipality or county to credit for 1/12 of the payment for employment of a peace officer for the entire year. For purposes of sections 69.011 to 69.051, employment of a peace officer shall commence when the peace officer is entered on the payroll of the respective municipal police department or county sheriff's department. No peace officer shall be included in the certification of the number of peace officers by more than one municipality or county for the same month.

Sec. 20. Minnesota Statutes 1986, section 69.021, subdivision 1, is amended to read:

Subdivision 1. [MINNESOTA FIRETOWN PREMIUM REPORT AND MINNESOTA AID TO POLICE PREMIUM REPORT.] The commissioner of ~~revenue~~ shall, at the time of mailing ~~annual statement and tax forms~~, send blank copies of the Minnesota Firetown Premium Report and when applicable the Minnesota Aid to Police Premium Report to each insurer, including township and farmers mutual insurance companies licensed to write insurance as described in section 69.011, subdivision 1, clauses (c) and (f) in this state. These reports shall contain space for the insurers name, address, gross premiums less return premiums, dividends, net premiums, certification and other facts the commissioner may require.

Sec. 21. Minnesota Statutes 1986, section 69.021, subdivision 2, is amended to read:

Subd. 2. [REPORT OF PREMIUMS.] Each insurer, including township and farmers mutual insurers where applicable, shall return to the commissioner of ~~commerce~~ with its annual financial statement the reports described in subdivision 1 certified by its secretary and president or chief financial officer. The Minnesota Firetown Premium Report shall contain a true and accurate statement of the total premium for all gross direct fire, lightning, and sprinkler leakage insurance of all domestic mutual insurers and the total premiums for all gross direct fire, lightning, sprinkler leakage and extended coverage insurance of all other insurers, less return premiums and dividends received by them on that business written or done during the preceding calendar year upon property located within the state or brought into the state for temporary use. The fire and extended coverage portion of multiperil and multiple peril package premiums and all other combination premiums shall be determined by applying percentages determined by the commissioner of ~~commerce~~ or by rating bureaus recognized by the commissioner of ~~commerce~~. The Minnesota Aid to Police Premium Report shall contain a true and accurate statement of the total premiums, less return premiums and dividends received, on all direct business received by such insurer in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, with reference to insurance written for perils described in section 69.011, subdivision

1, clause (f), except that domestic mutual insurance companies shall not file a report.

Each insurer shall, in addition to filing with the commissioner of commerce the reports required by this subdivision, file the reports required by this subdivision with the commissioner of revenue.

Sec. 22. Minnesota Statutes 1986, section 69.021, subdivision 3, is amended to read:

Subd. 3. [PENALTY FOR FRAUDULENT, INCORRECT, INCOMPLETE RETURNS AND LATE FILING OF REPORT WITH THE COMMISSIONER OF COMMERCE.] When it appears to the commissioner of commerce that any insurer has made an incomplete or inaccurate report the commissioner of commerce shall return the report and demand that a complete and accurate report be filed. If the insurer fails to file a report by on or before March 1, annually, or within 30 days after demand by the commissioner of commerce, the insurer shall be liable and shall pay \$25 for each seven days delinquent or fraction thereof not to exceed \$200. If the insurer fails to file a corrected report within 30 days after demand, the insurer is liable for the penalties provided in this subdivision for knowingly filing an inaccurate or false report.

Any insurer who knowingly makes and files an inaccurate or false report shall be liable to a fine of not less than \$25 nor more than \$1,000 and the commissioner of commerce may revoke the insurer's certificate of authority.

Any person whose duty it is to make the report who fails or refuses to make it within 30 days after notification by the commissioner of commerce shall be fined not more than \$1,000. Failure of the insurer to receive a reporting form shall not excuse the insurer from filing the report.

Sec. 23. Minnesota Statutes 1986, section 69.54, is amended to read:

69.54 [SURCHARGE ON PREMIUMS TO RESTORE DEFICIENCY IN SPECIAL FUND.]

The commissioner shall order and direct a surcharge to be collected of two percent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any licensed foreign or domestic fire insurance company on property in this city of the first class, or by its agents for it, in cash or otherwise. This surcharge shall be due and payable from these companies to the state treasurer, in equal installments, on March 15, May 15, and November 15 of each calendar year, and if not paid within 30 days after these dates, a penalty of ten percent shall

accrue thereon and thereafter this sum and penalty shall draw interest at the rate of one percent per month until paid.

Sec. 24. Minnesota Statutes 1986, section 69.55, is amended to read:

**69.55 [WARRANT ON STATE TREASURER.]**

The commissioner of finance semiannually after July 31, 1984, by July 31 and December 31 of each year shall issue and deliver to the treasurer of the relief association in such each city a warrant upon the state treasurer for an amount equal to the total amount of the surcharge on the premiums within the city theretofore so collected and transmitted to the state treasurer by these insurance companies. There is hereby appropriated out of any money in the general fund in the state treasury not otherwise appropriated such sums as may, from time to time, be the amount necessary to pay these warrants.

Sec. 25. Minnesota Statutes 1986, section 79.34, subdivision 1, is amended to read:

Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40 or any amendments thereto, sections 79.34 to 79.40 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; provided, that (a) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance

association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner of finance may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association is not a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of labor and industry with respect to the reinsurance association are not subject to chapters 13, 14, and 15. ~~The reinsurance association is exempt from taxation under the laws of this state and~~ All property owned by the association is exempt from taxation. The reinsurance association is not obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 26. Minnesota Statutes 1986, section 79.34, is amended by adding a subdivision to read:

Subd. 1a. The direct funded premium received by the reinsurance association is subject to the gross premium tax imposed by section 60A.15. Only direct funded premium payments made to the reinsurance association by self-insurers approved pursuant to section 176.181 and each political subdivision that self-insures shall be subject to the gross premiums tax.

Sec. 27. Minnesota Statutes 1986, section 176.129, is amended by adding a subdivision as follows:

Subd. 5a. With respect to an amount assessed pursuant to this section, an employer may reduce the amount assessed by reimbursements which are owed to the employer for benefits paid for injuries occurring in the calendar year preceding the assessment year pursuant to sections 176.131 and 176.132 of this chapter.

Sec. 28. Minnesota Statutes 1986, section 176A.08, is amended to read:

**176A.08 [EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS.]**

The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 14, 15, 15A, and 43A. However, the fund shall be subject to sections 179A.01 to 179A.25.

The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of commerce has the same powers with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The fund is considered an insurer for the purposes of chapters 60C, 72A, 79, and 176. The fund is subject to the same tax liability as a mutual insurance company in this state pursuant to section 60A.15, subdivision 2. As a condition of its authority to transact business in this state the fund shall be a member of the workers' compensation reinsurance association and is bound by its plan of operation.

Sec. 29. Minnesota Statutes 1986, section 273.1313, subdivision 2, is amended to read:

Subd. 2. [PROGRAM.] (a) The governing body of any municipality which contains a designated enterprise zone as provided by section 273.1312 shall by resolution establish a program for classification of new property or improvements to existing property as employment property pursuant to the provisions of this section. Applications for classification under the program shall be filed with the municipal clerk or auditor in a form prescribed by the commissioner, with additions as may be prescribed by the municipal governing body. The application shall contain, where appropriate, a legal description of the parcel of land on which the facility is to be situated or improved; a general description of the facility or improvement and its proposed use, the probable time schedule for undertaking any construction or improvement, and information regarding the matters referred to in paragraph (d); the market value and the assessed value of the land and of all other taxable property then situated on it, according to the most recent assessment; and if the property is to be improved or expanded, an estimate of the probable cost of the new construction or improvement and the market value of the new or improved facility (excluding land) when completed.

(b) Upon receipt of an application the municipal clerk or auditor, subject to any prior approval required by the resolution establishing the program, shall furnish a copy to the assessor for the property and to the governing body of each school district and other public body authorized to levy taxes on the property, and shall publish a notice in the official newspaper of the time and place of a hearing to be held by the governing body on the application, not less than 30 days after the notice is published, stating that the applicant, the assessor, representatives of the affected taxing authorities, and any taxpayer of the municipality may be heard or may present their views in writing at or before the hearing. The hearing may be adjourned from time to time, but the governing body shall take action on the application by resolution within 30 days after the hearing. If disapproved, the reasons shall be set forth in the resolution, and the applicant may appeal to the commissioner within 30 days thereafter, but only on the ground that the determination is arbitrary, in

relation to prior determinations as to classification under the program, or based upon a mistake of law. If approved, the resolution shall include determinations as to the matters set forth in paragraph (d), and the clerk or auditor shall transmit it to the commissioner.

(c) Within 60 days after receipt of an approved application or an appeal from the disapproval of an application, the commissioner shall take action on it. The commissioner shall approve each application approved by the governing body on finding that it complies with the provisions of this section. If the commissioner disapproves the application, or finds grounds exist for appeal of a disapproved application, the commissioner shall transmit the finding to the governing body and the applicant. When grounds for appeal have been determined to exist, the governing body shall reconsider and take further action on the application within 30 days after receipt of the commissioner's notice and serve written notice of the action upon the applicant. The applicant, within 30 days after receipt of notice of final disapproval by the commissioner or the governing body, may appeal from the disapproval to a court of competent jurisdiction.

(d) In the case of enterprise zones qualifying pursuant to section 273.1312, subdivision 4, paragraph (c), clause (1), an application shall not be approved unless the governing body finds and determines that the construction or improvement of the facility:

(1) is reasonably likely to create new employment or prevent a loss of employment in the municipality;

(2) is not likely to have the effect of transferring existing employment from one or more other municipalities within the state;

(3) is not likely to cause the total market value of employment property within the municipality to exceed five percent of the total market value of all taxable property within the municipality; or if it will, the resulting limitation upon the increase of the assessed value of all taxable property within the municipality, considering the amount of additional municipal services likely to be required for the employment property, is not likely to substantially impede the operation or the financial integrity of the municipality or any other public body levying taxes on property in the municipality; and

(4) will not result in the reduction of the assessed value of existing property within the municipality owned by the applicant, through abandonment, demolition, or otherwise, without provision for the restoration of the existing property within a reasonable time in a manner sufficient to restore the assessed valuation.

(e) In the case of enterprise zones qualifying pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), an application for

assessment as employment property under section 273.13, subdivision 24, paragraph (b), or for a tax reduction pursuant to section 273.1314, subdivision 9, may not be approved unless the governing body finds and determines that the construction or improvement of the facility is not likely to have the effect of transferring existing employment from one or more other municipalities within the state.

(f) All participating enterprise zone municipalities must submit, with each application from businesses that previously have not received enterprise zone credits, a written multiyear enterprise zone tax credit distribution plan. The plan must set forth: (1) the maximum amount of credits to be drawn over the five year allowable period; and (2) the maximum amount of state tax credits to be drawn each of those five years, and whether the form will be in tax credits or refunds.

(g) Within 90 days of final enactment of this act, all participating enterprise zone municipalities must submit a written multiyear enterprise zone tax credit distribution plan. The plan must specify the maximum amounts of state tax credits previously approved business applicants are eligible to receive in each of the remaining years for which credits have been authorized. The commissioner may only approve requests for state tax credits from a business that is included in an enterprise zone municipality's written multiyear enterprise zone tax credit distribution plan and that meets the requirements established in sections 273.1312 to 273.1314. The commissioner may not approve any request for state tax credits from a business that exceeds the amount set forth in an enterprise zone municipality's multiyear enterprise zone tax credit distribution plan for that business entity for that year.

Sec. 30. Minnesota Statutes 1986, section 273.1313, is amended by adding a subdivision to read:

Subd. 2a. [APPLICATION DUE DATES.] To be eligible to receive tax reductions, the deadline for consideration of all applications from businesses that previously have not received enterprise zone credits is March 21, 1987. All applications from businesses which previously have not received enterprise zone credits must have been submitted to the municipal clerk or auditor by March 21, 1987, and the public hearing must be completed by June 19, 1987. The receipt date for all applications submitted to the municipality from businesses that previously have not received enterprise zone credits must be certified by the municipal clerk. The certification must be notarized. The requirements of section 273.1313, subdivision 2, paragraphs (f) and (g), apply to all applications submitted pursuant to this section.

The provisions of this subdivision do not apply to enterprise zones designated pursuant to section 273.1312, subdivision 4, clause (c)(3) (relating to border city enterprise zones).



Sec. 31. Minnesota Statutes 1986, section 273.1314, subdivision 10, is amended to read:

Subd. 10. [RECAPTURE.] Any business which (a) receives tax reductions authorized by subdivision 9, classification as employment property pursuant to section 273.1312, or an alternative local contribution under subdivision 6; and (b) ceases to operate its facility located within the enterprise zone within two years after the expiration of the tax reductions shall repay the amount of the tax reduction or local contribution pursuant to the following schedule:

Termination of Operations	Repayment Portion
Less than 6 months	100 percent
6 months or more but less than 12 months	75 percent
12 months or more but less than 18 months	50 percent
18 months or more but less than 24 months	25 percent

The repayment must be paid to the state to the extent it represents a tax reduction under subdivision 9 and to the municipality to the extent it represents a property tax reduction or other local contribution. Any amount repaid to the state must be credited to the amount certified as available for tax reductions in the zone pursuant to subdivision 8. Any amount repaid to the municipality must be used by the municipality for economic development purposes.

The commissioner of revenue may seek repayment of tax credits from a business ceasing to operate within an enterprise zone.

Sec. 32. Minnesota Statutes 1986, section 273.1314, is amended by adding a subdivision to read:

Subd. 10a. [INTEREST.] When tax credits allowed under subdivision 9 result in an overpayment within the meaning of section 290.50, the excess to be refunded to the taxpayer shall bear interest at the amount specified in section 270.76, computed from 90 days after (1) the due date of the return or (2) the date on which the return is filed, whichever is later, to the date the refund is paid.

Sec. 33. Minnesota Statutes 1986, section 290.01, subdivision 4, is amended to read:

Subd. 4. [CORPORATIONS.] The term "corporation" shall include joint stock companies and corporations existing under the laws of any state or country; partnerships, limited or otherwise, the organization of which is not interrupted by the death of a general partner or by a change in the ownership of the general partner's participating interest, and the management of which is centralized in one or more persons acting in a representative capacity; associations (other than ordinary partnerships) and common-law trusts organized or conducted for profit; and financial institutions.

Sec. 34. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 4a. [FINANCIAL INSTITUTION.] (a) "Financial institution" means:

(1) a holding company;

(2) any regulated financial corporation; or

(3) any other corporation organized under the laws of the United States or organized under the laws of this state or any other state or country that is carrying on the business of a financial institution.

(b) "Holding company" means any corporation registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended.

(c) "Regulated financial corporation" means an institution, the deposits or accounts of which are insured under the Federal Deposit Insurance Act or by the Federal Savings and Loan Insurance Corporation, any institution which is a member of a Federal Home Loan Bank, any other bank or thrift institution incorporated or organized under the laws of a state or any foreign country which is engaged in the business of receiving deposits, any corporation organized under the provisions of United States Code, title 12, sections 611 to 631 (Edge Act Corporations), and any agency of a foreign depository as defined in United States Code, title 12, section 3101.

(d) "Business of a financial institution" means:

(1) the business that a regulated financial corporation may be authorized to do under state or federal law or the business that its subsidiary is authorized to do by the proper regulatory authorities;

(2) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do which is substantially similar to the business which a corporation may be created to do under chapters 46 to 55 or any business which a corporation or its subsidiary is authorized to do by those laws; or

(3) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do if the corporation derives more than 50 percent of its gross income from lending activities (including discounting obligations) in substantial competition with the businesses described in clauses (1) and (2). For

purposes of this clause, the computation of the gross income of a corporation does not include income from nonrecurring, extraordinary items.

Sec. 35. Minnesota Statutes 1986, section 290.01, subdivision 5, is amended to read:

Subd. 5. [DOMESTIC AND FOREIGN CORPORATIONS.] The term "domestic" when applied to a corporation means a corporation created or organized in Minnesota or under its laws; and the term "foreign" when thus applied means a corporation other than a domestic corporation. The existence of any domestic corporation shall be deemed the exercise by it of the privilege of existing as a corporation; the grant to any foreign corporation of the right to engage in transacting local business within this state shall be deemed the grant to it of the privilege of transacting such business within this state in corporate or organized form; and the transaction of the local business within this state by any foreign corporation shall be deemed the transaction of such business within this state in corporate or organized form.

Sec. 36. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

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

(1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;

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

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

(4) the amount of any windfall profits tax deducted under section 164 or 471 of the Internal Revenue Code;

(5) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 of the Internal Revenue Code;

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

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

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

(9) the amount of any charitable contributions deducted for federal income tax purposes under section 170 of the Internal Revenue Code;

(10) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986;

(11) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986; and

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

Sec. 37. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

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

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

(2) the decrease in salary expense for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code;

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

from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

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

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

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

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code of 1986, as amended through December 31, 1986, except that:

(i) capital loss carrybacks shall not be allowed; and

(ii) a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 265 or 291 of the Internal Revenue Code of 1986, as amended through December 31, 1986 in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to section 36, clause (10), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986 and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7.

Sec. 38. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19e. [DEPRECIATION MODIFICATIONS FOR CORPORATIONS.] In the case of corporations, a modification shall be made for the accelerated cost recovery system. The allowable deduction for the accelerated cost recovery system is the same amount as provided in section 168 of the Internal Revenue Code with the following modifications for taxable years beginning after December 31, 1986:

(1) for property placed in service after December 31, 1980, and before January 1, 1987, 40 percent of the allowance pursuant to section 168 of the Internal Revenue Code of 1954, as amended through December 31, 1985, for 15-, 18-, or 19-year real property shall not be allowed and for all other property 20 percent shall not be allowed;

(2) for property placed in service after December 31, 1987, no modification shall be made;

(3) for property placed in service after July 31, 1986, and before January 1, 1987, for which the taxpayer elects the deduction pursuant to section 203 of the Tax Reform Act of 1986, Public Law Number 99-514, and for property placed in service after December 31, 1986, and before January 1, 1988, 15 percent of the allowance pursuant to section 168 of the Internal Revenue Code of 1986 shall not be allowed;

(4) for property placed in service after December 31, 1980, and before January 1, 1987, for which the taxpayer elects to use the straight line method provided in section 168(b)(3), (f)(12), or (j)(1) or a method provided in section 168(e)(2) of the Internal Revenue Code of 1986, as amended through December 31, 1985, but excluding property for which the taxpayer elects the deduction pursuant to section 203 of the Tax Reform Act of 1986, Public Law Number 99-514, the modifications provided in clauses (1) and (2) do not apply;

(5) for property subject to the modifications contained in clauses (1) and (3) and Minnesota Statutes 1986, section 290.09, subdivision 7, clause (c), the following modification shall be made after the entire amount of the allowable deduction has been allowed for federal tax purposes for that property under the provisions of section 168 of the Internal Revenue Code of 1986, as amended through December 31, 1986. The remaining depreciable basis in those assets for Minnesota purposes, including the amount of any basis reduction to reflect the investment tax credit for federal purposes under sections 48(q) and 49(d) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall be a depreciation allowance computed using the straight line method over the following number of years:

- (i) three-year property, one year;
- (ii) five-year and seven-year property, two years;
- (iii) ten-year property, five years;
- (iv) all other property, seven years;

(6) for property placed in service after December 31, 1987, the remaining depreciable basis for Minnesota purposes that is attributable to the basis reduction for federal purposes to reflect the investment tax credit under sections 48(q) and 49(d) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall be allowed as a deduction in the first taxable year after the entire amount of the allowable deduction for that property under the provisions of section 168 of the Internal Revenue Code of 1986, has been allowed, except that where the straight line method provided in section 168(b)(3) is used, the deduction provided in this clause shall be allowed in the last taxable year in which an allowance for depreciation is allowed for that property;

(7) for qualified timber property for which the taxpayer made an election under section 194 of the Internal Revenue Code of 1986, the remaining depreciable basis for Minnesota purposes is allowed as a deduction in the first taxable year after the entire allowable deduction has been allowed for federal tax purposes;

(8) the basis of property to which section 168 of the Internal Revenue Code applies shall be its basis as provided in this chapter including the modifications provided in this subdivision and in Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c). The recapture tax provisions provided in sections 1245 and 1250 of the Internal Revenue Code of 1986, as amended through December 31, 1986, apply but shall be calculated using the basis provided in the preceding sentence; and

(9) the basis of an asset acquired in an exchange of assets, including an involuntary conversion, is the same as its federal basis under the provisions of the Internal Revenue Code of 1986, except that the difference in basis due to the modifications in this subdivision and in Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), shall be a deduction as provided in clause (5).

Sec. 39. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 19f. [BASIS MODIFICATIONS AFFECTING GAIN OR LOSS ON DISPOSITION OF PROPERTY.] (a) For individuals, estates, and trusts, the basis of property is its adjusted basis for federal income tax purposes except as set forth in paragraphs (f) and

(g) For corporations, the basis of property is its adjusted basis for federal income tax purposes, without regard to the time when the property became subject to tax under this chapter or to whether out-of-state losses or items of tax preference with respect to the property were not deductible under this chapter, except that the modifications to the basis for federal income tax purposes set forth in paragraphs (b) to (j) are allowed to corporations, and the resulting modifications to federal taxable income must be made in the year in which gain or loss on the sale or other disposition of property is recognized.

(b) The basis of property shall not be reduced to reflect federal investment tax credit.

(c) The basis of property subject to the accelerated cost recovery system under section 168 of the Internal Revenue Code shall be modified to reflect the modifications in depreciation with respect to the property provided for in subdivision 19e. For certified pollution control facilities for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, the basis of the property must be increased by the amount of the amortization deduction not previously allowed under this chapter.

(d) For property acquired before January 1, 1933, the basis for computing a gain is the fair market value of the property as of that date. The basis for determining a loss is the cost of the property to the taxpayer less any depreciation, amortization, or depletion, actually sustained before that date. If the adjusted cost exceeds the fair market value of the property, then the basis is the adjusted cost regardless of whether there is a gain or loss.

(e) The basis shall be diminished by the allowance for amortization of bond premium if an election to amortize was made pursuant to Minnesota Statutes 1986, section 290.09, subdivision 13, and the allowance could have been deducted by the taxpayer under this chapter during the period of the taxpayer's ownership of the property.

(f) For assets placed in service before January 1, 1987, corporations, partnerships, or individuals engaged in the business of mining ores other than iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.

(g) For assets placed in service before January 1, 1990, corporations, partnerships, or individuals engaged in the business of mining iron ore or taconite concentrates subject to the occupation tax under chapter 298 must use the occupation tax basis of property used in that business.



(h) In applying the provisions of sections 301(c)(3)(B), 312(f) and (g), and 316(a)(1) of the Internal Revenue Code of 1986, as amended through December 31, 1986, the dates December 31, 1932, and January 1, 1933, shall be substituted for February 28, 1913, and March 1, 1913, respectively.

(i) In applying the provisions of section 362(a) and (c) of the Internal Revenue Code of 1986, as amended through December 31, 1986, the date December 31, 1956, shall be substituted for June 22, 1954.

(j) The basis of property shall be increased by the amount of intangible drilling costs not previously allowed due to differences between this chapter and the Internal Revenue Code.

(k) The adjusted basis of any corporate partner's interest in a partnership is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (b) to (j). The adjusted basis of a partnership in which the partner is an individual, estate, or trust is the same as the adjusted basis for federal income tax purposes modified as required to reflect the basis modifications set forth in paragraphs (f) and (g).

(l) The modifications contained in paragraphs (b) to (j) also apply to the basis of property that is determined by reference to the basis of the same property in the hands of a different taxpayer or by reference to the basis of different property.

Sec. 40. Minnesota Statutes 1986, section 290.01, subdivision 22, is amended to read:

Subd. 22. [TAXABLE NET INCOME.] For tax years beginning after December 31, 1986, the term "taxable net income" means:

(1) for resident individuals the same as net income;

(2) for individuals who were not residents of Minnesota for the entire year, the same as net income except that the tax is imposed only on the Minnesota apportioned share of that income as determined pursuant to section 290.06, subdivision 2c, paragraph (f);

(3) for all other taxpayers, the part of net income that is allocable to Minnesota by assignment or apportionment under one or more of sections 290.17, 75, 290.20, 290.35, and 290.36.

For tax years beginning before January 1, 1987, the term "taxable net income" means the net income assignable to this state pursuant to sections 290.17 to 290.20. For corporations, taxable net income is then reduced by the deductions contained in section 290.21.

Sec. 41. Minnesota Statutes 1986, section 290.01, is amended by adding a subdivision to read:

Subd. 29. [TAXABLE INCOME.] For tax years beginning after December 31, 1986, the term "taxable income" means:

(1) for individuals, estates, and trusts, the same as taxable net income;

(2) for corporations, the taxable net income less

(i) the net operating loss deduction under section 290.095;

(ii) the dividends received deduction under section 290.21, subdivision 4; and

(iii) the charitable contribution deduction under section 290.21, subdivision 3.

Sec. 42. [290.014] [JURISDICTION TO TAX IN GENERAL.]

Subdivision 1. [RESIDENT INDIVIDUALS.] All net income of resident individuals is subject to tax under this chapter.

Subd. 2. [NONRESIDENT INDIVIDUALS.] Income of nonresident individuals is subject to tax under this chapter and nonresident individuals are subject to the return filing requirements under this chapter to the extent that the income is:

(1) allocable to this state under section 290.17, 75, or 290.20;

(2) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a beneficiary of an estate with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the individual directly from the source from which realized by the estate;

(3) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character that is taxable under this chapter) in the individual's capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into

account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the individual directly from the source from which realized by the trust;

(4) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the individual directly from the source from which realized by the partnership; or

(5) taxed to the individual under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in the individual's capacity as a shareholder of a corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 1366(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the individual directly from the source from which realized by the corporation.

Subd. 3. [TRUSTS AND ESTATES.] Trusts and estates, whether resident or nonresident, are subject to the return filing requirements under this chapter and the income of trusts and estates is subject to tax under this chapter to the extent that the income of the trust or estate is:

(1) allocable to this state under section 290.17, 75, or 290.20;

(2) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary of a trust or estate with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the trust or beneficiary estate directly from the source from which realized by the distributing estate;

(3) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the beneficiary trust or estate directly from the source from which realized by the distributing trust;

(4) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the trust or estate directly from the source from which realized by the partnership; or

(5) taxed to the trust or estate under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a shareholder of a corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 1366(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the trust or estate directly from the source from which realized by the corporation.

Subd. 4. [PARTNERSHIPS.] Partnerships are not subject to tax under this chapter but are subject to the return filing requirements under this chapter and their partners are subject to tax under this chapter on their shares of partnership income to the extent that the income of the partnership is:

(1) allocable to this state under section 290.17, 75, or 290.20;

(2) taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a

beneficiary of an estate with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the partnership directly from the source from which realized by the estate;

(3) taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the partnership directly from the source from which realized by the trust; or

(4) taxed to the partnership under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the second tier partnership directly from the source from which realized by the first tier partnership.

Subd. 5. [CORPORATIONS.] A corporation having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, is not subject to tax under this chapter, except as provided in section 290.9725, but its shareholders are, and it is subject to the return filing requirements under this chapter. Other corporations are subject to the return filing requirements and to tax under this chapter if the corporation so exercises its franchise as to engage in such contacts with this state as to cause part of the income of the corporation to be:

(1) allocable to this state under section 290.17, 75, 290.20, 290.35, or 290.36;

(2) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary of an estate with income allocable to this state under

section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 662(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the corporation directly from the source from which realized by the estate;

(3) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a beneficiary or grantor or other person treated as a substantial owner of a trust with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 652(b), 662(b), or 664(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the corporation directly from the source from which realized by the trust; or

(4) taxed to the corporation under the Internal Revenue Code of 1986, as amended through December 31, 1986, (or not taxed under the Internal Revenue Code by reason of its character but of a character which is taxable under this chapter) in its capacity as a limited or general partner in a partnership with income allocable to this state under section 290.17, 75, or 290.20 and the income, taking into account the income character provisions of section 702(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, would be allocable to this state under section 290.17, 75, or 290.20 if realized by the corporation directly from the source from which realized by the partnership.

**Sec. 43. [290.015] [MINIMUM CONTACTS REQUIRED FOR JURISDICTION TO TAX TRADE OR BUSINESS.]**

Subdivision 1. [GENERAL RULE.] A person, other than a resident individual, that conducts a trade or business with its principal place of business outside of Minnesota is subject to the taxes imposed by this chapter with respect to that trade or business to the extent provided in this section if the trade or business makes sales or receives other income that is assignable or apportionable to this state under section 290.17, 75, 290.20, 290.35 or 290.36 without regard to physical presence in this state, except as provided in subdivision 2. Activities that subject a person to tax under this chapter include, but are not limited to:

(1) having a place of business in this state;

(2) having employees, representatives, or independent contractors conducting business activities in this state;

(3) regularly selling products or services of any kind or nature to customers in this state who receive the product or service in this state;

(4) regularly soliciting business from potential customers in this state;

(5) performing services in this state;

(6) regularly engaging in transactions with customers in this state that involve intangible property and result in income flowing to the person from within this state; or

(7) if a financial institution, regularly soliciting and receiving deposits from customers in this state.

Subd. 2. [PRESUMPTION.] A person shall be presumed, subject to rebuttal, to be engaged in regular solicitation within this state if it conducts transactions described in subdivision 1 with 20 or more residents of this state during any tax period or, if a financial institution, if the sum of its assets and the absolute value of its deposits attributable to sources within this state equals or exceeds \$5,000,000. Assets and deposits must be attributed to sources within this state by applying the principles established under section 75.

Subd. 3. [EXCEPTION.] Notwithstanding subdivision 1, a person is not subject to tax under this chapter if the person is engaged in the business of selling tangible personal property and taxation of that person under this chapter is precluded by Public Law Number 86-272, United States Code, title 15, sections 381 to 384.

Subd. 4. [LIMITATIONS.] This section shall not be deemed to (a) subject a trade or business to any regulation, including any tax, of any local unit of government or subdivision of this state if the trade or business does not own or lease tangible or real property located within this state and has no employees or independent contractors present in this state to assist in the carrying on of the business; or (b) exclude a trade or business from the filing requirements of the notice of business activities report under section 84.

Subd. 5. [DETERMINATION AT ENTITY LEVEL.] Determinations under this section with respect to trades or businesses conducted by a partnership, trust, estate, or corporation with an election in effect under section 1362 of the Internal Revenue Code, or any other entity, the income of which is or may be taxed to its owners or beneficiaries shall be made with respect to the entity carrying on the trade or business and not with respect to owners or beneficiaries of the trade or business, the taxability of which under this chapter shall be determined under section 42.

Sec. 44. Minnesota Statutes 1986, section 290.02, is amended to read:

**290.02 [EXCISE FRANCHISE TAX ON CORPORATIONS; IMPOSITION, MEASUREMENT MEASURED BY NET INCOME.]**

An annual excise franchise tax is hereby imposed upon every domestic corporation for the privilege of existing as a corporation during any part of its taxable year; and upon every foreign corporation doing business within this state, except those included within section 290.03, including but not limited to railroad companies for the grant to it of the privilege of transacting or for the actual transaction by it of any local business within this state during any part of its taxable year, in corporate or organized form on the exercise of the corporate franchise to engage in contacts with this state that produce gross income attributable to sources within this state is imposed upon every corporation, domestic and foreign, that so exercises its franchise during the taxable year.

Contacts within this state do not include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters that are made international for navigation purposes by any treaty or agreement to which the United States is a party.

The tax so imposed shall be measured by such corporations' taxable net income and alternative minimum tax base for the taxable year for which the tax is imposed, and computed in the manner and at the rates provided in this chapter.

Sec. 45. Minnesota Statutes 1986, section 290.03, is amended to read:

**290.03 [INCOME TAX; IMPOSITION, CLASSES OF TAXPAYERS.]**

An annual tax for each taxable year, computed in the manner and at the rates hereinafter provided, is hereby imposed upon the taxable net income for such year of the following classes of taxpayers:

(1) Foreign corporations not taxable under section 290.02 which own property within this state or whose business within this state during the taxable year consists exclusively of foreign commerce, interstate commerce, or both;

Business within the state shall not be deemed to include transportation in interstate or foreign commerce, or both, by means of ships navigating within or through waters which are made interna-



tional for navigation purposes by any treaty or agreement to which the United States is a party;

(2) Resident and nonresident individuals;

(3) (2) Estates of decedents, dying domiciled within or without this state;

(4) (3) Trusts (except those taxable as corporations) however created by residents or nonresidents or by domestic or foreign corporations.

Sec. 46. Minnesota Statutes 1986, section 290.05, subdivision 1, is amended to read:

Subdivision 1. The following corporations, individuals, estates, trusts, and organizations shall be exempted from taxation under this chapter, provided that every such person or corporation claiming exemption under this chapter, in whole or in part, must establish to the satisfaction of the commissioner the taxable status of any income or activity:

(a) corporations, individuals, estates, and trusts engaged in the business of mining or producing iron ore and other ores the mining or production of which is subject to the occupation tax imposed by section 298.01; but if any such corporation, individual, estate, or trust engages in any other business or activity or has income from any property not used in such business it shall be subject to this tax computed on the net income from such property or such other business or activity. Royalty (as defined in section 299.02) shall not be considered as income from the business of mining or producing iron ore within the meaning of this section;

(b) the United States of America, the state of Minnesota or any political subdivision of either agencies or instrumentalities, whether engaged in the discharge of governmental or proprietary functions;

(c) mutual insurance companies or associations, including interinsurers and reciprocal underwriters, that are exempt as provided in the Revenue Act of 1936.

Sec. 47. Minnesota Statutes 1986, section 290.05, subdivision 2, is amended to read:

Subd. 2. Except as provided in subdivisions 1 and 3, organizations are exempted from taxation under this chapter if they are exempt from income taxation pursuant to Subchapter F of the Internal Revenue Code. Township mutual insurance companies, as defined in chapter 67A, and nonprofit health service plan corporations, as

defined in chapter 62C, are subject to taxation under chapter 290 unless they are exempt from taxation under subchapter F of the Internal Revenue Code of 1986.

Sec. 48. Minnesota Statutes 1986, section 290.05, subdivision 3, is amended to read:

Subd. 3. (a) An organization exempt from taxation under subdivision 2 shall, nevertheless, be subject to tax under this chapter to the extent provided in the following provisions of the Internal Revenue Code:

(i) Section 527 (dealing with political organizations) and;

(ii) section 528 (dealing with certain homeowners associations); and

(iii) sections 511 to 514 (dealing with unrelated business income);

but, notwithstanding this subdivision, shall be considered an organization exempt from income or franchise tax for the purposes of any law which refers to organizations exempt from income taxes.

(b) The tax shall be imposed on the taxable income of political organizations or, homeowner associations or the unrelated business income of nonprofit and charitable organizations. The tax shall be at the corporate rates. The tax shall only be imposed on income and deductions assignable to this state under sections 290.17 to 290.20. To the extent deducted in computing federal taxable income, the deductions contained in sections 290.09 and section 290.21 shall not be allowed in computing Minnesota taxable net income.

Sec. 49. Minnesota Statutes 1986, section 290.06, subdivision 1, is amended to read:

Subdivision 1. [COMPUTATION, CORPORATIONS.] (a) The privilege and income taxes franchise tax imposed by this chapter upon corporations shall be computed by applying to their taxable net income in excess of the applicable deductions allowed under section 290.21 the following rates:

(1) On the first \$25,000, for the first taxable year beginning after December 31, 1981 and before January 1, 1983 nine percent and, for taxable years beginning after December 31, 1982, six percent; provided that, in the case of a corporation having taxable net income allocated to this state pursuant to the provisions of section 290.19, 290.20, 290.35, or 290.36, the amount of income subject to this rate shall be that proportion of \$25,000 which its income allocable to this state bears to its total taxable net income; and

(2) On the remainder, 12 rate of ten percent.

(b) Notwithstanding paragraph (a), if the increase in tax rates is imposed pursuant to article 10, section 5, for taxable years beginning after December 31, 1987 the rate of tax is 11 percent.

Sec. 50. Minnesota Statutes 1986, section 290.068, subdivision 1, is amended to read:

Subdivision 1. [CREDIT ALLOWED.] ~~In addition to the deduction provided in section 290.09.~~ A corporation, other than a corporation with a valid election in effect under section 290.9725, is allowed a credit against the tax imposed by this chapter for the taxable year equal to:

(a) ~~12.5~~ 5 percent of the first \$2 million of the excess (if any) of

(1) the qualified research expenses for the taxable year, over

(2) the base period research expenses; and

(b) ~~6.25~~ 2.5 percent on all of such excess expenses over \$2 million.

Sec. 51. Minnesota Statutes 1986, section 290.068, subdivision 2, is amended to read:

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

(a) "Qualified research expenses" means (i) qualified research expenses as defined in section ~~30 41~~(b) and (e) of the Internal Revenue Code, except it shall not include expenses incurred for basic research conducted outside the state of Minnesota pursuant to section ~~30 41~~(e); or (ii) contributions to a nonprofit corporation established and operated pursuant to the provisions of chapter 317 for the purpose of promoting the establishment and expansion of business in this state, provided the contributions are invested by the nonprofit corporation for the purpose of providing funds for small, technologically innovative enterprises in Minnesota during the early stages of their development.

(b) "Qualified research" means qualified research as defined in section ~~30 41~~(d) of the Internal Revenue Code, except that the term shall not include qualified research conducted outside the state of Minnesota.

(c) "Base period research expenses" means base period research expenses as defined in section ~~30 41~~(c) of the Internal Revenue Code, except that "December 31, 1981" shall be substituted for "June 30,

1981" in subparagraph (B) of paragraph (2) and the definitions contained in clauses (a) and (b) shall apply.

(d) "Internal Revenue Code" means the Internal Revenue Code of 1954 1986, as amended through December 31, 1984 1986.

Sec. 52. Minnesota Statutes 1986, section 290.068, subdivision 3, is amended to read:

Subd. 3. [LIMITATION; CARRYBACK AND CARRYOVER.] (a)(1) The credit for the taxable year shall not exceed the liability for tax. "Liability for tax" for purposes of this section means the tax imposed under this chapter for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

(2) In the case of a corporation which is a partner in a partnership, the credit allowed for the taxable year shall not exceed the lesser of the amount determined under clause (1) for the taxable year or an amount (separately computed with respect to the corporation's interest in the trade or business or entity) equal to the amount of tax attributable to that portion of taxable income which is allocable or apportionable to the corporation's interest in the trade or business or entity.

(b) If the amount of the credit determined under this section for any taxable year exceeds the limitation under clause (a), the excess shall be a research credit carryback to each of the three preceding taxable years and a research credit carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit which may be added under this clause shall not exceed the taxpayer's liability for tax less the research credit for the taxable year.

For the purposes of sections 290.46 and 290.50, if the claim for refund relates to an overpayment attributable to a research and experimental expenditure credit carryback under this subdivision, in lieu of the period of limitation prescribed in sections 290.46 and 290.50, the period of limitation shall be that period which ends with the expiration of the 15th day of the 45th month following the end of the taxable year in which the research and experimental expenditure credit arises which results in the carryback, plus any extension of time granted for filing the return, but only if the return was filed within the extended time. With respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, the period of limitations shall be that period which ends with the expiration of the 15th day of the 45th month following the end of the subsequent taxable year, plus any extension of time granted for filing the return, but only if the return

was filed within the extended time. In any case in which a taxpayer is entitled to a refund in a carryback year due to the carryback of a research and experimental expenditure credit, interest shall be computed only from the end of the taxable year in which the credit arises. With respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, interest shall be computed from the end of the subsequent taxable year.

Sec. 53. Minnesota Statutes 1986, section 290.068, subdivision 4, is amended to read:

Subd. 4. [PARTNERSHIPS.] In the case of partnerships the credit shall be allocated in the same manner provided by section ~~30~~ 41(f)(2) of the Internal Revenue Code.

Sec. 54. Minnesota Statutes 1986, section 290.068, subdivision 5, is amended to read:

Subd. 5. [ADJUSTMENTS; ACQUISITIONS AND DISPOSITIONS.] If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base period shall be adjusted in the same manner provided by section ~~30~~ 41(f)(3) of the Internal Revenue Code, except that "December 31, 1980" shall be substituted for "June 30, 1980."

Sec. 55. Minnesota Statutes 1986, section 290.069, subdivision 2a, is amended to read:

Subd. 2a. [RECAPTURE; TECHNOLOGY TRANSFER CREDIT.] (a) A corporation which receives a tax reduction pursuant to Minnesota Statutes 1986, section 290.069, subdivision 2 shall repay to the commissioner an amount of the tax reduction as specified in paragraph (b) if any of the following conditions occur within a three-year period after the date of transfer of the technology.

(1) The transferee ceases operations in the technology corridor project area.

(2) The transferee becomes a subsidiary or affiliate of the transferor.

(3) The transferee sells, transfers, or otherwise disposes of the rights to technology.

(4) The transferee fails to make the necessary payments or expenditures required by Minnesota Statutes 1986, section 290.069, subdivision 2, paragraph (g).

(5) The transferee grants an interest to the transferor in violation of Minnesota Statutes 1986, section 290.069, subdivision 2, paragraph (h).

(b) The amount of the repayment is determined pursuant to the following schedule:

Occurrence of event causing recapture	Repayment portion
Less than six months	100 percent
Six months or more but less than 12 months	83 $\frac{1}{3}$ percent
12 months or more but less than 18 months	66 $\frac{2}{3}$ percent
18 months or more but less than 24 months	50 percent
24 months or more but less than 30 months	33 $\frac{1}{3}$ percent
30 months or more but less than 36 months	16 $\frac{2}{3}$ percent

Sec. 56. Minnesota Statutes 1986, section 290.069, subdivision 4b, is amended to read:

Subd. 4b. [MULTISTATE BUSINESSES.] If a qualified small business is engaged in a business partly within and partly without the state, the credit allowable pursuant to subdivision 2 for technology transferred to the business must be apportioned. The credit determined pursuant to Minnesota Statutes 1986, section 290.069, subdivision 2 must be multiplied by the arithmetical average of the qualified small business' property and payrolls, determined as provided by section 290.19, subdivision 1, clauses (2)(a)(2) and (2)(a)(3), using data from the most recently available year. After the technology is transferred, the qualified small business shall certify to the transferor taxpayer its factors under section 290.19, subdivision 1, clauses (2)(a)(2) and (2)(a)(3) for each of the succeeding two tax years. If the factors for either of these years would result in at least a 25 percent change in the allowable credit, the taxpayer shall file an amended return repaying or claiming the difference in the credit. The preceding sentence does not apply if the qualified small business ceases operations in Minnesota and the recapture provisions of subdivision 2a or 4a apply.

Sec. 57. [290.092] [ALTERNATIVE MINIMUM TAX FOR CORPORATIONS.]

Subdivision 1. [IMPOSITION OF TAX.] In addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess (if any) of

(1) .001 multiplied by the alternative minimum tax base, over

(2) the amount of tax computed under this chapter without regard to this section.

Subd. 2. [EXEMPTIONS.] Corporations subject to tax under sections 290.05, subdivision 3, and 290.35, real estate investment trusts, regulated investment companies, cooperatives taxable under subchapter T of the Internal Revenue Code of 1986, or organized under chapter 308 or a similar law of another state, and corporations having a valid election in effect under section 1362 or 860D(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, are not subject to the tax imposed in subdivision 1.

Subd. 3. [ALTERNATIVE MINIMUM TAX BASE.] The alternative minimum tax base equals the sum of:

- (1) the total amount of Minnesota sales and receipts;
- (2) the amount of the taxpayer's total Minnesota property; and
- (3) the taxpayer's total Minnesota payrolls, less the exemption amount, if any.

Subd. 4. [DEFINITIONS.] (a) "Minnesota sales and receipts" means the total sales apportioned to Minnesota pursuant to section 75, subdivision 5, the total receipts attributed to Minnesota pursuant to section 75, subdivisions 6 to 8, and/or the total sales or receipts apportioned or attributed to Minnesota pursuant to any other apportionment formula applicable to the taxpayer.

(b) "Minnesota property" means total Minnesota tangible property as provided in section 75, subdivisions 9 to 11, and any other tangible property located in Minnesota. Intangible property shall not be included in Minnesota property for purposes of this section. Taxpayers who do not utilize tangible property to apportion income shall nevertheless include Minnesota property for purposes of this section.

(c) "Minnesota payrolls" means total Minnesota payrolls as provided in section 75, subdivision 12. Taxpayers who do not utilize payrolls to apportion income shall nevertheless include Minnesota payrolls for purposes of this section.

(d) "The exemption amount" equals the lesser of (1) the sum of the taxpayer's Minnesota sales and receipts, property, and payrolls or (2) \$5,000,000 reduced by the amount of the taxpayer's total sales and receipts, property, and payrolls in excess of \$15,000,000. Total sales and receipts, property, and payroll means the total determined under section 75 as the denominator of the apportionment formula. In the case of a unitary business filing a combined return, the amount must reflect the factors of the entire unitary business as reported on the combined return.

Subd. 5. [CREDITS.] In computing the tax under this section, the following credits are allowed:

(1) the enterprise zone credits allowed by section 273.1314, subdivision 9;

(2) the credits for estimated taxes paid; and

(3) the research and development credit allowed by section 290.068.

Sec. 58. [290.093] [TAX COMPUTATION FOR MUTUAL SAVINGS BANKS CONDUCTING LIFE INSURANCE BUSINESS.]

Mutual savings banks as defined in section 594 of the Internal Revenue Code of 1986, as amended through December 31, 1986, are subject to a tax consisting of the sum of the taxes determined under clauses (1) and (2):

(1) a tax computed on the taxable income determined without regard to any items of gross income or deductions properly allocable to the business of the life insurance department, at the rates and in the manner as if this section did not apply; and

(2) a tax computed on the income of the life insurance department determined without regard to any items of gross income or deductions not properly allocable to the department computed in the manner provided in section 290.35 and at the rate provided in section 290.06.

This section applies only if the life insurance department would, if it were treated as a separate corporation, qualify as a life insurance company under section 816 of the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 59. Minnesota Statutes 1986, section 290.095, subdivision 1, is amended to read:

Subdivision 1. [ALLOWANCE OF DEDUCTION.] (a) There shall be allowed as a deduction for the taxable year the amount of any net operating loss deduction as defined in subdivision 2, clause (b); provided, however, that the modifications specified in subdivision 4 shall be made in computing the taxable net income for the taxable year before the net operating loss deduction shall be allowed provided in section 172 of the Internal Revenue Code of 1986, as amended through December 31, 1986, subject to the limitations and modifications provided in this section.

(b) A net operating loss deduction shall be available under this section only to corporate taxpayers except as provided in that



subdivisions 7, 9, and 11 hereof apply only to individuals, estates, and trusts.

Sec. 60. Minnesota Statutes 1986, section 290.095, subdivision 2, is amended to read:

Subd. 2. [DEFINED AND LIMITED.] (a) The term "net operating loss" as used in this section shall mean ~~the excess of the deductions of the kind provided for in section 290.09, permitted to be taken in computing a taxpayer's taxable net income, as that term is defined in section 290.01, subdivision 22, over the gross income used in computing such taxable net income~~ a net operating loss as defined in section 172(c) of the Internal Revenue Code of 1986, as amended through December 31, 1986, with the modifications specified in subdivision 4. The deductions provided in section 290.21 cannot be used in the determination of a net operating loss.

(b) The term "net operating loss deduction" as used in this section means the aggregate of the net operating loss ~~carrybacks and carryovers~~ to the taxable year, computed in accordance with subdivision 3. The provisions of section 172(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, relating to the carryback of net operating losses, do not apply.

Sec. 61. Minnesota Statutes 1986, section 290.095, subdivision 3, is amended to read:

Subd. 3. [CARRYOVER AND CARRYBACK.] (a) ~~Except as provided in clause (d) or subdivision 8,~~ A net operating loss for any taxable year shall be:

(1) A net operating loss carryback to each of the three taxable years preceding the taxable year of such loss, and

(2) a net operating loss carryover to each of the five 15 taxable years following the taxable year of such loss.

(b) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which, ~~by reason of subdivision 3, clause (a) or (d),~~ such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess, if any, of the amount of such loss over the sum of the taxable net income, adjusted by the modifications specified in subdivision 4, for each of the ~~prior~~ taxable years to which such loss may be carried.

(c) Where a corporation does business both within and without Minnesota, and apportions its income under the provisions of section ~~290.19~~ 75, the net operating loss deduction shall be allowed to the

extent of the apportionment ratio of the loss year; or the year to which the loss is carried; whichever is smaller.

(d) Where a corporation files a combined report which reflects the entire unitary business as provided in section 290.34, subdivision 2, the corporation shall not be allowed a net operating loss carryback to a year in which it did not file a combined report. The number of taxable years for which a net operating loss carryover is allowed shall be increased by the number of taxable years for which a net operating loss carryback is not allowed under this clause. No additional net operating loss deduction is allowed in a subsequent taxable year for the portion of a net operating loss deduction used to offset Minnesota income in a year in which the taxpayer is subject to the alternative minimum tax in section 57.

Sec. 62. Minnesota Statutes 1986, section 290.095, subdivision 4, is amended to read:

Subd. 4. [COMPUTATION AND MODIFICATIONS.] The following modifications shall be made in computing a net operating loss in any taxable year and also in computing the taxable net income for any taxable year before a net operating loss deduction shall be allowed:

(a) No deduction shall be allowed for or with respect to losses connected with income producing activities if the income therefrom would not be required to be either assignable to this state or included in computing the taxpayer's taxable net income.

(b) A net operating loss deduction shall not be allowed.

(c) The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets. ~~The deduction for long-term capital gains provided by section 290.16, subdivision 4, shall not be allowed.~~

(d) Renegotiation of profits for a prior taxable year under the renegotiation laws of the United States of America, including renegotiation of the profits with a subcontractor, shall not enter into the computation.

(e) Federal income and excess profits taxes shall not be allowed as a deduction.

Sec. 63. Minnesota Statutes 1986, section 290.095, subdivision 7, is amended to read:

Subd. 7. [TENTATIVE CARRYBACK ADJUSTMENTS.] (a) Application for adjustment. A taxpayer An individual, estate or trust

may file an application for a tentative carryback adjustment of the tax for the prior taxable year affected by a loss or credit carryback from any taxable year. The application shall be signed and verified as provided in section 290.37, subdivision 1, and shall be filed on or after the date of filing of the return for the taxable year from which the carryback results and within a period of 12 months from the end of such taxable year (or with respect to any portion of a credit carryback from a taxable year attributable to a loss carryback from a subsequent taxable year, the application shall be filed within a period of 12 months from the end of the subsequent taxable year), in the manner and form required by rules prescribed by the commissioner. The application shall set forth in such detail and with such supporting data and explanation as such rules shall require:

- (1) the amount of the loss or credit;
- (2) the amount of the tax previously determined for the prior taxable year affected by such carryback;
- (3) the amount of decrease in such tax, attributable to such carryback, such decrease being determined by applying the carryback in the manner provided by law to the items on the basis of which such tax was determined;
- (4) the unpaid amount of such tax;
- (5) such other information for purposes of carrying out the provisions of this subdivision as may be required by such rules.

An application under this subdivision shall not constitute a claim for refund until 90 days from the date on which the application was filed, at which time it will become a claim for refund under the provisions of section 290.50.

(b) Allowance of adjustments. Within a period of 90 days from the date on which an application for a tentative carryback adjustment is filed under (a), or from the last day of the month in which falls the last date prescribed by law (including any extension of time granted the taxpayer) for filing the return for the taxable year from which such carryback results, whichever is the later, the commissioner shall make, to the extent the commissioner deems practicable in such period a limited examination of the application, to discover omissions and errors of computation therein, and shall determine the amount of the decrease in the tax attributable to such carryback upon the basis of the application and the examination, except that the commissioner may disallow, without further action, any application on finding that it contains errors of computation which the commissioner deems cannot be corrected by the commissioner within such 90-day period or material omissions. Such decrease shall be applied against any unpaid amount of tax decreased and any remainder shall, within such 90-day period, be either credited

against any tax or installment thereof then due from the taxpayer, or refunded to the taxpayer.

(c) The provisions of this subdivision shall apply to net operating loss carrybacks as provided in subdivision 3 or 11; capital loss carrybacks as provided in section 290.16, subdivision 6; research credit carrybacks as provided in section 290.068, subdivision 3 290.01, subdivisions 19, 19a, and 19b; and to any other carrybacks which may be provided in this chapter.

Sec. 64. Minnesota Statutes 1986, section 290.12, subdivision 2, is amended to read:

Subd. 2. [ADJUSTMENTS.] For taxable years beginning before January 1, 1987, in computing the amount of gain or loss under subdivision 1 the basis of the property is its adjusted basis for federal income tax purposes, except as otherwise provided in this chapter. In addition to other adjustments provided in this chapter, the adjusted basis of property for federal income tax purposes shall be increased by the amount of accelerated cost recovery system depreciation which was allowed for federal income tax purposes but not allowed for Minnesota income tax purposes under Minnesota Statutes 1986, section 290.01, subdivision 20f or 290.09, subdivision 7, paragraph (A)(c). The basis shall be diminished by the allowance for amortization of bond premium if an election to amortize was made in accordance with Minnesota Statutes 1986, section 290.09, subdivision 13, which could, during the period of the taxpayer's ownership thereof, have been deducted by the taxpayer under this chapter in respect of such property. In addition, if the property was acquired before January 1, 1933, the basis, if other than the fair market value as of such date, shall be diminished by the amount of exhaustion, wear and tear, obsolescence, amortization, or depletion actually sustained before such date. In respect of any period since December 31, 1932, during which property was held by a person or an organization not subject to income taxation under this chapter, the basis of the property is its adjusted basis for federal income tax purposes, except as otherwise provided in this chapter.

Sec. 65. Minnesota Statutes 1986, section 290.131, subdivision 1, is amended to read:

Subdivision 1. [DISTRIBUTIONS OF PROPERTY.] For taxable years beginning before January 1, 1987, the effects on recipients of a distribution by a corporation shall be governed by the provisions of sections 301 to 307 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. However, in section 301(c)(3)(B) the date January 1, 1933 shall be substituted for March 1, 1913 when determining the amount of a distribution that is not taxable.

Sec. 66. Minnesota Statutes 1986, section 290.132, subdivision 1, is amended to read:

Subdivision 1. [TAXABILITY OF CORPORATION ON DISTRIBUTION.] For taxable years beginning before January 1, 1987, no gain or loss shall be recognized to a corporation on the distribution, with respect to its stock as provided in section 311 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

The effect on earnings and profits shall be determined according to the provisions of section 312 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. However, when determining earnings and profits in section 312(f) and (g), the date December 31, 1932 shall be substituted for February 28, 1913, and January 1, 1933 shall be substituted for March 1, 1913.

Sec. 67. Minnesota Statutes 1986, section 290.133, subdivision 1, is amended to read:

Subdivision 1. [DIVIDEND DEFINED.] For taxable years beginning before January 1, 1987, for purposes of this chapter, the definitions provided in sections 316 to 318 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply. However, in section 316 (a)(1), "December 31, 1932" shall be substituted for "February 28, 1913" when determining dividends.

Sec. 68. Minnesota Statutes 1986, section 290.134, subdivision 1, is amended to read:

Subdivision 1. [GAIN OR LOSS TO SHAREHOLDERS IN CORPORATE LIQUIDATIONS.] For taxable years beginning before January 1, 1987, the effects on recipients of corporate liquidations shall be governed by the provisions of sections 331 to 334 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986. However, in section 333(f)(2), the date December 31, 1932, shall be substituted for February 28, 1913 when determining accumulated earnings and profits.

Sec. 69. Minnesota Statutes 1986, section 290.135, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULE.] For taxable years beginning before January 1, 1987, gain or loss shall be recognized to a corporation on the distribution of property in complete liquidation or on any distribution or sale of an interest in a partnership as provided in sections 336 to 346 and 386 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

Sec. 70. Minnesota Statutes 1986, section 290.136, subdivision 1, is amended to read:

Subdivision 1. [TRANSFER TO CORPORATION CONTROLLED BY TRANSFEROR.] For taxable years beginning before January 1, 1987, the provisions of sections 351 to 368 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, shall apply to corporate organizations and reorganizations. However, in section 362, the phrase "acquired in a taxable year beginning after December 31, 1956" shall be substituted for "acquired on or after June 22, 1954" when determining the property to which this section applies.

Sec. 71. Minnesota Statutes 1986, section 290.138, subdivision 3, is amended to read:

Subd. 3. [CARRYOVERS IN CERTAIN CORPORATE ACQUISITIONS.] The provisions of sections 381 and 382 of the Internal Revenue Code of ~~1954 1986~~, as amended through December 31, ~~1985 1986~~, shall apply to carryovers in certain corporate acquisitions and special limitations on net operating loss carryovers.

Sec. 72. Minnesota Statutes 1986, section 290.14, is amended to read:

290.14 [GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.]

For taxable years beginning before January 1, 1987, except as otherwise provided in this chapter, the basis for determining the gain or loss from the sale or other disposition of property acquired on or after January 1, 1933, shall be its adjusted basis for federal income tax purposes, with the following exceptions:

(1) Corporations, partnerships, or individuals subject to the occupation tax under chapter 298, shall use the occupation tax basis;

(2) The basis of property subject to the provisions of section 1034 of the Internal Revenue Code of 1954, as amended through December 31, 1985 (relating to the rollover of gain on sale of principal residence) shall be increased by the amount of gain realized on the sale of a principal residence outside of Minnesota, while a nonresident of this state, which gain was not recognized because of the provisions of section 1034.

Sec. 73. Minnesota Statutes 1986, section 290.17, is amended to read:

Subdivision 1. [INCOME OF RESIDENT INDIVIDUALS SCOPE OF ALLOCATION RULES.] The gross income of individuals shall

be their gross income as defined in section 290.01, subdivision 20 (a) The income of resident individuals is not subject to allocation outside this state. The allocation rules apply to nonresident individuals, estates, trusts, nonresident partners of partnerships, nonresident shareholders of corporations having a valid election in effect under section 1362 of the Internal Revenue Code of 1986, as amended through December 31, 1986, and all corporations not having such an election in effect. If a partnership or corporation would not otherwise be subject to the allocation rules, but conducts a trade or business that is part of a unitary business involving another legal entity that is subject to the allocation rules, the partnership or corporation is subject to the allocation rules.

(b) Expenses, losses, and other deductions (referred to collectively in this paragraph as "deductions") shall be allocated along with the item or class of gross income to which they are definitely related for purposes of assignment under this section or apportionment under section 75, 290.20, 290.35, or 290.36. Deductions not definitely related to any item or class of gross income shall be assigned to the taxpayer's domicile.

Subd. 1a. [SUBSEQUENT ADJUSTMENT.] When a loss has been reduced by the amount of tax preference items pursuant to Minnesota Statutes 1983 Supplement, section 290.17, subdivision 1, and the taxpayer subsequently sells or otherwise disposes of an asset in relation to which arose an item of tax preference which caused the reduction of the loss, the taxpayer may increase the basis of the asset by the amount of the tax preference item that was used to reduce the loss. If the asset is a depletable asset, the taxpayer may elect to so increase its basis upon disposition or to reduce the amount of otherwise taxable income subsequently produced by that asset by the amount of the tax preference item.

Subd. 2. [OTHER TAXPAYERS INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR BUSINESS.] In the case of an individual who is not a full-year resident, this subdivision applies to determine what income is assignable to Minnesota for purposes of determining the numerator of the fraction used in section 290.06, subdivision 2c. In the case of taxpayers not subject to the provisions of subdivision 1, items of gross income shall be assigned to this state or other states or countries in accordance with the following principles:

(1)(a) The entire income of all resident or domestic taxpayers from compensation for labor or personal services, or from a business consisting principally of the performance of personal or professional services, shall be assigned to this state, and the income of nonresident taxpayers from such sources shall be assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources shall be treated as income from sources without this state.

The income of a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or business shall be assigned in accordance with paragraphs (a) to (f):

(a)(1) Subject to paragraphs (a)(2) and (a)(3), income from labor or personal or professional services shall be assigned to this state if, and to the extent that, the labor or services are performed within it; all other income from such sources shall be treated as income from sources without this state.

(b) (2) In the case of an individual who is a nonresident of Minnesota and who is an athlete or entertainer, income from compensation for labor or personal services performed within this state shall be determined in the following manner:

(i) The amount of income to be assigned to Minnesota for an individual who is a nonresident salaried athletic team employee shall be determined by using a fraction in which the denominator contains the total number of days in which the individual is under a duty to perform for the employer, and the numerator is the total number of those days spent in Minnesota. In order to eliminate the need to file state or provincial income tax returns in several states or provinces, Minnesota will exclude from income any income assigned to Minnesota under the provisions of this clause for a nonresident athlete who is employed by an athletic team whose operations are not based in this state and for a nonresident salaried entertainer who is employed by an entertainment organization whose operations are not based in this state if the state or province in which the athletic team or entertainment organization is based provides a similar income exclusion. If the state or province in which the athletic team's or the entertainment organization's operations are based does not have an income tax on an individual's personal service income, it will be deemed that that state or province has a similar income exclusion. As used in the preceding sentence, the term "province" means a province of Canada; and

(ii) The amount of income to be assigned to Minnesota for an individual who is a nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's athletic or entertainment performance in Minnesota shall be determined by assigning to this state all income from performances or athletic contests in this state.

(2) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state. Income from winnings on Minnesota pari-mutuel betting tickets shall be assigned to this state. Income and gains received from tangible property not employed in the business of the recipient of such income or gains, and from tangible property employed in the business of such recipient if such business consists principally of the holding of such property



and the collection of the income and gains therefrom, shall be assigned to this state if such property has a situs within it, and to other states only if it has no situs in this state. Income or gains from intangible personal property not employed in the business of the recipient of such income or gains, and from intangible personal property employed in the business of such recipient if such business consists principally of the holding of such property and the collection of the income and gains therefrom, wherever held, whether in trust, or otherwise, shall be assigned to this state if the recipient thereof is domiciled within this state or is a resident trust or estate.

(3) Income derived from carrying on a trade or business, including in the case of a business owned by natural persons the income imputable to the owner for the owner's services and the use of the owner's property therein, shall be assigned to this state if the trade or business is conducted wholly within this state, and to other states if conducted wholly without this state. This provision shall not apply to business income subject to the provisions of clause (1).

(4) When a trade or business is carried on partly within and partly without this state, the entire income derived from such trade or business, including income from intangible property employed in such business and including, in the case of a business owned by natural persons, the income imputable to the owner for the owner's services and the use of the owner's property therein, shall be governed, except as otherwise provided in sections 290.35 and 290.36, by the provisions of section 290.19, notwithstanding any provisions of this subdivision to the contrary. This shall not apply to business income subject to the provisions of clause (1), nor shall it apply to income from the operation of a farm which is subject to the provisions of clause (2). For the purposes of this clause, a trade or business located in Minnesota is carried on partly within and partly without this state if tangible personal property is sold by such trade or business and delivered or shipped to a purchaser located outside the state of Minnesota.

If the trade or business carried on wholly or partly in Minnesota is part of a unitary business, the entire income of that unitary business shall be subject to apportionment under section 290.19 except for business income subject to the provisions of clause (1) and farm income subject to the provisions of clause (2). The term "unitary business" shall mean business activities or operations which are of mutual benefit, dependent upon, or contributory to one another, individually or as a group. Unity shall be presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction but the absence of these centralized activities will not necessarily evidence a nonunitary business. Unity of ownership will not be deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more corporations more than 50 percent

of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group.

The entire income of a unitary business shall be subject to apportionment as provided in section 290.19. None of the income of a unitary business shall be considered as derived from any particular source and none shall be allocated to any particular place except as provided by the applicable apportionment formula.

In determining whether or not intangible property is employed in a unitary business carried on partly within and partly without this state so that income derived therefrom is subject to apportionment under section 290.19 the following rules and guidelines shall apply.

(a) Intangible property is employed in a business if the business entity owning intangible property holds it as a means of furthering the business operation of which a part is located within the territorial confines of this state.

(b) Where a business operation conducted in Minnesota, is owned by a business entity which carries on business activity outside of the state different in kind from that conducted within this state, and such other business is conducted entirely outside the state, it will be presumed that the two business operations are unitary in nature, interrelated, connected and interdependent unless it can be shown to the contrary.

(5) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 408, or 409 of the Internal Revenue Code of 1954, as amended through December 31, 1985, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(6) All other items of gross income shall be assigned to the taxpayer's domicile.

(3) For purposes of this section, amounts received by a nonresident from the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions, or a Minnesota volunteer firefighters' relief association, by way of payment as a pension, public employee retirement benefit, or any combination of these, or as a retirement or

survivor's benefit made from a plan qualifying under section 401, 403, 408, or 409, or as defined in section 403(b) or 457 of the Internal Revenue Code of 1986, as amended through December 31, 1986, are not considered income derived from carrying on a trade or business or from performing personal or professional services in Minnesota, and are not taxable under this chapter.

(b) Income or gains from tangible property located in Minnesota that is not employed in the business of the recipient of the income or gains shall be assigned to this state.

(c) Except upon the sale of a partnership interest, income or gains from intangible personal property not employed in the business of the recipient of the income or gains shall be assigned to this state if the recipient of the income or gains is a resident of this state or is a resident trust or estate.

Gain on the sale of a partnership interest is allocable to this state in the ratio of the original cost of partnership tangible property in this state to the original cost of partnership tangible property everywhere, determined at the time of the sale. If more than 50 percent of the value of the partnership's assets consists of intangibles, gain or loss from the sale of the partnership interest is allocated to this state in accordance with the sales factor of the partnership for its first full tax period immediately preceding the tax period of the partnership during which the partnership interest was sold.

(d) Income from the operation of a farm shall be assigned to this state if the farm is located within this state and to other states only if the farm is not located in this state.

(e) Income from winnings on Minnesota pari-mutuel betting tickets shall be assigned to this state.

(f) All items of gross income not covered in paragraphs (a) to (e) and not part of the taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

Subd. 3. [TRADE OR BUSINESS INCOME; GENERAL RULE.] Income derived from carrying on a trade or business shall be assigned to this state if the trade or business is conducted wholly within this state, assigned outside this state if conducted wholly without this state and apportioned between this state and other states and countries under this subdivision if conducted partly within and partly without this state. For purposes of determining whether a trade or business is carried on exclusively within or without this state:

(a) A trade or business physically located exclusively within this state is nevertheless carried on partly within and partly without

this state if any of the principles set forth in section 75 for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state.

(b) A trade or business physically located exclusively without this state is nevertheless carried on partly within and partly without this state if any of the principles set forth in section 75 for the allocation of sales or receipts within or without this state when applied to the taxpayer's situation result in the allocation of any sales or receipts without this state. The jurisdiction to tax such a business under this chapter shall be determined in accordance with sections 42 and 43.

Subd. 4. [UNITARY BUSINESS PRINCIPLE.] (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section 75. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business shall be considered derived from any particular source and none shall be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this paragraph do not apply to farm income subject to subdivision 5, paragraph (b), business income subject to subdivision 5, paragraph (c), income of an insurance company determined under section 290.35, or income of an investment company determined under section 290.36.

(b) The term "unitary business" means business activities or operations which are of mutual benefit, dependent upon, or contributory to one another, individually or as a group. The term may be applied within a single legal entity or between multiple entities and without regard to whether each entity is a corporation, a partnership or a trust.

(c) Unity shall be presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business.

(d) Where a business operation conducted in Minnesota is owned by a business entity that carries on business activity outside the state different in kind from that conducted within this state, and the other business is conducted entirely outside the state, it is presumed that the two business operations are unitary in nature, interrelated, connected, and interdependent unless it can be shown to the contrary.

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or

more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group.

(f) For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 75 or 290.20, there shall be included only the income and apportionment factors of corporations or other entities created or organized in the United States or under the laws of the United States or of any state, the District of Columbia, the commonwealth of Puerto Rico, any possession of the United States, or any political subdivision of any the foregoing and of any FSC as defined in section 922 of the Internal Revenue Code of 1986, as amended through December 31, 1986, that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that other corporations or other entities organized in foreign countries might be included in the unitary business.

(g) Each corporation or other entity that is part of a unitary business shall file such combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph (f) shall be eliminated and the entire net income of the unitary business determined in accordance with this subdivision shall be apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph (f) in the denominators of the apportionment formula.

Subd. 5. [SPECIAL RULES.] Notwithstanding subdivisions 3 and 4, all income from the operation of the following types of businesses shall be allocated as follows:

(a) All income from the operation of a farm shall be assigned to this state if the farm is located within this state and no such income shall be assigned to this state if the farm is located without this state.

(b) Income from a trade or business consisting principally of the performance of personal or professional services shall be assigned to this state if, and to the extent that, the services are performed within this state.

(c) For athletic teams when the visiting team does not share in the gate receipts, all of the team's income is assigned to the state in which the team's operation is based.

Subd. 6. [NONBUSINESS INCOME.] For a trade or business for which allocation of income within and without this state is required,

if the taxpayer has any income not connected with the trade or business carried on partly within and partly without this state that income shall be allocated under subdivision 2. Intangible property is employed in a trade or business if the owner of the property holds it as a means of furthering the trade or business.

Sec. 74. Minnesota Statutes 1986, section 290.171, is amended to read:

#### 290.171 [ENACTMENT OF MULTISTATE TAX COMPACT.]

The "multistate tax compact" is hereby enacted into law to the extent provided in this section and entered into with all jurisdictions legally joining therein, in the form substantially as follows:

#### Article I. Purposes.

The purposes of this compact are to:

1. Facilitate proper determination of state and local tax liability of multistate taxpayers, including the equitable apportionment of tax bases and settlement of apportionment disputes.
2. Promote uniformity or compatibility in significant components of tax systems.
3. Facilitate taxpayer convenience and compliance in the filing of tax returns and in other phases of tax administration.
4. Avoid duplicative taxation.

#### Article II. Definitions.

As used in this compact:

1. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.
2. "Subdivision" means any governmental unit or special district of a state.
3. "Taxpayer" means any corporation, partnership, firm, association, governmental unit or agency or person acting as a business entity in more than one state.
4. "Income tax" means a tax imposed on or measured by net income including any tax imposed on or measured by an amount

arrived at by deducting expenses from gross income, one or more forms of which expenses are not specifically and directly related to particular transactions.

5. "Capital stock tax" means a tax measured in any way by the capital of a corporation considered in its entirety.

6. "Gross receipts tax" means a tax, other than a sales tax, which is imposed on or measured by the gross volume of business, in terms of gross receipts or in other terms, and in the determination of which no deduction is allowed which would constitute the tax an income tax.

7. "Sales tax" means a tax imposed with respect to the transfer for a consideration of ownership, possession or custody of tangible personal property or the rendering of services measured by the price of the tangible personal property transferred or services rendered and which is required by state or local law to be separately stated from the sales price by the seller, or which is customarily separately stated from the sales price, but does not include a tax imposed exclusively on the sale of a specifically identified commodity or article or class of commodities or articles.

8. "Use tax" means a nonrecurring tax, other than a sales tax, which (a) is imposed on or with respect to the exercise or enjoyment of any right or power over tangible personal property incident to the ownership, possession or custody of that property or the leasing of that property from another including any consumption, keeping, retention, or other use of tangible personal property and (b) is complementary to a sales tax.

9. "Tax" means an income tax, capital stock tax, gross receipts tax, sales tax, use tax, and any other tax which has a multistate impact, except that the provisions of articles III, IV and article V of this compact shall apply only to the taxes specifically designated therein and the provisions of article IX of this compact shall apply only in respect to determinations pursuant to article IV.

### Article III. Elements of Income Tax Laws.

#### Taxpayer Option, State and Local Taxes.

1. Any taxpayer subject to an income tax whose income is subject to apportionment and allocation for tax purposes pursuant to the laws of a party state or pursuant to the laws of subdivisions in two or more party states may elect to apportion and allocate his income in the manner provided by the laws of such state or by the laws of such states and subdivisions without reference to this compact, or may elect to apportion and allocate in accordance with article IV.

This election for any tax year may be made in all party states or subdivisions thereof or in any one or more of the party states or subdivisions thereof without reference to the election made in the others. For the purposes of this paragraph, taxes imposed by subdivisions shall be considered separately from state taxes and the apportionment and allocation also may be applied to the entire tax base. In no instance wherein article IV is employed for all subdivisions of a state may the sum of all apportionments and allocations to subdivisions within a state be greater than the apportionment and allocation that would be assignable to that state if the apportionment or allocation were being made with respect to a state income tax.

#### Taxpayer Option, Short Form.

2. Each party state or any subdivision thereof which imposes an income tax shall provide by law that any taxpayer required to file a return, whose only activities within the taxing jurisdiction consist of sales and do not include owning or renting real estate or tangible personal property, and whose dollar volume of gross sales made during the tax year within the state or subdivision, as the case may be, is not in excess of \$100,000 may elect to report and pay any tax due on the basis of a percentage of such volume, and shall adopt rates which shall produce a tax which reasonably approximates the tax otherwise due. The commissioner of revenue, after consultation with the Multistate Tax Commission, not more than once in five years, may adjust the \$100,000 figure in order to reflect such changes as may occur in the real value of the dollar, and such adjusted figure, upon adoption by the commissioner, shall replace the \$100,000 figure specifically provided herein. Each party state and subdivision thereof may make the same election available to taxpayers additional to those specified in this paragraph.

#### Coverage.

3. Nothing in this article relates to the reporting or payment of any tax other than an income tax.

#### Article IV. Division of Income.

1. As used in this article, unless the context otherwise requires:

(a) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business, and includes income from tangible and intangible property if the acquisition, management, and disposition of the property constitute integral parts of the taxpayer's regular trade or business operations.



(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.

(c) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services.

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, or any type of insurance company.

(e) "Nonbusiness income" means all income other than business income.

(f) "Public utility" means any business entity (1) which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications, transportation of goods or persons, except by pipeline, or the production, transmission, sale, delivery, or furnishing of electricity, water or steam; and (2) whose rates of charges for goods or services have been established or approved by a federal, state or local government or governmental agency.

(g) "Sales" means all gross receipts of the taxpayer not allocated under paragraphs of this article.

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(i) "This state" means the state in which the relevant tax return is filed or, in the case of application of this article to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.

2. Any taxpayer having income from business activity which is taxable both within and without this state, other than activity as a financial organization or public utility or the rendering of purely personal services by an individual or any income received by a Minnesota resident individual or income from the operation of a farm, shall allocate and apportion his net income as provided in this article. If a taxpayer has income from business activity as a public utility but derives the greater percentage of his income from activities subject to this article, the taxpayer may elect to allocate and apportion his entire net income as provided in this article.

3. For purposes of allocation and apportionment of income under this article, a taxpayer is taxable in another state if (1) in that state he is subject to a net income tax, a franchise tax measured by net

income, a franchise tax for the privilege of doing business, or a corporate stock tax, or (2) that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not.

4. All business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three.

5. The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period.

6. Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at eight times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals.

7. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the tax administrator may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

8. The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

9. Compensation is paid in this state if:

(a) The individual's service is performed entirely within the state;

(b) The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

(c) Some of the service is performed in the state and (1) the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or (2) the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

10. The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period.

11. Sales of tangible personal property are in this state if:

(a) The property is delivered or shipped to a purchaser, other than the United States government, within this state regardless of the f.o.b. point or other conditions of the sale; or

(b) The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and (1) the purchaser is the United States government or (2) the taxpayer is not taxable in the state of the purchaser.

12. Sales, other than sales of tangible personal property, are in this state if:

(a) The income-producing activity is performed in this state; or

(b) The income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

13. If the allocation and apportionment provisions of this article do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the tax administrator may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

(a) Separate accounting;

(b) The exclusion of any one or more of the factors;

(c) The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

(d) The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

## Article V. Elements of Sales and Use Tax Laws.

### Tax Credit.

1. Each purchaser liable for a use tax on tangible personal property shall be entitled to full credit for the combined amount or

amounts of legally imposed sales or use taxes paid by him with respect to the same property to another state and any subdivision thereof. The credit shall be applied first against the amount of any use tax due the state, and any unused portion of the credit shall then be applied against the amount of any use tax due a subdivision.

2. Whenever a vendor receives and accepts in good faith from a purchaser a resale or other exemption certificate or other written evidence of exemption authorized by the appropriate state or subdivision taxing authority, the vendor shall be relieved of liability for a sales or use tax with respect to the transaction.

## Article VI. The Commission.

### Organization and Management.

1. (a) The multistate tax commission is hereby established. It shall be composed of one "member" from each party state who shall be the head of the state agency charged with the administration of the types of taxes to which this compact applies. If there is more than one such agency the state shall provide by law for the selection of the commission member from the heads of the relevant agencies. State law may provide that a member of the commission be represented by an alternate but only if there is on file with the commission written notification of the designation and identity of the alternate. The attorney general of each party state or his designee, or other counsel if the laws of the party state specifically provide, shall be entitled to attend the meetings of the commission, but shall not vote. Such attorneys general, designees, or other counsel shall receive all notices of meetings required under paragraph 1(e) of this article.

(b) Each party state shall provide by law for the selection of representatives from its subdivisions affected by this compact to consult with the commission member from that state.

(c) Each member shall be entitled to one vote. The commission shall not act unless a majority of the members are present, and no action shall be binding unless approved by a majority of the total number of members.

(d) The commission shall adopt an official seal to be used as it may provide.

(e) The commission shall hold an annual meeting and such other regular meetings as its bylaws may provide and such special meetings as its executive committee may determine. The commission bylaws shall specify the dates of the annual and any other regular meetings, and shall provide for the giving of notice of annual, regular and special meetings. Notices of special meetings

shall include the reasons therefor and an agenda of the items to be considered.

(f) The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall appoint an executive director who shall serve at its pleasure, and it shall fix his duties and compensation. The executive director shall be secretary of the commission. The commission shall make provision for the bonding of such of its officers and employees as it may deem appropriate.

(g) Irrespective of the civil service, personnel or other merit system laws of any party state, the executive director shall appoint or discharge such personnel as may be necessary for the performance of the functions of the commission and shall fix their duties and compensation. The commission bylaws shall provide for personnel policies and programs.

(h) The commission may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental entity.

(i) The commission may accept for any of its purposes and functions any and all donations and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any governmental entity, and may utilize and dispose of the same.

(j) The commission may establish one or more offices for the transacting of its business.

(k) The commission shall adopt bylaws for the conduct of its business. The commission shall publish its bylaws in convenient form, and shall file a copy of the bylaws and any amendments thereto with the appropriate agency or officer in each of the party states.

(l) The commission annually shall make to the governor and legislature of each party state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission, and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

#### Committees.

2. (a) To assist in the conduct of its business when the full commission is not meeting, the commission shall have an executive committee of seven members, including the chairman, vice chair-

man, treasurer and four other members elected annually by the commission. The executive committee, subject to the provisions of this compact and consistent with the policies of the commission, shall function as provided in the bylaws of the commission.

(b) The commission may establish advisory and technical committees, membership on which may include private persons and public officials, in furthering any of its activities. Such committees may consider any matter of concern to the commission, including problems of special interest to any party state and problems dealing with particular types of taxes.

(c) The commission may establish such additional committees as its bylaws may provide.

#### Powers.

3. In addition to powers conferred elsewhere in this compact, the commission shall have power to:

(a) Study state and local tax systems and particular types of state and local taxes.

(b) Develop and recommend proposals for an increase in uniformity or compatibility of state and local tax laws with a view toward encouraging the simplification and improvement of state and local tax law and administration.

(c) Compile and publish information as in its judgment would assist the party states in implementation of the compact and taxpayers in complying with state and local tax laws.

(d) Do all things necessary and incidental to the administration of its functions pursuant to this compact.

#### Finance.

4. (a) The commission shall submit to the governor or designated officer or officers of each party state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

(b) Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the party states. The total amount of appropriations requested under any such budget shall be apportioned among the party states as follows: one-tenth in equal shares; and the remainder in proportion to the amount of revenue collected by each party state and its subdivisions from income taxes, capital stock

taxes, gross receipts taxes, sales and use taxes. In determining such amounts, the commission shall employ such available public sources of information as, in its judgment, present the most equitable and accurate comparisons among the party states. Each of the commission's budgets of estimated expenditures and requests for appropriations shall indicate the sources used in obtaining information employed in applying the formula contained in this paragraph.

(c) The commission shall not pledge the credit of any party state. The commission may meet any of its obligations in whole or in part with funds available to it under paragraph 1(i) of this article, provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it under paragraph 1(i), the commission shall not incur any obligation prior to the allotment of funds by the party states adequate to meet the same.

(d) The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

(e) The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the party states and by any persons authorized by the commission.

(f) Nothing contained in this article shall be construed to prevent commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

## Article VII. Uniform Regulations and Forms.

1. Whenever any two or more party states, or subdivisions of party states, have uniform or similar provisions of law relating to an income tax, capital stock tax, gross receipts tax, sales or use tax, the commission may adopt uniform regulations for any phase of the administration of such law, including assertion of jurisdiction to tax, or prescribing uniform tax forms. ~~The commission may also act with respect to the provisions of article IV of this compact.~~

2. Prior to the adoption of any regulation, the commission shall:

(a) As provided in its bylaws, hold at least one public hearing on due notice to all affected party states and subdivisions thereof and to

all taxpayers and other persons who have made timely request of the commission for advance notice of its regulation-making proceedings.

(b) Afford all affected party states and subdivisions and interested persons an opportunity to submit relevant written data and views, which shall be considered fully by the commission.

3. The commission shall submit any regulations adopted by it to the appropriate officials of all party states and subdivisions to which they might apply. Each such state and subdivision shall consider any such regulation for adoption in accordance with its own laws and procedures.

#### Article VIII. Interstate Audits.

1. Any party state or subdivision thereof desiring to make or participate in an audit of any accounts, books, papers, records or other documents may request the commission to perform the audit on its behalf. In responding to the request, the commission shall have access to and may examine, at any reasonable time, such accounts, books, papers, records, and other documents and any relevant property or stock of merchandise. The commission may enter into agreements with party states or their subdivisions for assistance in performance of the audit. The commission shall make charges, to be paid by the state or local government or governments for which it performs the service, for any audits performed by it in order to reimburse itself for the actual costs incurred in making the audit.

2. The commission may require the attendance of any person within the state where it is conducting an audit or part thereof at a time and place fixed by it within such state for the purpose of giving testimony with respect to any account, book, paper, document, other record, property or stock of merchandise being examined in connection with the audit. If the person is not within the jurisdiction, he may be required to attend for such purpose at any time and place fixed by the commission within the state of which he is a resident, provided that such state has adopted this article.

3. The commission may apply to any court having power to issue compulsory process for orders in aid of its powers and responsibilities pursuant to this article and any and all such courts shall have jurisdiction to issue such orders. Failure of any person to obey any such order shall be punishable as contempt of the issuing court. If the party or subject matter on account of which the commission seeks an order is within the jurisdiction of the court to which application is made, such application may be to a court in the state or subdivision on behalf of which the audit is being made or a court in the state in which the object of the order being sought is situated.



The provisions of this paragraph apply only to courts in a state that has adopted this article.

4. The commission may decline to perform any audit requested if it finds that its available personnel or other resources are insufficient for the purpose or that, in the terms requested, the audit is impracticable of satisfactory performance. If the commission, on the basis of its experience, has reason to believe that an audit of a particular taxpayer, either at a particular time or on a particular schedule, would be of interest to a number of party states or their subdivisions, it may offer to make the audit or audits, the offer to be contingent on sufficient participation therein as determined by the commission.

5. Information obtained by any audit pursuant to this article shall be confidential and available only for tax purposes to party states, their subdivisions or the United States. Availability of information shall be in accordance with the laws of the states or subdivisions on whose account the commission performs the audit, and only through the appropriate agencies or officers of such states or subdivisions. Nothing in this article shall be construed to require any taxpayer to keep records for any period not otherwise required by law.

6. Other arrangements made or authorized pursuant to law for cooperative audit by or on behalf of the party states or any of their subdivisions are not superseded or invalidated by this article.

7. In no event shall the commission make any charge against a taxpayer for an audit.

8. As used in this article, "tax," in addition to the meaning ascribed to it in article II, means any tax or license fee imposed in whole or in part for revenue purposes.

#### Article IX. Arbitration.

1. Whenever the commission finds a need for settling disputes concerning apportionments and allocations by arbitration, it may adopt a regulation placing this article in effect, notwithstanding the provisions of article VII.

2. The commission shall select and maintain an arbitration panel composed of officers and employees of state and local governments and private persons who shall be knowledgeable and experienced in matters of tax law and administration.

3. Whenever a taxpayer who has elected to employ article IV, or whenever the laws of the party state states or subdivision subdivisions thereof are substantially identical with the relevant provisions of article IV, this chapter, the taxpayer, by written notice to the

commission and to each party state or subdivision thereof that would be affected, may secure arbitration of an apportionment or allocation, if he is dissatisfied with the final administrative determination of the tax agency of the state or subdivision with respect thereto on the ground that it would subject him to double or multiple taxation by two or more party states or subdivisions thereof. Each party state and subdivision thereof hereby consents to the arbitration as provided herein, and agrees to be bound thereby.

4. The arbitration board shall be composed of one person selected by the taxpayer, one by the agency or agencies involved, and one member of the commission's arbitration panel. If the agencies involved are unable to agree on the person to be selected by them, such person shall be selected by lot from the total membership of the arbitration panel. The two persons selected for the board in the manner provided by the foregoing provisions of this paragraph shall jointly select the third member of the board. If they are unable to agree on the selection, the third member shall be selected by lot from among the total membership of the arbitration panel. No member of a board selected by lot shall be qualified to serve if he is an officer or employee or is otherwise affiliated with any party to the arbitration proceeding. Residence within the jurisdiction of a party to the arbitration proceeding shall not constitute affiliation within the meaning of this paragraph.

5. The board may sit in any state or subdivision party to the proceeding, in the state of the taxpayer's incorporation, residence or domicile, in any state where the taxpayer does business, or in any place that it finds most appropriate for gaining access to evidence relevant to the matter before it.

6. The board shall give due notice of the times and places of its hearings. The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses. The board shall act by majority vote.

7. The board shall have power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of accounts, books, papers, records, and other documents, and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, and upon application by the board, any judge of a court of competent jurisdiction of the state in which the board is sitting or in which the person to whom the subpoena is directed may be found may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt. The provisions of this paragraph apply only in states that have adopted this article.

8. Unless the parties otherwise agree the expenses and other costs of the arbitration shall be assessed and allocated among the parties by the board in such manner as it may determine. The commission

shall fix a schedule of compensation for members of arbitration boards and of other allowable expenses and costs. No officer or employee of a state or local government who serves as a member of a board shall be entitled to compensation therefor unless he is required on account of his service to forego the regular compensation attaching to his public employment, but any such board member shall be entitled to expenses.

9. The board shall determine the disputed apportionment or allocation and any matters necessary thereto. The determinations of the board shall be final for purposes of making the apportionment or allocation, but for no other purpose.

10. The board shall file with the commission and with each tax agency represented in the proceeding: the determination of the board; the board's written statement of its reasons therefor; the record of the board's proceedings; and any other documents required by the arbitration rules of the commission to be filed.

11. The commission shall publish the determinations of boards together with the statements of the reasons therefor.

12. The commission shall adopt and publish rules of procedure and practice and shall file a copy of such rules and of any amendment thereto with the appropriate agency or officer in each of the party states.

13. Nothing contained herein shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the arbitration proceedings.

#### Article X. Entry Into Force and Withdrawal.

1. This compact shall become effective as to any other state upon its enactment. The commission shall arrange for notification of all party states whenever there is a new enactment of the compact.

2. Any party state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

3. No proceeding commenced before an arbitration board prior to the withdrawal of a state and to which the withdrawing state or any subdivision thereof is a party shall be discontinued or terminated by the withdrawal, nor shall the board thereby lose jurisdiction over any of the parties to the proceeding necessary to make a binding determination therein.

## Article XI. Effect on Other Laws and Jurisdictions.

Nothing in this compact shall be construed to:

(a) Affect the power of any state or subdivision thereof to fix rates of taxation; ~~except that a party state shall be obligated to implement article III 2 of this compact.~~

(b) Apply to any tax or fixed fee imposed for the registration of a motor vehicle or any tax on motor fuel, other than a sales tax, provided that the definition of "tax" in article VIII 9 may apply for the purposes of that article and the commission's powers of study and recommendation pursuant to article VI 3 may apply.

(c) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction is expressly conferred by or pursuant to this compact upon another agency or body.

(d) Supersede or limit the jurisdiction of any court of the United States.

## Article XII. Construction and Severability.

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

## Sec. 75. [290.191] [APPORTIONMENT OF NET INCOME.]

Subdivision 1. [GENERAL RULE.] Except as otherwise provided in section 290.17, subdivision 5, the net income from a trade or business carried on partly within and partly without this state must be apportioned to this state as provided in this section.

Subd. 2. [APPORTIONMENT FORMULA OF GENERAL APPLICATION.] Except for those trades or businesses required to use a different formula under subdivision 3 or section 290.35 or 290.36, and for those trades or businesses that receive permission to use

some other method under section 290.20 or under subdivision 4, a trade or business required to apportion its net income shall apportion its income to this state on the basis of the percentage obtained by taking the sum of:

(1) 70 percent of the percentage which the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period;

(2) 15 percent of the percentage which the total tangible property used by the taxpayer in this state in connection with the trade or business during the tax period is of the total tangible property, wherever located, used by the taxpayer in connection with the trade or business during the tax period; and

(3) 15 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

Subd. 3. [APPORTIONMENT FORMULA FOR FINANCIAL INSTITUTIONS.] Except a regulated investment company required to apportion its income under section 290.36, a financial institution that is required to apportion its net income shall apportion its net income to this state on the basis of the percentage obtained by taking the sum of:

(1) 70 percent of the percentage which the receipts from within this state in connection with the trade or business during the tax period are of the total receipts in connection with the trade or business during the tax period, from wherever derived;

(2) 15 percent of the percentage which the sum of the total tangible property used by the taxpayer in this state and the intangible property owned by the taxpayer and attributed to this state in connection with the trade or business during the tax period is of the sum of the total tangible property, wherever located, used by the taxpayer and the intangible property owned by the taxpayer and attributed to all states in connection with the trade or business during the tax period; and

(3) 15 percent of the percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

Subd. 4. [APPORTIONMENT FORMULA FOR CERTAIN MAIL ORDER BUSINESSES.] If the business consists exclusively of the

selling of tangible personal property and services in response to orders received by United States mail or telephone, and 100 percent of the taxpayer's property and payroll is within Minnesota, then the taxpayer may apportion net income to Minnesota based solely upon the percentage that the sales made within this state in connection with the trade or business during the tax period are of the total sales wherever made in connection with the trade or business during the tax period. Property and payroll factors shall be disregarded. In determining eligibility for this subdivision, the sale not in the ordinary course of business of tangible or intangible assets used in conducting business activities shall be disregarded. This subdivision is repealed effective for taxable years beginning after December 31, 1988.

Subd. 5. [DETERMINATION OF SALES FACTOR.] (a) For purposes of this section, the following rules apply in determining the sales factor.

(b) Sales of tangible personal property are made within this state (i) if the property is received by a purchaser, other than the United States government, at a point within this state, and the taxpayer is taxable in this state, regardless of the f.o.b. point, other conditions of the sale, or the ultimate destination of the property or (ii) the property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

(c) Tangible personal property delivered to a common or contract carrier or foreign vessel for delivery to a purchaser in another state or nation is a sale in that state or nation, regardless of f.o.b. point or other conditions of the sale.

(d) Notwithstanding paragraphs (b) and (c), when intoxicating liquor, wine, fermented malt beverages, cigarettes, or tobacco products are sold to a purchaser who is licensed by a state or political subdivision to resell this property only within the state of ultimate destination, the sale is made in that state.

(e) Sales made by or through a corporation that is qualified as a domestic international sales corporation under section 992 of the Internal Revenue Code are not considered to have been made within this state.

(f) Sales, other than sales of tangible personal property, are made in this state if:

(1) the income-producing activity is performed in this state; or

(2) the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity

is performed in this state than in any other state, based on costs of performance.

Subd. 6. [DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL INSTITUTIONS.] (a) For purposes of this section, the rules in this subdivision and subdivisions 7 and 8 apply in determining the receipts factor for financial institutions.

(b) "Receipts" for this purpose means gross income, including net taxable gain on disposition of assets and money market transactions in money market instruments when derived from transactions and activities in the regular course of the taxpayer's trade or business. Contra-expense items are not receipts for purposes of the receipts factor.

(c) "Money market instruments" means federal funds sold and securities purchased under agreements to resell, commercial paper, banker's acceptances, and purchased certificates of deposit and similar instruments to the extent that the instruments are reflected as assets under generally accepted accounting principles.

(d) "Securities" means United States Treasury securities, obligations of United States government agencies and corporations, obligations of state and political subdivisions, corporate stock and other securities, participations in securities backed by mortgages held by United States or state government agencies, loan-backed securities and similar investments to the extent the investments are reflected as assets under generally accepted accounting principles.

(e) Receipts from the lease or rental of real or tangible personal property (including both finance leases and true leases) must be attributed to this state if the property is located in this state. Tangible personal property that is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment, and the like, is considered to be located in a state if:

(1) the operation of the property is entirely within the state; or

(2) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state.

(f) Interest income and other receipts from assets in the nature of loans that are secured primarily by real estate or tangible personal property must be attributed to this state if the security property is located in this state under the principles stated in paragraph (e).

(g) Interest income and other receipts from consumer loans not secured by real or tangible personal property that are made to residents of this state (whether at a place of business, by traveling

loan officer, by mail, by telephone or other electronic means) must be attributed to this state.

(h) Interest income and other receipts from commercial loans not secured by real or tangible personal property must be attributed to this state if the proceeds of the loan are to be applied in this state. If it cannot be determined where the funds are to be applied, the income and receipts are attributed to the state in which the business applied for the loan. "Applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(i) Interest income and other receipts from a participating financial institution's portion of participation loans must be attributed under paragraphs (e) to (h). A participation loan is a loan in which more than one lender is a creditor to a common borrower.

(j) Interest income and other receipts including service charges from financial institution credit card and travel and entertainment credit card receivables and credit card holders' fees must be attributed to the state to which the card charges and fees are regularly billed.

(k) Merchant discount income derived from financial institution credit card holder transactions with a merchant must be attributed to the state in which the merchant is located. In the case of merchants located within and outside the state, only receipts from merchant discounts attributable to sales made from locations within the state shall be attributed to this state. It shall be presumed, subject to rebuttal, that the location of a merchant is the address shown on the invoice submitted by the merchant to the taxpayer.

(l) Receipts from the performance of fiduciary and other services must be attributed to the state in which the benefits of the services are consumed. If the benefits are consumed in more than one state, the receipts from those benefits must be apportioned to this state pro rata according to the portion of the benefits consumed in this state.

(m) Receipts from the issuance of travelers checks and money orders must be attributed to the state in which the checks and money orders are purchased.

(n) Receipts from investments of a financial institution in securities of this state, its political subdivisions, agencies, and instrumentalities must be attributed to this state.

Subd. 7. [RECEIPTS FROM INVESTMENTS IN NONSTATE SECURITIES; HOW APPORTIONED.] Receipts from investments of a financial institution in other securities and from money market instruments must be apportioned to this state based on the ratio that total deposits from this state, its residents (including any



business with an office or other place of business in this state), its political subdivisions, agencies, and instrumentalities bear to the total deposits from all states, their residents, their political subdivisions, agencies, and instrumentalities. In the case of an unregulated financial institution subject to this section, these receipts are apportioned to this state based on the ratio that its gross business income earned from sources within this state bears to gross business income earned from sources within all states. For purposes of this subdivision, deposits made by this state, its residents, its political subdivisions, agencies, and instrumentalities shall be attributed to this state, whether or not the deposits are accepted or maintained by the taxpayer at locations within this state.

Subd. 8. [DEPOSIT; DEFINITION.] (a) "Deposit," as used in subdivision 7, has the meanings in this subdivision.

(b) "Deposit" means the unpaid balance of money or its equivalent received or held by a financial institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account whether or not advance notice is required to withdraw the credited funds, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, or certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the financial institution, or a letter of credit or a traveler's check on which the financial institution is primarily liable. However, without limiting the generality of the term "money or its equivalent," any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining the credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to the bank for collection.

(c) "Deposit" means trust funds received or held by the financial institution, whether held in the trust department or held or deposited in any other department of the financial institution.

(d) "Deposit" means money received or held by a financial institution, or the credit given for money or its equivalent received or held by a financial institution, in the usual course of business for a special or specific purpose, regardless of the legal relationship so established. Under this paragraph, "deposit" includes, but is not limited to, escrow funds, funds held as security for an obligation due to the financial institution or others (including funds held as dealers reserves) or for securities loaned by the bank, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes. It does

not include funds received by the financial institution for immediate application to the reduction of an indebtedness to the receiving financial institution, or under condition that the receipt of the funds immediately reduces or extinguishes the indebtedness.

(e) "Deposit" means outstanding drafts (including advice or authorization to charge a financial institution's balance in another such institution), cashier's checks, money orders, or other officer's checks issued in the usual course of business for any purpose, but not including those issued in payment for services, dividends, or purchases or other costs or expenses of the financial institution itself.

(f) "Deposit" means money or its equivalent held as a credit balance by a financial institution on behalf of its customer if the entity is engaged in soliciting and holding such balances in the regular course of its business.

(g) Interinstitution fund transfers are not deposits.

Subd. 9. [DETERMINATION OF PROPERTY FACTOR; GENERAL RULES.] For all taxpayers, the property factor includes tangible property, real, personal, and mixed, owned or rented, and used by the taxpayer in connection with the trade or business, as set forth in subdivision 10. For financial institutions only, the property factor also includes intangible property, as set forth in subdivision 11. For both tangible and intangible property, the property included in the property factor is the average of the total property used by the taxpayer in connection with its business during the tax period. Such averages must be on a commensurate basis for property within and without the state.

Subd. 10. [PROPERTY FACTOR; TANGIBLE PROPERTY.] (a) Tangible property includes land, buildings, machinery and equipment, inventories, and other tangible personal property actually used by the taxpayer during the taxable year in carrying on the business activities of the taxpayer. Tangible property which is separately allocated under section 290.17 is not includable in the property factor.

(b) Cash on hand or in banks, shares of stock, notes, bonds, accounts receivable, or other evidences of indebtedness, special privileges, franchises, and goodwill, are specifically excluded from the property factor, except as otherwise provided for financial institutions in subdivision 11.

(c) The value of tangible property that is owned by the taxpayer and that is to be used in the apportionment fraction is the original cost adjusted for any later capital additions or improvements and partial disposition by reason of sale, exchange, or abandonment.

(d) For purposes of computing the property factor, United States government property that is used by the taxpayer must be considered owned by the taxpayer.

(e) Property that is rented by the taxpayer is valued at eight times the net annual rental. Net annual rental is the annual rental paid by the taxpayer less any annual rental received by the taxpayer from subrentals. If the subrents taken into account in determining the net annual rental produce a negative or clearly inaccurate value for any item of property, another method that will properly reflect the value of rented property may be required by the commissioner or requested by the taxpayer. In no case, however, shall the value be less than an amount which bears the same ratio to the annual rental paid by the taxpayer for such property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. Rents paid during the year cannot be averaged.

(f) A person filing a combined report shall use this method of calculating the property factor for all members of the group.

Subd. 11. (FINANCIAL INSTITUTIONS; PROPERTY FACTOR.)

(a) For financial institutions, the property factor includes, as well as tangible property, intangible property as set forth in this subdivision.

(b) Intangible personal property must be included at its tax basis for federal income tax purposes.

(c) Goodwill must not be included in the property factor.

(d) Coin and currency located in this state must be attributed to this state.

(e) Lease financing receivables (from true leases or from financing leases) must be attributed to this state if and to the extent that the property is located within this state.

(f) Assets in the nature of loans that are secured by real or tangible personal property must be attributed to this state if and to the extent that the security property is located within this state.

(g) Assets in the nature of consumer loans and installment obligations that are unsecured or secured by intangible property must be attributed to this state if the loan was made to a resident of this state.

(h) Assets in the nature of commercial loan and installment obligations that are unsecured or secured by intangible property must be attributed to this state if the loan proceeds of the loan are

to be applied in this state. If it cannot be determined where the funds are to be applied, the assets must be attributed to the state in which the business applied for the loan. "Applied for" means initial inquiry (including customer assistance in preparing the loan application) or submission of a completed loan application, whichever occurs first.

(i) A participating financial institution's portion of a participation loan shall be attributed under paragraphs (e) to (h).

(j) Financial institution credit card and travel and entertainment credit card receivables must be attributed to the state to which the credit card charges and fees are regularly billed.

Subd. 12. [DETERMINATION OF PAYROLL FACTOR.] (a) The payroll factor must be determined in the same way for all taxpayers.

(b) Wages or salaries must be determined to be paid or incurred in this state if the individual with respect to whom the wages or salaries are paid is either employed within this state or is actually engaged in work in the territorial confines of this state, or if working without this state, is identified with or accountable to an office within this state.

(c) The wages or salaries paid to officers and employees working from offices within this state are considered payroll within this state even though the officers and employees employment requires them to spend working time without this state. Officers and employees whose employment requires them to work without the state entirely and who are assigned to an office without the state, are not considered employees within the state for the purpose of apportionment even though their salaries are paid from the taxpayer's general offices within the state.

Sec. 76. Minnesota Statutes 1986, section 290.20, subdivision 1, is amended to read:

Subdivision 1. The methods prescribed by section 290.19 75 shall be presumed to determine fairly and correctly the taxpayer's taxable net income allocable to this state. Any taxpayer feeling aggrieved by the application of the methods so prescribed may petition the commissioner for determination of such net income by the use of some other method, including separate accounting. Thereupon, the commissioner on finding that the application of the methods prescribed by section 290.19 will be unjust to the taxpayer, may allow the use of the methods so petitioned for by the taxpayer, or may determine such net income by other methods if satisfied that such other methods will fairly reflect such net income. A petition within the meaning of this section shall be deemed to have been filed by the taxpayer if the taxpayer's return uses a method other than the methods prescribed by section 290.19, and if such return shall have

attached thereto a statement setting forth the reasons for the use of such other method. If the methods prescribed by section 75 do not fairly reflect all or any part of taxable net income allocable to this state, the taxpayer may petition for or the commissioner may require the determination of net income by the use of another method, if that method fairly reflects net income. These other methods may include:

- (1) separate accounting;
- (2) excluding any one or more of the factors;
- (3) including one or more additional factors; or
- (4) some other method.

Sec. 77. Minnesota Statutes 1986, section 290.20, is amended by adding a subdivision to read:

Subd. 1a. A petition within the meaning of this section must be filed by the taxpayer in the form required by the commissioner.

Sec. 78. Minnesota Statutes 1986, section 290.21, subdivision 3, is amended to read:

Subd. 3. An amount for contribution or gifts made within the taxable year:

(a) to or for the use of the state of Minnesota, or any of its political subdivisions for exclusively public purposes,

(b) to or for the use of any community chest, corporation, organization, trust, fund, association, or foundation located in and carrying on substantially all of its activities within this state, organized and operating exclusively for religious, charitable, public cemetery, scientific, literary, artistic, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual,

(c) to a fraternal society, order, or association, operating under the lodge system located in and carrying on substantially all of their activities within this state if such contributions or gifts are to be used exclusively for the purposes specified in subdivision 3(b), or for or to posts or organizations of war veterans or auxiliary units or societies of such posts or organizations, if they are within the state and no part of their net income inures to the benefit of any private shareholder or individual,

(d) to or for the use of the United States of America for exclusively public purposes; and to or for the use of any community chest, corporation, trust, fund, association, or foundation, organized and operated exclusively for any of the purposes specified in subdivision 3(b) and (e) no part of the net earnings of which inures to the benefit of any private shareholder or individual, but not carrying on substantially all of their activities within this state, in an amount equal to the ratio of Minnesota taxable net income to total net income if the contribution or gift consists of real property located in Minnesota,

(e) the total deduction hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the deductions allowable under this section other than those for contributions or gifts,

(f) in the case of a corporation reporting its taxable income on the accrual basis, if: (A) the board of directors authorizes a charitable contribution during any taxable year, and (B) payment of such contribution is made after the close of such taxable year and on or before the fifteenth day of the third month following the close of such taxable year; then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the commissioner shall by rules prescribe.

Sec. 79. Minnesota Statutes 1986, section 290.21, subdivision 4, is amended to read:

Subd. 4. (a) 85 80 percent of dividends received by a corporation during the taxable year from another corporation, when the corporate stock with respect to which dividends are paid does not constitute the stock in trade of the taxpayer or would not be included in the inventory of the taxpayer, or does not constitute property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or when the trade or business of the taxpayer does not consist principally of the holding of the stocks and the collection of the income and gains therefrom. The remaining 15 20 percent shall be allowed if the recipient owns 80 percent or more of all the voting stock of the other corporation and the dividends were paid from income arising out of business done in this state by the corporation paying the dividends. If the dividends were declared from income arising out of business done within and without this state, then a proportion of the remainder shall be allowed as a deduction. The proportion must be that which the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation. The amounts must be determined by the returns under this chapter of the corporation paying the dividends for the taxable year preceding their distribution. The burden is on the taxpayer to show that the amount of remainder claimed as a

deduction has been received from income arising out of business done in this state.

(b) If the trade or business of the taxpayer consists principally of the holding of the stocks and the collection of the income and gains therefrom, dividends received by a corporation during the taxable year from another corporation, if the recipient owns 80 percent or more of all the voting stock of the other corporation, from income arising out of business done in this state by the corporation paying the dividends. If the dividends were declared from income arising out of business done within and without this state, then a proportion of the dividends shall be allowed as a deduction. The proportion must be that which the amount of the taxable net income of the corporation paying the dividends assignable or allocable to this state bears to the entire net income of the corporation. The amounts must be determined by the returns under this chapter of the corporation paying the dividends for the taxable year preceding their distribution. The burden is on the taxpayer to show that the amount of dividends claimed as a deduction has been received from income arising out of business done in this state.

(c) The dividend deduction provided in this subdivision shall be allowed only with respect to dividends that are included in a corporation's Minnesota taxable net income for the taxable year.

The dividend deduction provided in this subdivision does not apply to a dividend from a corporation which, for the taxable year of the corporation in which the distribution is made or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

The dividend deduction provided in this subdivision applies to the amount of regulated investment company dividends only to the extent determined under section 854(b) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

The dividend deduction provided in this subdivision shall not be allowed with respect to any dividend for which a deduction is not allowed under the provisions of section 246(c) of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986.

(d) If dividends received by a corporation that does not have nexus with Minnesota under the provisions of Public Law Number 86-272 are included as income on the return of an affiliated corporation permitted or required to file a combined report under section 290.34, subdivision 2, then for purposes of this subdivision the determination as to whether the trade or business of the corporation consists principally of the holding of stocks and the collection of income and gains therefrom shall be made with reference to the trade or

business of the affiliated corporation having a nexus with Minnesota.

(e) Dividends received by a corporation from another corporation which is organized under the laws of a foreign country or a political subdivision of a foreign country, if the dividends are paid from income arising from sources without the United States, the commonwealth of Puerto Rico, and the possessions of the United States. The deduction provided by this clause subdivision does not apply if the corporate stock with respect to which dividends are paid constitutes the stock in trade of the taxpayer, or would be included in the inventory of the taxpayer, or constitutes property held by the taxpayer primarily for sale to customers in the ordinary course of the taxpayer's trade or business, or if the trade or business of the taxpayer consists principally of the holding of stocks and the collection of the income or gains therefrom, or if the dividends are paid by a FSC as defined in section 922 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985. No dividend may be deducted under this clause if it is deducted under clause (a) 1986.

Sec. 80. Minnesota Statutes 1986, section 290.34, subdivision 2, is amended to read:

Subd. 2. [AFFILIATED OR RELATED CORPORATIONS, COMBINED REPORT.] (a) When a corporation which is required to file an income tax return is affiliated with or related to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations, or has its income regulated through contract or other arrangement, the commissioner of revenue may permit or require such combined report as, in the commissioner's opinion, is necessary in order to determine the taxable net income of any one of the affiliated or related corporations. For purposes of computing either the arithmetic average or weighted apportionment formulas under section 290.19, subdivision 1 for each corporation involved, the numerator of the fraction shall be that corporation's sales, property, and payroll in Minnesota and the denominator shall be the total sales, payroll, and property of all the corporations shown on the combined report. The combined report shall reflect the income of the entire unitary business as provided in section 290.17, subdivision 2, clause (4). The combined report shall reflect income only from corporations created or organized in the United States or under the laws of the United States or of any state, the District of Columbia, the commonwealth of Puerto Rico, any possession of the United States, or any political subdivision of any of the foregoing and from a FSC as defined in section 922 of the Internal Revenue Code of 1954, as amended through December 31, 1985. All intercompany transactions between companies which are contained on the combined report shall be eliminated. This subdivision shall not apply to insurance companies whose income is



determined under section 290.35 or to investment companies whose income is determined under section 290.36.

(b) If a corporation has been divested from the unitary group and is included in a combined report for a fractional part of the common accounting period that the report is based on, then the sales, property, and payroll attributed to the corporation in the apportionment formula must be prorated or separately accounted and must show for what part of the accounting period the corporation is included in the report.

(c) The combined report shall reflect the income of the entire unitary business as provided in section 290.17, subdivision 3. If a corporation has been divested from the unitary group and is included in the combined report for a fractional part of the common accounting period that the combined report is based on, its income includable in the combined report is its income for that part of the year.

Sec. 81. Minnesota Statutes 1986, section 290.35, is amended to read:

290.35 [INSURANCE COMPANIES; REPORT OF NET INCOME; COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.]

Subdivision 1. [COMPUTATION OF TAXABLE NET INCOME.] The taxable net income of insurance companies taxable under this chapter shall be computed as follows:

Each such company shall report to the commissioner the net income returned by it for the taxable year to the United States under the provisions of the act of congress, known as the revenue act of 1936, or that it would be required to return as net income thereunder if it were in effect. Notwithstanding the provisions of the Revenue Act of 1936, whether or not an insurance company is exempt from taxation must be determined under section 290.05.

Subd. 2. [APPORTIONMENT OF TAXABLE NET INCOME.] The commissioner shall compute therefrom the taxable net income of such companies by assigning to this state that proportion thereof which the gross premiums collected by them during the taxable year from old and new business within this state bears to the total gross premiums collected by them during that year from their entire old and new business, including reinsurance premiums; provided, the commissioner shall add to the taxable net income so apportioned to this state the amount of any taxes on premiums paid by the company by virtue of any law of this state (other than the surcharge on premiums imposed by sections 69.54 to 69.56) which shall have been deducted from gross income by the company in arriving at its total net income under the provisions of such act of congress.

(a) For purposes of determining the Minnesota apportionment percentage, premiums from reinsurance contracts assumed from companies domiciled in Minnesota and premiums in connection with property in or liability arising out of activity in, or in connection with the lives or health of Minnesota residents shall be assigned to Minnesota and premiums from reinsurance contracts assumed from companies domiciled outside of Minnesota and premiums in connection with property in or liability arising out of activity in, or in connection with the lives or health of non-Minnesota residents shall be assigned outside of Minnesota.

(b) The apportionment method prescribed by paragraph (a) shall be presumed to fairly and correctly determine the taxpayer's taxable net income. If the method prescribed in paragraph (a) does not fairly reflect all or any part of taxable net income, the taxpayer may petition for or the commissioner may require the determination of taxable net income by use of another method if that method fairly reflects taxable net income. A petition within the meaning of this section must be filed by the taxpayer on such form as the commissioner shall require.

Subd. 3. [CREDIT.] An insurance company shall receive a credit against the tax equal to any taxes based on premiums paid by it that are attributable to the period for which the tax under this chapter is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by sections 69.54 to 69.56.

Sec. 82. Minnesota Statutes 1986, section 290.36, is amended to read:

290.36 [INVESTMENT COMPANIES; REPORT OF NET INCOME; COMPUTATION OF AMOUNT OF INCOME ALLOCABLE TO STATE.]

The taxable net income of investment companies shall be computed as follows:

Each investment company transacting business as such in this state shall report to the commissioner the net income returned by the company for the taxable year to the United States under the provisions of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, less the credits provided therein and subject to the adjustments required by this chapter. The commissioner shall compute therefrom the taxable net income of the investment company by assigning to this state that proportion of such net income, less such credits which the aggregate of the gross payments collected by the company during the taxable year from old and new business upon investment contracts issued by the company and held by residents of this state, bears to the total amount of the gross payments collected during such year by the company from such

business upon investment contracts issued by the company and held by persons residing within the state and elsewhere.

As used in this section, the term "investment company" means any person, copartnership, association, or corporation, whether local or foreign, coming within the purview of section 54.26, and who or which is registered under the Investment Company Act of 1940 (United States Code, title 15, section 80a-1 and following), as amended through December 31, 1986, and who or which solicits or receives payments to be made to itself and which issues therefor, or has issued therefor and has or shall have outstanding so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement to return to the holders or owners thereof money or anything of value at some future date; and as to whom the gross payments received during the taxable year in question upon outstanding investment contracts, plus interest and dividends earned on investment contracts determined by prorating the total dividends and interest for the taxable year in question in the same proportion that certificate reserves as defined by the Investment Company Act of 1940, as amended through December 31, 1986, is to total assets, shall be at least 50 percent of the company's gross payments upon investment contracts plus gross income from all other sources except dividends from subsidiaries for the taxable year in question. The term "investment contract" shall mean any such so-called bonds, shares, coupons, certificates of membership, or other evidences of obligation or agreement or pretended agreement issued by an investment company.

Sec. 83. Minnesota Statutes 1986, section 290.37, subdivision 1, is amended to read:

Subdivision 1. [PERSONS MAKING RETURNS.] (a) The commissioner of revenue shall annually determine the gross income levels at which individuals, trusts, and estates shall be required to file a return for each taxable year. An individual who is not a Minnesota resident for any part of the year is not required to file a Minnesota income tax return if the individual's Minnesota gross income computed under section 290.06, subdivision 2c, clause (f)(1) is less than the filing requirements for an individual who is a full year resident of Minnesota with the same marital status and number of personal credits.

The decedent's final income tax return, and all other income tax returns for prior years where the decedent had gross income in excess of the minimum amount at which an individual is required to file and did not file, shall be filed by the decedent's personal representative, if any. If there is no personal representative, the return or returns shall be filed by the transferees as defined in section 290.29, subdivision 3, who receive any property of the decedent.

The trustee or other fiduciary of property held in trust shall file a return with respect to the taxable net income of such trust if that exceeds an amount determined by the commissioner if such trust belongs to the class of taxable persons.

Every corporation shall file a return, if the corporation is subject to the state's jurisdiction to tax under section 42, subdivision 5. The return in the case of a corporation shall be signed by a person designated by the corporation. The commissioner may adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report if the affiliated group includes a corporation bank subject to tax under section 290.361. The return in the case of a corporation shall be signed by a person designated by the corporation this chapter. Members of an affiliated group that elect to file one return on behalf of the members of the group under rules adopted by the commissioner may modify or rescind the election by filing the form required by the commissioner.

The receivers, trustees in bankruptcy, or assignees operating the business or property of a taxpayer shall file a return with respect to the taxable net income of such taxpayer if a return is required.

(b) Such return shall (1) contain a written declaration that it is correct and complete, and (2) shall contain language prescribed by the commissioner providing a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid.

(c) For purposes of this subdivision the term "gross income" shall mean gross income as defined in section 61 of the Internal Revenue Code of 1954, as amended through December 31, 1985, modified and adjusted in accordance with the provisions of sections 290.01, subdivision 20b, clauses (1), (6), (7), and (8), 290.08, and 290.17.

Sec. 84. [290.371] [NOTICE OF BUSINESS ACTIVITIES REPORT.]

Subdivision 1. [REPORT REQUIRED.] Every corporation that, during any calendar year or fiscal accounting year ending after December 31, 1986, carried on any activity or owned or maintained any property in this state, unless specifically exempted under subdivision 3, shall be required to file a notice of business activities report, as provided in this section. Filing of the report shall not be a factor in determining whether a corporation is subject to taxation under this chapter.

Subd. 2. [ACTIVITIES.] Activities or property maintenance in this state which require corporations to file this report are:

(1) the maintenance in this state of an office or other place of business;

(2) the maintenance of personnel in Minnesota, including the presence of employees, agents, representatives, or independent contractors in connection with the corporation's business, even though not regularly stationed in Minnesota;

(3) the ownership or maintenance of real property, tangible personal property, or intangible property used by the corporation in Minnesota;

(4) receiving payments from persons residing in Minnesota, or businesses located in Minnesota, aggregating in excess of \$25,000 regardless of any connections with this state;

(5) the derivation of income from any source or sources within Minnesota; and

(6) any other activity or property in, or interrelationships with, Minnesota as designated by the commissioner.

Subd. 3. [EXEMPTIONS.] A corporation shall not be required to file a notice of business activities report if:

(1) by the end of an accounting period for which it was otherwise required to file a notice of business activities report under this section, it had received a certificate of authority to do business in this state;

(2) a timely return or report has been filed under section 290.05, subdivision 4; or 290.37; or

(3) the corporation is exempt from taxation under this chapter pursuant to section 290.05, subdivision 1.

Subd. 4. [ANNUAL FILING.] Every corporation not exempt under subdivision 3 shall file annually a notice of business activities report, including such forms as the commissioner may require, with respect to all or any part of each of its calendar or fiscal accounting years beginning after December 31, 1986, on or before the 15th day of the fourth month after the close of such calendar or fiscal accounting year.

Subd. 5. [FAILURE TO FILE TIMELY REPORT.] (a) Any corporation required to file a notice of business activities report shall not maintain any action or proceeding in any state or federal court in Minnesota unless the corporation has filed a notice of business activities report.

(b) The failure of a corporation to file a timely report prevents the use of the courts in this state for all contracts executed and all causes of action that arose at any time before the end of the last

accounting period for which the corporation failed to file a required report.

(c) The court in which the issues arise has the power to excuse the corporation for its failure to file a report when due, and restore the right of access to the courts in this state, if the corporation has paid all taxes, interest, and civil penalties due the state for all periods, or provided for payment of them by adequate security or bond approved by the commissioner.

Sec. 85. Minnesota Statutes 1986, section 290.41, subdivision 2, is amended to read:

Subd. 2. [BY PERSONS, CORPORATIONS, COOPERATIVES, GOVERNMENTAL ENTITIES OR SCHOOL DISTRICTS.] To the extent required by section 6041 of the Internal Revenue Code of 1986, as amended through December 31, 1986, every person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and every city, county and school district in Minnesota, making payments in the regular course of a trade or business during the taxable year to any person or corporation of \$600 or more on account of rents or royalties, or of \$10 or more on account of interest, or \$10 or more on account of dividends or patronage dividends, or \$600 or more on account of either wages, salaries, commissions, fees, prizes, awards, pensions, annuities, or any other fixed or determinable gains, profits or income, not otherwise reportable under section 290.92, subdivision 7, or on account of earnings of \$10 or more distributed to its members by savings, building and loan associations or credit unions chartered under the laws of this state or the United States, (a) shall make a return (except in cases where a valid agreement to participate in the combined federal and state information reporting system has been entered into, and such return is therefore filed only with the commissioner of internal revenue pursuant to the applicable filing and informational reporting requirements of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986) in respect to such payments in excess of the amounts specified, giving the names and addresses of the persons to whom such payments were made, the amounts paid to each, and (b) shall make a return in respect to the total number of such payments and total amount of such payments, for each category of income specified, which were in excess of the amounts specified. This subdivision shall not apply to the payment of interest or dividends to a person who was a nonresident of Minnesota for the entire year.

A person, corporation, or cooperative required to file returns under this subdivision on interest, dividends, or patronage dividend payments with respect to more than 50 payees for any calendar year must file all of these returns on magnetic media unless the person establishes to the satisfaction of the commissioner that compliance with this requirement would be an undue hardship.

Sec. 86. Minnesota Statutes 1986, section 290.41, subdivision 3, is amended to read:

Subd. 3. [BY BROKERS.] The commissioner of revenue may require every person doing business as a broker to furnish the commissioner with the name and address of each customer for whom they have transacted business, and with such details regarding gross proceeds and other information as to transactions of any customer as will enable the commissioner to determine whether all income tax due on profits or gains of such customers has been paid. The provisions of section 6045 of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985 1986, which define terms and provide the requirements that a statement be furnished to the customer shall apply.

Sec. 87. Minnesota Statutes 1986, section 290.42, is amended to read:

290.42 [FILING RETURNS, DATE.]

The returns required to be made under sections 290.37 to 290.39 and 290.41, other than those under section 290.41, subdivisions 3 and 4, which shall be made within 30 days after demand therefor by the commissioner, shall be filed at the following times:

(1) Returns made on the basis of the calendar year shall be filed on the fifteenth day of April, following the close of the calendar year, except that returns of corporations shall be filed on the fifteenth day of March following the close of the calendar year;

(2) Returns made on the basis of the fiscal year shall be filed on the fifteenth day of the fourth month following the close of such fiscal year, except that returns of corporations shall be filed on the fifteenth day of the third month following the close of the fiscal year;

(3) Returns made for a fractional part of a year as an incident to a change from one taxable year to another shall be filed on the fifteenth day of the fourth month following the close of the period for which made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the close of the period for which made;

(4) Other returns for a fractional part of a year shall be filed on the fifteenth day of the fourth month following the end of the month in which falls the last day of the period for which the return is made, except that such returns of corporations shall be filed on the fifteenth day of the third month following the end of the month in which falls the last day of the period for which the return is made:

In the case of a final return of a decedent for a fractional part of a year, such return shall be filed on the fifteenth day of the fourth month following the close of the 12-month period which began with the first day of such fractional part of a year.

(4a) In the case of the return of a cooperative association such returns shall be filed on or before the fifteenth day of the ninth month following the close of the taxable year.

(4b) If a corporation has been divested from a unitary group and files a return for a fractional part of a year in which it was a member of a unitary business that files a combined report under section 290.34, subdivision 2, the divested corporation's return must be filed on the 15th day of the third month following the close of the common accounting period that includes the fractional year.

(5) If the due date for any return required under this chapter falls upon:

A Saturday, Sunday, or a legal holiday such return filed by the next succeeding day which is not a Saturday, Sunday, or legal holiday shall be considered to be timely filed. The term "legal holiday" means any day made a holiday in Minnesota by section 645.44, subdivision 5 or by the laws of the United States.

(6) In case of sickness, absence, or other disability, or when, in the commissioner's judgment, good cause exists, the commissioner may extend the time for filing these returns for not more than six months, except as provided for corporations and except that where the failure is due to absence outside the United States the commissioner may extend the period as provided in section 6081 of the Internal Revenue Code of 1954, as amended through December 31, 1985. The commissioner may require each taxpayer in any of such cases to file a tentative return at the time fixed for filing the regularly required return from the taxpayer, and to pay a tax on the basis of such tentative return at the times required for the payment of taxes on the basis of the regularly required return from such taxpayer. The commissioner may grant an extension of up to seven months for filing the return of a corporation subject to tax under this chapter if the corporation files a tentative return at the time fixed for filing the regularly required return and pays the tax on the basis of the tentative return in accordance with this section and section 290.45.

(7) Every person making a return under section 290.41 (except subdivisions 3 and 4) shall furnish to each person whose name is set forth in the return a written statement showing

(A) the name and address of the person making the return, and



(B) the aggregate amount of payments to the person shown on the return.

This written statement shall be furnished to the person on or before January 31 of the year following the calendar year for which the return was made. A duplicate of this written statement shall be furnished to the commissioner on or before February 28 of the year following the calendar year for which the return was made.

Sec. 88. Minnesota Statutes 1986, section 290.50, subdivision 1, is amended to read:

Subdivision 1. [PROCEDURE, TIME LIMIT.] (a) A taxpayer who has paid or from whom there has been collected an amount of tax for any year in excess of the amount legally due for that year, may file with the commissioner a claim for a refund of such excess. Except as otherwise provided in this section, no claim or refund shall be allowed or made after  $3\frac{1}{2}$  years from the date prescribed for filing the return (plus any extension of time granted for filing the return, but only if filed within the extended time) or after two years from the date of overpayment, whichever period is longer, unless before the expiration of the period a claim is filed by the taxpayer. For this purpose an income tax return or amended return claiming an overpayment shall constitute a claim for refund.

(b) If no claim was filed, the credit or refund shall not exceed the amount which would be allowable if a claim was filed on the date the credit or refund is allowed.

(c) If a claim relates to an overpayment on account of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim shall be allowed if filed within seven years from the date prescribed in section 290.42 for the filing of the return, and the refund or credit shall be limited to the amount of overpayment attributable to the loss.

(d) For purposes of this section, the prepayment of tax made through the withholding of tax at the source, or payment of estimated tax, prior to the due date of the tax are considered as having been paid on the last day prescribed by law for the payment of the tax by the taxpayer. A return filed before the due date shall be considered as filed on the due date.

(e) Except as provided in sections 273.1314, subdivision 10a, 290.92, subdivision 13, 290.93, subdivision 9, and 290.936, interest on the overpayment refunded or credited to the taxpayer shall be allowed at the rate specified in section 270.76 computed from the date of payment of the tax until the date the refund is paid or credit is made to the taxpayer. However, to the extent that the basis for the refund is a net operating loss carryback or a capital loss carryback,

interest shall be computed only from the end of the taxable year in which the loss occurs.

(f) If a taxpayer reports a change in federal gross income, items of tax preference, deductions, credits, or a renegotiation, or files a copy of the taxpayer's amended federal return, within 90 days as provided by section 290.56, subdivision 2, a refund may be made of any overpayment within one year after such report or amended return is filed except as provided in subdivision 2.

(g) There is hereby appropriated from the general fund to the commissioner of revenue the amounts necessary to make payments of refunds allowed pursuant to this section.

Sec. 89. Minnesota Statutes 1986, section 290.934, subdivision 2, is amended to read:

Subd. 2. [AMOUNT OF UNDERPAYMENT.] For purposes of subdivision 1, the amount of the underpayment shall be the excess of

(1) the amount of the installment tax shown on the return for the tax year or, if no return is filed, the tax for the tax year, over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 90. Minnesota Statutes 1986, section 290.9725, is amended to read:

290.9725 [ELECTION BY SMALL BUSINESS CORPORATION.]

Any corporation having a valid election in effect under section 1362 of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1985~~ 1986, shall not be subject to the taxes imposed by this chapter, except the tax imposed under section ~~290.92~~.

(1) the corporation shall be subject to the tax imposed under section 290.92; and

(2) the corporation shall be subject to the tax imposed under section 290.02 in any tax period in which it recognizes income for federal income tax purposes under Internal Revenue Code, Section 1363(d), 1374, or 1375; the total amount of income recognized is the federal taxable income for the corporation within the meaning of section 290.01, subdivision 19; the provisions of sections 290.01, subdivisions 19a to 19f, and 290.17 to 290.20, shall be employed to determine the taxable net income of the corporation; and the taxable net income of the corporation shall be its taxable income, except that

any net operating loss carryforward that arose in a year when there was no election in effect under Section 1362 of the Internal Revenue Code shall be allowed as a deduction.

Sec. 91. [290.9741] [ELECTION BY REMIC.]

A corporation having a valid election as a Real Estate Mortgage Investment Conduit (REMIC) in effect under section 860D(b) of the Internal Revenue Code of 1986, as amended through December 31, 1986, shall not be subject to the taxes imposed by this chapter except the tax imposed under section 290.92.

Sec. 92. [290.9742] [REMIC INCOME TAXABLE TO HOLDERS OF INTERESTS.]

The income of a REMIC shall be taxable to the holders of interests in the REMIC as provided in sections 860A to 860G of the Internal Revenue Code of 1986, as amended through December 31, 1986. The income of the holders shall be computed under the provisions of this chapter.

Sec. 93. Minnesota Statutes 1986, section 299F.21, subdivision 1, is amended to read:

Subdivision 1. [ESTIMATED INSTALLMENT PAYMENTS.] On or before April 15, June 15, and December 15 of each year, every licensed insurance company, including reciprocals, or interinsurance exchanges or Lloyds, doing business in the state, excepting farmers' mutual fire insurance companies and township mutual fire insurance companies, shall pay to the commissioner of revenue installments equal to one-third of, a tax upon its fire premiums or assessments or both, as follows:

A based on a sum equal to one-half of one percent of the estimated gross fire premiums and assessments, less return premiums and dividends, on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the calendar year, including premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. In the case of a mutual company or reciprocal exchange the dividends or savings paid or credited to members in this state shall be construed to be return premiums. The money so received into the state treasury shall be credited to the general fund.

If the tax prescribed by this section is not paid by those dates, penalties and interest as provided in section 290.53, subdivision 1, shall be imposed. A company that fails to make payments of at least one-third of either (1) the total tax paid during the previous calendar year or (2) 80 percent of the actual tax for the current calendar year is subject to the penalty and interest provided in this chapter.

Sec. 94. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1a. [ADDITION TO THE TAX.] In case of an underpayment of installments by an insurer, there shall be added to the tax for the taxable year an amount determined at the rate specified in section 270.75 upon the amount of underpayment.

Sec. 95. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1b. [AMOUNT OF UNDERPAYMENT.] For purposes of subdivision 1a, the amount of the underpayment is the excess of: (1) the amount of the installment; over (2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

Sec. 96. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1c. [PERIOD OF UNDERPAYMENT.] The period of the underpayment runs from the date the installment was required to be paid to the earliest of the following dates:

(1) on March 1 following the close of the taxable year;

(2) with respect to any portion of the underpayment, the date on which that portion is paid. For purposes of this clause, a payment of estimated tax on any installment date is considered a payment of any previous underpayment only to the extent the payment exceeds the amount of the installment determined under clause (1), for the installment date.

Sec. 97. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1d. [DEFINITION OF TAX.] The term "tax" means the tax imposed by chapter 299F.

Sec. 98. Minnesota Statutes 1986, section 299F.21, is amended by adding a subdivision to read:

Subd. 1e. [FAILURE TO FILE AN ESTIMATE.] In the case of an insurer which fails to file an estimated tax statement for a taxable year when one is required, the period of the underpayment shall run from the installment dates as set forth in subdivision 1 to whichever of the periods set forth in subdivision 1c is the earlier.

Sec. 99. Minnesota Statutes 1986, section 299F.21, subdivision 2, is amended to read:

Subd. 2. [ANNUAL RETURNS.] (a) Every insurer required to pay a ~~premium~~ tax under this section shall make and file a statement of estimated ~~premium~~ taxes for the period covered by the installment tax payment. The statement shall be in the form prescribed by the commissioner of revenue.

(b) On or before March 1, annually every insurer subject to taxation under this section shall make an annual return for the preceding calendar year setting forth information the commissioner of revenue may reasonably require on forms prescribed by the commissioner.

(c) On March 1, the insurer shall pay any additional amount due for the preceding calendar year; if there has been an overpayment, the overpayment may be credited without interest on the estimated tax due April 15.

(d) If unpaid by this date, penalties and interest as provided in section 290.53, subdivision 1, shall be imposed.

#### Sec. 100. [ESTIMATED TAXES, EXCEPTION.]

(a) For taxable years beginning after December 31, 1986, but before January 1, 1988, the commissioner of revenue shall not assess any penalties, interest, or additions to tax that are the result of the taxpayer's failure to make sufficient estimated tax payments due to the alternative minimum tax imposed by section 64. This exception shall apply only to the extent that the corporation's liability for the alternative minimum tax increases the corporation's liability under the franchise tax imposed by section 290.02.

(b) No addition to tax, penalties or interest shall be made under Minnesota Statutes, section 290.53 or 290.934 for any period before March 15, 1988, with respect to an underpayment of estimated tax, to the extent the underpayment was created or increased by the enactment of changes in the definition of taxable income enacted as part of the Tax Reform Act of 1986, Public Law Number 99-514, and adopted by reference to federal law.

#### Sec. 101. [COMPUTATION OF 1987 GROSS PREMIUMS TAX.]

For calendar year 1987 the gross premiums tax under Minnesota Statutes, section 60A.15 as applied to fraternal benefit societies and the workers' compensation reinsurance association, and the premiums of domestic mutual insurance companies that were exempt prior to enactment of this act shall equal one-half of the amount of tax that would be due if the tax were imposed for the full calendar year. Estimated tax equal to, at least, 80 percent of the tax computed under this section must be paid by December 15, 1987, or the penalties and interest for failure to pay or underpayments of estimated tax under Minnesota Statutes, section 60A.15, apply.

## Sec. 102. [REPEALER.]

(a) Minnesota Statutes 1986, sections 290.01, subdivision 20d; 290.068, subdivision 6; 290.069, subdivisions 1, 2, 3, 5, 6, and 7; 290.07, subdivision 5; 290.071; 290.073; 290.075; 290.09; 290.095, subdivisions 8 and 10; 290.13; 290.15; 290.16; 290.165; 290.175; 290.18; 290.19; 290.21, subdivisions 5, 6, and 8; 290.26, subdivision 2; and 290.361, are repealed.

(b) Minnesota Statutes 1986, sections 60A.15, subdivision 2; 61A.49; 62E.13, subdivision 9; 64B.24; and 69.021, subdivision 3a, are repealed.

## Sec. 103. [EFFECTIVE DATE.]

Sections 33 to 63, 73 to 79, 81 to 86, and 88 to 102, paragraph (a), are effective for taxable years beginning after December 31, 1986. Sections 64 to 72 are effective when the corresponding provisions of the Internal Revenue Code of 1986 are effective. Section 80, paragraph (b) and the provisions in paragraph (c) relating to divestment of a corporation from a unitary group and section 87 are effective for taxable years beginning after December 31, 1985. The balance of section 80 is effective for taxable years beginning after December 31, 1986. Sections 1 to 32, 101, and 102, paragraph (b), are effective the day following final enactment.

## ARTICLE 3

## PROPERTY TAX REFUND

Section 1. Minnesota Statutes 1986, section 290A.03, subdivision 3, is amended to read:

Subd. 3. [INCOME.] (1) "Income" means the sum of the following:

(a) the greater of federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1985 or zero; and

(b) the sum of the following amounts to the extent not included in clause (a):

(i) additions to federal adjusted gross income as provided in section 290.01, subdivision 20a, clauses (1), (2), (3), and (4);

(ii) all nontaxable income;

~~(iii)~~ recognized net long-term capital gains ~~(ii)~~ the amount of a passive activity loss that is not disallowed as a result of section 469, paragraph (i) or (I) of the Internal Revenue Code and the amount of passive activity loss carryover allowed under section 469(b) of the Internal Revenue Code;

~~(iv)~~ dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954 ~~(iii)~~ an amount equal to the total of any discharge of qualified farm indebtedness of a solvent individual excluded from gross income under section 108(g) of the Internal Revenue Code;

~~(v)~~ (iv) cash public assistance and relief;

~~(vi)~~ (v) any pension or annuity (including railroad retirement benefits, all payments received under the federal Social Security Act, supplemental security income, and veterans benefits), which was not exclusively funded by the claimant or spouse, or which was funded exclusively by the claimant or spouse and which funding payments were excluded from federal adjusted gross income in the years when the payments were made;

~~(vii)~~ (vi) ~~nontaxable~~ interest received from the state or federal or a state government or any instrumentality or political subdivision thereof;

~~(viii)~~ (vii) workers' compensation;

~~(ix)~~ (viii) unemployment benefits;

~~(x)~~ nontaxable strike benefits;

~~(xi)~~ (ix) the gross amounts of payments received in the nature of disability income or sick pay as a result of accident, sickness, or other disability, whether funded through insurance or otherwise;

~~(xii)~~ (x) the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954; and

~~(xiii)~~ (xi) contributions made by the claimant to an individual retirement account, including a qualified voluntary employee contribution; simplified employee pension plan; self-employed retirement plan; cash or deferred arrangement plan under section 401(k) of the Internal Revenue Code of 1954; or deferred compensation plan under section 457 of the Internal Revenue Code of 1954.

In the case of an individual who files an income tax return on a fiscal year basis, the term "federal adjusted gross income" shall mean federal adjusted gross income reflected in the fiscal year

ending in the calendar year. Federal adjusted gross income shall not be reduced by the amount of a net operating loss carryback.

(2) "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, sections 101(a), 102, 117, and 121;

(b) amounts of any pension or annuity which was exclusively funded by the claimant or spouse and which funding payments were not excluded from federal adjusted gross income in the years when the payments were made;

(c) surplus food or other relief in kind supplied by a governmental agency;

(d) relief granted under this chapter;

(e) child support payments received under a temporary or final decree of dissolution or legal separation; or

(f) the first \$2,000 of household income if the claimant was disabled on or before June 1 or attained the age of 65 prior to June 1 of the year following the year for which the taxes were levied or in which the rent was paid.

Sec. 2. Minnesota Statutes 1986, section 290A.03, subdivision 8, is amended to read:

Subd. 8. [CLAIMANT.] (a) "Claimant" means a person, other than a dependent, who filed a claim authorized by this chapter and who was ~~domiciled~~ in a resident of this state as provided in chapter 290 during the calendar year for which the claim for relief was filed.

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

(c) "Claimant" shall not include a resident of a nursing home, intermediate care facility, or long-term residential facility whose rent constituting property taxes is paid pursuant to the supplemental security income program under title XVI of the Social Security Act, the Minnesota supplemental aid program under sections 256D.35 to 256D.41, the medical assistance program pursuant to title XIX of the Social Security Act, or the general assistance medical care program pursuant to section 256D.03, subdivision 3. If only a portion of the rent constituting property taxes is paid by these



programs, the resident shall be a claimant for purposes of this chapter, but the refund calculated pursuant to section 290A.04 shall be multiplied by a fraction, the numerator of which is income as defined in subdivision 3 reduced by the total amount of income from the above sources other than vendor payments under the medical assistance program or the general assistance medical care program and the denominator of which is income as defined in subdivision 3 plus vendor payments under the medical assistance program or the general assistance medical care program, to determine the allowable refund pursuant to this chapter. For purposes of this paragraph and paragraph (d), household income or income as defined in subdivision 3 must not be reduced by the \$2,000 reduction provided in subdivision 3, paragraph (2), clause (f), for claimants who are disabled or age 65 or more.

(d) Notwithstanding paragraph (c), if the claimant was a resident of the nursing home, intermediate care facility or long-term residential facility for only a portion of the calendar year covered by the claim, the claimant may compute rent constituting property taxes by disregarding the rent constituting property taxes from the nursing home, intermediate care facility, or long-term residential facility and use only that amount of rent constituting property taxes or property taxes payable relating to that portion of the year when the claimant was not in the facility. The claimant's household income is the income for the entire calendar year covered by the claim.

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

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

Sec. 3. Minnesota Statutes 1986, section 290A.03, is amended by adding a subdivision to read:

Subd. 15. [INTERNAL REVENUE CODE.] "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through December 31, 1986.

Sec. 4. Minnesota Statutes 1986, section 290A.04, subdivision 2, is amended to read:

Subd. 2. A claimant whose property taxes payable or rent constituting property taxes are in excess of the percentage of the household income stated below shall pay an amount equal to the percent of income shown for the appropriate household income level along with the percent to be paid by the claimant of the remaining amount of property taxes payable or rent constituting property taxes. The state refund will be equal to the amount of property taxes payable or rent constituting property taxes that remain, up to the state refund amount shown below.

Household Income	Percent of Income	Percent Paid by Claimant	Maximum State Refund
Net loss and up to \$2,999	1.0 percent	5 percent	\$1,125
0			
3,000 to 3,499	1.0 percent	6 6 percent	\$1,125 \$1,000
3,500 to 3,999	1.0 percent	7 8 percent	\$1,125 \$1,000
4,000 to 4,499	1.0 percent	8 9 percent	\$1,125 \$1,000
4,500 to 4,999	1.0 percent	9 10 percent	\$1,125 \$1,000
5,000 to 5,999	1.0 percent	10 11 percent	\$1,125 \$1,000
6,000 to 6,999	1.0 percent	11 12 percent	\$1,125 \$1,000
7,000 to 7,999	1.0 percent	12 13 percent	\$1,125 \$1,000
8,000 to 8,999	1.1 percent	13 15 percent	\$1,125 \$1,000
9,000 to 9,999	1.2 percent	14 16 percent	\$1,125 \$1,000
10,000 to 10,999	1.3 percent	15 19 percent	\$1,125 \$ 850
11,000 to 11,999	1.4 percent	16 20 percent	\$1,125 \$ 850
12,000 to 12,999	1.5 percent	17 21 percent	\$1,125 \$ 850
13,000 to 13,999	1.5 percent	18 23 percent	\$1,125 \$ 850
14,000 to 14,999	1.5 percent	19 24 percent	\$1,125 \$ 850
15,000 to 15,999	1.5 percent	20 25 percent	\$1,125 \$ 850
16,000 to 16,999	1.5 percent	21 26 percent	\$1,125 \$ 850
17,000 to 17,999	1.5 percent	22 28 percent	\$1,125 \$ 800
18,000 to 18,999	1.5 percent	23 29 percent	\$1,125 \$ 700
19,000 to 19,999	1.5 percent	24 30 percent	\$1,125 \$ 600
20,000 to 20,999	1.6 percent	25 33 percent	\$1,125 \$ 500
21,000 to 21,999	1.6 percent	27 41 percent	\$1,125 \$ 400
22,000 to 22,999	1.6 percent	29 44 percent	\$1,125 \$ 300
23,000 to 23,999	1.8 percent	31 47 percent	\$1,125 \$ 200
24,000 to 24,999	1.8 percent	33 50 percent	\$1,105 \$ 100
25,000 to 25,999	1.8 percent	35 percent	\$1,080
26,000 to 26,999	2.0 percent	38 percent	\$1,050
27,000 to 27,999	2.0 percent	41 percent	\$1,020
28,000 to 28,999	2.0 percent	44 percent	\$ 990
29,000 to 29,999	2.0 percent	47 percent	\$ 960
30,000 to 30,999	2.0 percent	50 percent	\$ 930
31,000 to 31,999	2.2 percent	50 percent	\$ 900
32,000 to 32,999	2.2 percent	50 percent	\$ 800
33,000 to 33,999	2.2 percent	50 percent	\$ 700
34,000 to 34,999	2.2 percent	50 percent	\$ 600
35,000 to 35,999	2.2 percent	50 percent	\$ 500
36,000 to 36,999	2.4 percent	50 percent	\$ 400
37,000 to 37,999	2.4 percent	50 percent	\$ 300
38,000 to 38,999	2.4 percent	50 percent	\$ 200
39,000 to 39,999	2.4 percent	50 percent	\$ 100
40,000 and over	2.4 percent	50 percent	-0-

The payment made to a claimant shall be the amount of the state refund calculated pursuant to this subdivision, less the homestead credit given pursuant to section 273.13, subdivisions 22 and 23. No payment is allowed if the claimant's household income is \$40,000 \$25,000 or more.

Sec. 5. Minnesota Statutes 1986, section 290A.06, is amended to read:

290A.06 [FILING TIME LIMIT, LATE FILING; INCOME TAX RETURN.]

Any claim for a refund based on property taxes payable shall be filed with the department of revenue on or before August 15 of the year in which the property taxes are due and payable. A copy of the claimant's state income tax return for the taxable year preceding the year in which the property taxes are payable must be filed with the claim if the claimant filed an income tax return for that year.

Any claim for rent constituting property taxes shall be filed with the department of revenue on or before August 15 of the year following the year in which the rent was paid. A copy of the claimant's state income tax return for the taxable year in which the rent was paid must be filed with the claim if the claimant filed an income tax return for that year.

The commissioner may extend the time for filing these claims for a period not to exceed six months in the case of sickness, absence, or other disability, or when in the commissioner's judgment other good cause exists.

A claim filed after the original or extended due date shall be allowed, but the amount of credit shall be reduced by five percent of the amount otherwise allowable, plus an additional five percent for each month of delinquency, not exceeding a total reduction of 25 percent which may be canceled or reduced by the commissioner in the case of sickness, absence, or other disability, or when in the commissioner's judgment other good cause exists. In any event no claim shall be allowed if the initial claim is filed one year after the original due date for filing the claim.

The time limit on redetermination of claims for refund and examination of records shall be governed by sections 290.49, 290.50, and 290.56 and for purposes of computing the time limit as provided in these sections the due date of the property tax refund return shall be the same as the due date contained in section 290.42 for an income tax return covering the year in which the rent was paid or the year preceding the year in which the property taxes are payable.

Sec. 6. Minnesota Statutes 1986, section 290A.18, is amended to read:

**290A.18 [RIGHT TO FILE CLAIM; RIGHT TO RECEIVE CREDIT.]**

**Subdivision 1. [CLAIM BY SURVIVING SPOUSE OR DEPENDENT.]** If a person entitled to relief under this chapter dies prior to receiving relief, the surviving spouse or dependent of the person shall be entitled to file the claim and receive relief. If there is no surviving spouse or dependent, the right to the credit shall lapse.

**Subd. 2. [CLAIMANT CANNOT BE LOCATED.]** If the commissioner cannot locate the claimant within two years from the date that the original warrant was issued, the right to the credit shall lapse, and the warrant shall be deposited in the general fund.

Sec. 7. Minnesota Statutes 1986, section 290A.19, is amended to read:

**290A.19 [OWNER OR MANAGING AGENT TO FURNISH RENT CERTIFICATE; PENALTY.]**

(a) The owner or managing agent of any property for which rent is paid for occupancy as a homestead shall furnish a certificate of rent constituting property tax to each person who is a renter on December 31, in the form prescribed by the commissioner. If the renter moves prior to December 31, the owner or managing agent has the option to either provide the certificate to the renter at the time of moving, or mail the certificate to the forwarding address if an address has been provided by the renter. The certificate shall be made available to the renter not later than January 31 of the year following the year in which the rent was paid.

(b) Any owner or managing agent who willfully fails to furnish a certificate as provided herein shall be to the renter and the commissioner as required by this section is liable to the commissioner for a penalty of ~~\$20~~ \$100 for each act or failure to act. The penalty shall be assessed and collected in the manner provided in chapter 290 for the assessment and collection of income tax. If the owner or managing agent willfully furnishes certificates that report total rent constituting property taxes in excess of the amount of actual property taxes paid on the rented part of a property, as determined under this section, the owner or managing agent is liable for a penalty equal to the greater of (1) \$100 or (2) 50 percent of the excess that is reported. If the owner or managing agent reports a total amount of rent constituting property taxes that exceeds by ten percent or more the actual property taxes, the report is deemed to be willful.

~~(b)~~ (c) If the owner or managing agent elects to provide the renter with the certificate at the time of moving, rather than after December 31, the amount of rent constituting property taxes shall be computed as follows:

(i) The net tax shall be reduced by 1/12 for each month remaining in the calendar year.

(ii) In calculating the denominator of the fraction pursuant to section 290A.03, subdivision 11, the gross rent paid through the last month of claimant's occupancy shall be substituted for "the gross rent paid for the calendar year for the property in which the unit is located."

(e) (d) The certificate of rent constituting property taxes shall include the address of the property, including the county, and the property tax parcel identification number and any additional information which the commissioner determines is appropriate.

(d) (e) If the owner or managing agent fails to provide the renter with a certificate of rent constituting property taxes, the commissioner shall allocate the net tax on the building to the unit on a square footage basis or other appropriate basis as the commissioner determines. The renter shall supply the commissioner with a statement from the county treasurer which gives the amount of property tax on the parcel, the address and property tax parcel identification number of the property, and the number of units in the building.

(f) The owner or managing agent must file a copy of the certificate of rent paid with the commissioner before February 1 of the year following the year in which the rent was paid. The commissioner may require that each owner or managing agent report on a single form the total property taxes for a property and the allocation of the property taxes as rent constituting property taxes among the renters of the property.

#### Sec. 8. [290A.24] [FINANCIAL REPORTING.]

For financial reporting and accounting purposes and for purposes of the state budget, the refunds paid under this chapter must be recognized and accounted for as an adjustment in the total amount of withholding tax paid under section 290.92, and declarations of estimated tax under section 290.93.

#### Sec. 9. [AUDIT; REPORT TO LEGISLATURE.]

The department of revenue shall, during fiscal years 1988 and 1989, verify and audit a sample of property tax refund claims for accuracy. The sampling methods, size of the sample, and the study methodology must permit reliable conclusions to be drawn regarding compliance with the property tax refund law by both renters and landlords regarding the reporting of household income, property taxes paid, and rent constituting property taxes by claimants and landlords. The department shall report the results of the study to the legislature by February 1, 1989.

## Sec. 10. [APPROPRIATION.]

\$50,000 is appropriated from the general fund to the commissioner of revenue for fiscal years 1988 and 1989. The appropriated money must be used to promote increased participation in the property tax refund program for renters through advertising, distributing information, or other methods directed toward individuals or groups who are likely to qualify for refunds.

## Sec. 11. [LIMITATIONS ON PROPERTY TAX REFUNDS.]

(a) For claims filed based on rent paid in 1986 and property taxes payable in 1987, the commissioner shall pay 55 percent of the payments allowable under section 290A.04, subdivisions 1 and 2. The commissioner shall include with each reduced refund a statement that the reduction is required by this section.

(b) Minnesota Statutes 1986, section 290A.23 does not apply to claims based on property taxes payable in 1988 and rent paid in 1987 under section 290A.04, subdivisions 1 and 2. \$125,000,000 is appropriated to the commissioner of revenue for fiscal year 1989 to pay the claims. The commissioner shall estimate the amount of payments allowable under section 290A.04, subdivisions 1 and 2, by August 25, 1988. If the estimate exceeds the \$125,000,000 limitation, the commissioner shall proportionally reduce the refunds paid so that the refunds paid equal \$125,000,000. All refunds for claims based on property taxes payable in 1988 and rent paid in 1987 must be reduced by the same percentage. If reduced, the commissioner shall include with each refund a statement that the reduction is required by this section.

## Sec. 12. [REPEALER.]

Minnesota Statutes 1986, section 290A.04, subdivisions 2e and 2g, are repealed.

## Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 5 and 7 are effective beginning for claims based on property taxes payable in 1988 and rent paid during calendar year 1987, except that imposition of a penalty for failure to file certificates of rent with the commissioner is effective for claims based on rent paid during calendar year 1988. Section 6 is effective the day following final enactment and applies to all unclaimed warrants held by the commissioner on January 1, 1987, or issued after that date.

## ARTICLE 4

## PROPERTY TAX ADMINISTRATION

## Section 1. [3.861] [TAX STUDY COMMISSION.]

Subdivision 1. [CREATION.] A legislative tax study commission is created.

Subd. 2. [DUTIES.] The commission shall:

(1) examine the burden of income maintenance and social services on the property tax levies of the counties, and of each county individually, and determine the impact of total or increased state funding of income maintenance and social services on those levies;

(2) examine and recommend to the legislature alternative methods of income adjusted property tax relief for homeowners and renters;

(3) examine and recommend to the legislature alternative property tax classification systems that reduce the number of property classifications, and determine the effects of the consolidation by type and use of property;

(4) examine the tax structures and revenue needs and revenue resources of state and local governments;

(5) study and make recommendations about long-range tax policy;

(6) analyze proposed tax legislation, with particular reference to revenue and distribution impact, local government financing, and adherence to sound tax policies, and report its findings to the legislature;

(7) examine the property tax burdens on agricultural, commercial, industrial, and employment property by county, and by type, use, and market value; and

(8) file a report at least biennially with the legislature.

Subd. 3. [MEMBERSHIP.] The commission consists of seven members of the senate, including the chair of the committee on taxes and tax laws, to be appointed by the subcommittee on committees of the committee on rules and administration, and seven members of the house of representatives, including the chair of the committee on taxes, to be appointed by the speaker.

Appointees are members of the commission only while they are members of the bodies from which they were appointed. The first members serve for a term expiring on January 15 of the next biennial session of the legislature and until their successors are appointed. Later members must be appointed at the start of each biennial session of the legislature for a two-year term beginning on January 16 of that year. Vacancies must be filled in the same manner as the original appointment.

Subd. 4. [MEETINGS; OFFICERS.] The commission shall hold meetings at the times and places it designates. The commission's first chair shall be the chair of the house tax committee. Every two years, the chair of the house tax committee and the chair of the senate committee on taxes and tax laws shall alternate the office of commission chair. The commission shall select a vice-chair and other officers from its membership.

Subd. 5. [STAFF; OFFICE; EQUIPMENT.] (a) The commission may employ and set the compensation of the professional, clerical, and technical assistants necessary to perform its duties.

(b) The commissioner of administration shall provide the commission space to maintain an office in the capitol complex.

(c) The commission may purchase furniture, equipment, and supplies, and may enter into contracts for the furnishing of services, equipment, and supplies necessary to discharge its duties.

Subd. 6. [ASSISTANCE OF OTHER AGENCIES.] (a) The commission may request information from any state officer or agency to assist in carrying out this section. The officer or agency shall promptly provide the data requested to the extent permitted by law.

(b) The commissioner of revenue shall prepare, maintain, and make available to the commission data that compares (1) household incomes with rents and property tax burdens; and (2) household incomes with home market values and property tax burdens. The data must be furnished and made available in the form and manner that the commission determines will facilitate its use to discharge the duty imposed in subdivision 2, clause (2). The data must not disclose the name, address, social security number, or any other item of information that the commissioner believes may identify an individual. The data must be furnished to the commission by September 15, 1987, and subsequently maintained by the commissioner so that the most complete and current data available is furnished to the commission.

Subd. 7. [EXPENSES AND REIMBURSEMENT OF MEMBERS AND STAFF.] The members of the commission may receive per diem when attending meetings and other commission business. Members and employees must be reimbursed for expenses actually and necessarily incurred in the performance of their duties. Reimbursement must be under the rules governing legislators and legislative employees.

Subd. 8. [COMMISSION EXPENSES AND REPORTS.] Expenses of the commission must be approved by the chair or other member as the rules of the commission may provide. The expenses must then be paid in the same way as other state expenses are paid. A general summary or statement of expenses incurred by the commission and



paid must be made to the legislature by November 15 of each even-numbered year.

Sec. 2. Minnesota Statutes 1986, section 88.49, is amended by adding a subdivision to read:

Subd. 9a. [LAND TRADES WITH GOVERNMENTAL UNITS.] Notwithstanding subdivisions 6 and 9, or section 88.491, subdivision 2, if an owner trades land under auxiliary forest contract for land owned by a governmental unit and the owner agrees to use the land received in trade from the governmental unit for the production of forest products, upon resolution of the county board, no taxes and assessments shall be levied against the land traded, except that any current or delinquent annual taxes or yield taxes due on that land while it was under the auxiliary forest provision must be paid prior to the land exchange. The land received from the governmental unit in the land trade automatically qualifies for inclusion in the tree growth tax law.

Sec. 3. Minnesota Statutes 1986, section 124.2131, subdivision 1, is amended to read:

Subdivision 1. [ADJUSTED ASSESSED VALUE.] (a) [COMPUTATION.] The equalization aid review committee, consisting of the commissioner of education, the commissioner of administration, the commissioner of agriculture, and the commissioner of revenue, is hereby continued and permanently established. The duty of this committee shall be to review the assessed valuation of the districts of the state. The department of revenue shall annually conduct an assessment/sales ratio study of the taxable property in each school district in accordance with the procedures referenced in paragraphs (b) and (c). Based upon the results of this assessment/sales ratio study, the department of revenue shall determine an aggregate equalized assessed value for the various strata of taxable property in each school district, which value shall be designated as the adjusted assessed value. The department of revenue shall take such steps as are necessary in the performance of that duty and may incur such expense as is necessary therefor. The commissioner of revenue is authorized to reimburse any county or governmental official for requested services performed in ascertaining such adjusted valuation. On or before March 15, annually, the department of revenue shall submit file its report on the assessed values established by the previous year's assessment to said committee for approval or rejection and, if approved, such report shall be filed not later than the following July 1 with the commissioner of education and each county auditor for those school districts for which the auditor has the responsibility for determination of mill rates. A copy of the adjusted assessed value so filed shall be forthwith mailed to the clerk of each district involved and to the county assessor or supervisor of assessments of the county or counties in which such each district is located.

(b) [METHODOLOGY.] In making its annual assessment/sales ratio studies, the department of revenue shall use a methodology consistent with the most recent Standard on Assessment Ratio Studies published by the assessment standards committee of the International Association of Assessing Officers. The commissioner of revenue shall supplement this general methodology with specific procedures necessary for proper execution of the study in accordance with other Minnesota laws impacting the assessment/sales ratio study. The commissioner shall document these specific procedures in writing and shall publish the procedures in the State Register, but these procedures will not be considered "rules" pursuant to the Minnesota administrative procedure act. By January 15, 1985, the commissioner shall report to the chairs of the house tax committee and the senate committee on taxes and tax laws the results of a study which the commissioner shall prepare comparing the 1983 sales ratio study based upon the original 1983 assessment/sales ratio study methodology with the new methodology as provided in clause (b). The 1984 adjusted assessed values which are certified to the commissioner of education shall be computed using the 1983 assessment/sales ratio study methodology unless the 1985 legislature directs otherwise.

(c) [AGRICULTURAL LANDS.] For purposes of determining the adjusted assessed value of agricultural lands for the calculation of 1977 1987 adjusted assessed values and thereafter, the market value of agricultural lands shall be the arithmetic average of (1) the price for which the property would sell in an arms length transaction; and (2) the income which could be derived from its free market gross rental rate capitalized at a rate of nine percent.

Sec. 4. Minnesota Statutes 1986, section 124.2131, subdivision 2, is amended to read:

Subd. 2. [ADJUSTED ASSESSED VALUE; GROWTH LIMIT.] In the calculation of adjusted assessed valuations for 1979 1987 and each year thereafter, the committee commissioner of revenue shall not increase the adjusted assessed valuation of taxable property for any school district over the adjusted assessed valuation established and filed with the commissioner of education for the immediately preceding year by more than the greater of (1) 19 percent of the certified adjusted assessed valuation established and filed with the commissioner of education for the year immediately preceding, or (2) 40 percent of the difference between the district's total adjusted assessed valuation for the current year calculated without the application of this subdivision and the district's certified adjusted assessed valuation established and filed with the commissioner of education for the immediately preceding year.

Sec. 5. Minnesota Statutes 1986, section 124.2131, subdivision 3, is amended to read:

Subd. 3. [DECREASE IN IRON ORE ASSESSED VALUE.] If in any year the assessed value of class 9a and 9b iron ore property, as defined in section 273.13, subdivision 30, in any district is less than the assessed value of such property in the immediately preceding year, the equalization aid review committee commissioner of revenue shall redetermine for all purposes the adjusted assessed value of the immediately preceding year taking into account only the decrease in assessed value of class 9a and 9b iron ore property. If subdivision 2, clause (a) is applicable to such a district, the decrease in class 9a and 9b iron ore property shall be applied to the adjusted assessed value as limited therein. In all other respects, the provisions of clause (1) shall be applicable.

Sec. 6. Minnesota Statutes 1986, section 124.2131, subdivision 5, is amended to read:

Subd. 5. [ADJUSTED ASSESSED VALUE; APPEALS.] Should any district within 60 30 days after receipt of a copy of a report filed with the commissioner of education made pursuant to subdivision 1 or 3, be of the opinion that the equalization aid review committee commissioner of revenue has made an error in the determination of the school district's market value, it may appeal from the report or portion thereof relating to the school district to the commissioner of revenue for a review and determination of the matters contained in the appeal. The commissioner shall advise the school district of the determination within 30 days. If the school district wishes to appeal the determination of the commissioner, it must file a notice of appeal with the tax court, as provided in subdivisions 6 to 11 within ten days of the notice of determination from the commissioner.

Sec. 7. Minnesota Statutes 1986, section 124.2131, subdivision 6, is amended to read:

Subd. 6. [NOTICE OF APPEAL.] The school district shall file with the court administrator of the tax court a notice of appeal from the determination of the equalization aid review committee commissioner of revenue fixing the market value of the school district, and such notice shall show the basis of the alleged error. A copy of such notice of appeal shall be served upon the commissioners commissioner of revenue and education, and proof of service shall be filed with the court administrator.

Sec. 8. Minnesota Statutes 1986, section 124.2131, subdivision 7, is amended to read:

Subd. 7. [HEARING.] Upon receipt of the notice of appeal the tax court shall review the notice of appeal and determine whether it appears from the allegations and proofs therein contained that an error has been made in the determination by the equalization aid review committee commissioner of revenue of the market value of the property in the school district. If the court finds it probable that

such an error has been made, it shall notice the matter for hearing; otherwise, it shall dismiss the appeal and notify the parties thereof. Hearing shall be set and held in the same manner as other hearings of the tax court are set and heard, except that an appeal filed under subdivision 5 shall take precedence over other appeals pending before the court. The attorney general shall represent the ~~commissioners~~ commissioner of revenue and education and equalization aid review committee; The administrative procedure act, sections 14.09 to 14.36, 14.38, 14.44 to 14.45, and 14.57 to 14.70, shall apply to hearings insofar as it is applicable.

Sec. 9. Minnesota Statutes 1986, section 124.2131, subdivision 8, is amended to read:

Subd. 8. [TAX COURT DETERMINATION.] The tax court shall hear, consider and determine such appeal, de novo upon the issues made by the notice of appeal, if a hearing has been granted thereon. At the conclusion of the hearing the court shall (1) file findings of fact, or (2) ~~rerefer~~ refer the issues to the equalization aid review committee commissioner of revenue with instructions and recommendations for a determination and correction of the market value of the appealing school district. The decision of the tax court, if it decides the matter de novo, shall have the same force and effect as a determination by the equalization aid review committee commissioner of revenue in the first instance under this section, and the equalization aid review committee commissioner of revenue shall be notified thereof. If the matter is rereferred to the equalization aid review committee commissioner of revenue, a redetermination by the equalization aid review committee commissioner of revenue in accordance with the recommendations of the tax court shall likewise have the same force and effect as a determination by it in the first instance under this section.

Sec. 10. Minnesota Statutes 1986, section 124.2131, subdivision 11, is amended to read:

Subd. 11. [AIDS PENDING APPEALS.] During the pendency of any appeal from an equalization aid review committee the commissioner of revenue evaluation, state aids to the district so appealing shall be paid on the basis of the evaluation subject to adjustment upon final determination of the appeal.

Sec. 11. Minnesota Statutes 1986, section 124.38, subdivision 8, is amended to read:

Subd. 8. "Adjusted assessed valuation" means, as of any date, the valuation of all taxable property most recently determined by the equalization aid review committee commissioner of revenue in accordance with the provisions of section 124.2131. "Market value" means the value of all taxable property in the district on which its net debt limit is based as provided in section 475.53, subdivision 4.

Sec. 12. Minnesota Statutes 1986, section 124A.02, subdivision 3a, is amended to read:

Subd. 3a. [ADJUSTED ASSESSED VALUATION.] "Adjusted assessed valuation" or "~~EARC valuation~~" means the assessed valuation of the taxable property notwithstanding the provisions of section 275.49 of the school district as adjusted by the ~~equalization aid review committee commissioner of revenue under section 124.2131~~. The adjusted assessed valuation for any given calendar year shall be used to compute levy limitations for levies certified in the succeeding calendar year and aid for the school year beginning in the second succeeding calendar year.

Sec. 13. Minnesota Statutes 1986, section 124A.02, subdivision 8, is amended to read:

Subd. 8. [EQUALIZING FACTOR.] "Equalizing factor" means a number equal to the minimum ~~EARC adjusted assessed valuation~~ per total pupil unit which disqualifies a district from earning any basic foundation aid. The equalizing factor for each school year and for levies for use in that school year equals the ratio, rounded to the nearest dollar, of the foundation aid formula allowance for that school year to the basic maintenance mill rate for that school year.

Sec. 14. Minnesota Statutes 1986, section 124A.08, subdivision 5, is amended to read:

Subd. 5. [SECOND TIER LEVY FUND BALANCE.] Beginning with the 1983 payable 1984 levy, for a district where the net unappropriated operating fund balance as of the June 30 before the levy is certified exceeds \$500 per total pupil unit in the year when the levy is certified, the second tier levy shall be reduced by the amount of the excess times the lesser of (a) one, or (b) the ratio of the district's ~~EARC adjusted assessed valuation~~ for the preceding year per total pupil unit in the school year for which the levy is attributable, to the equalizing factor. Beginning with the 1984-1985 school year, the second tier aid for the year when that levy is used shall be reduced by any amount of the excess which is not subtracted from the levy.

Sec. 15. Minnesota Statutes 1986, section 134.33, subdivision 1, is amended to read:

Subdivision 1. An establishment grant as described in section 134.32, subdivision 2, shall be made to any regional public library system for the first two state fiscal years after a board of county commissioners has contracted to join that system and has agreed that the county will provide the levels of support for public library service specified in this section. In the first year of participation, the county shall provide an amount of support equivalent to .3 mill times the adjusted assessed valuation of the taxable property of the

county as determined by the ~~equalization aid review committee commissioner of revenue~~ for the second year preceding that calendar year or two-thirds of the per capita amount established under the provisions of section 134.34, subdivision 1, whichever amount is less. In the second year of participation and in each year thereafter, the county shall provide an amount of support equivalent to .4 mill times the adjusted assessed valuation of the taxable property of the county as determined by the ~~equalization aid review committee commissioner of revenue~~ for the second year preceding that calendar year or the per capita amount established under the provisions of section 134.34, subdivision 1, whichever is less. The minimum level of support shall be certified annually to the county by the department of education. In no event shall the department of education require any county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for an establishment grant. This section shall not be construed to prohibit any county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 16. Minnesota Statutes 1986, section 134.34, subdivision 1, is amended to read:

Subdivision 1. A regional library basic system support grant shall be made to any regional public library system where there are at least three participating counties and where each participating city and county, except in the first year of participation as provided in section 134.33, is providing for public library service support the lesser of (a) an amount equivalent to .4 mill times the adjusted assessed valuation of the taxable property of that city or county, as determined by the ~~equalization aid review committee commissioner of revenue~~ for the second year preceding that calendar year or (b) a per capita amount calculated under the provisions of this subdivision. The per capita amount is established for calendar year 1980 as \$3. In succeeding calendar years, the per capita amount shall be increased by a percentage equal to one-half of the percentage by which the total state adjusted assessed valuation of property as determined by the ~~equalization aid review committee commissioner of revenue~~ for the second year preceding that calendar year increases over that total adjusted assessed valuation for the third year preceding that calendar year. The minimum level of support shall be certified annually to the participating cities and counties by the department of education. A city which is a part of a regional public library system shall not be required to provide this level of support if the property of that city is already taxable by the county for the support of that regional public library system. In no event shall the department of education require any city or county to provide a higher level of support than the level of support specified in this section in order for a system to qualify for a regional library basic system support grant. This section shall not be construed to prohibit a city or county from providing a higher level of support for public libraries than the level of support specified in this section.

Sec. 17. Minnesota Statutes 1986, section 134.34, subdivision 2, is amended to read:

Subd. 2. Notwithstanding the provisions of section 134.33 and subdivision 1 of this section, after the second year of participation by a city or county, the dollar amount of the minimum level of support for that city or county shall not be required to increase by more than ten percent over the dollar amount of the minimum level of support required of it in the previous year. If a participating city or county which has been providing for public library service support in an amount equivalent to .67 mill times the assessed valuation of the taxable property of that city or county for the year preceding that calendar year would be required to increase the dollar amount of such support by more than ten percent to reach the equivalent of .4 mill times the adjusted assessed valuation of the taxable property of that participating city or county as determined by the equalization aid review committee commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1, it shall only be required to increase the dollar amount of such support by ten percent per year until such time as it reaches an amount equivalent to .4 mill times the adjusted assessed valuation of that taxable property as determined by the equalization aid review committee commissioner of revenue for the second year preceding that calendar year or the per capita amount calculated under the provisions of subdivision 1.

Sec. 18. Minnesota Statutes 1986, section 270.12, subdivision 3, is amended to read:

Subd. 3. ~~For taxes levied in 1985 and thereafter~~ When a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board may order the apportionment of the levy. When the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless (a) the proportion of total adjusted assessed value in one of the counties is less than ten percent of the total adjusted assessed value in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property

predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

Notwithstanding any other provision, the levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made in the same proportion as the adjusted assessed value as determined by the ~~equalization aid review committee~~ commissioner in each portion is to the total adjusted assessed value of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Assessed values as determined by the ~~equalization aid review committee~~ commissioner shall be the values as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on August 15 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the appropriate county auditors by the following November 15.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

Sec. 19. Minnesota Statutes 1986, section 272.115, subdivision 2, is amended to read:

Subd. 2. The certificate of value shall require such facts and information as may be determined by the ~~equalization aid review committee~~ commissioner to be reasonably necessary in the administration of the state education aid formulas. The form of the certificate of value shall be prescribed by the department of revenue which shall provide an adequate supply of forms to each county auditor.

Sec. 20. [272.121] [CURRENT TAX ON DIVIDED PARCELS.]

If a deed or other instrument conveys a parcel of land that is less than a whole parcel of land as described in the current tax list, the



county auditor shall not transfer or divide the land in the auditor's official records, and the county recorder shall not file and record the instrument, unless the instrument of conveyance contains a certification by the county treasurer that the taxes due in the current tax year for the whole parcel have been paid. This certification is in addition to the certification for delinquent tax required by section 272.12. No certification of current tax paid is required for any sheriff's or referee's certificate of sale or other instrument if a certification of delinquent tax for the instrument is not required under section 272.12.

Sec. 21. Minnesota Statutes 1986, section 273.1102, is amended to read:

273.1102 [RATE OF TAX, TERMINOLOGY OF LAWS OR CHARTERS.]

The rate of property taxation by any political subdivision or other public corporation for any purpose for which any law or charter now provides a maximum tax rate expressed in mills times the assessed value or times the full and true value of taxable property (except any ~~value adjusted assessed values determined by the state equalization aid review committee by the commissioner under section 124.2131~~) shall not exceed 33 $\frac{1}{3}$  percent of such maximum tax rate until and unless such law or charter is amended to provide a different maximum tax rate.

Sec. 22. Minnesota Statutes 1986, section 273.1103, is amended to read:

273.1103 [NET DEBT, TERMINOLOGY OF LAWS OR CHARTERS.]

Net debt incurred by any political subdivision or other public corporation for which any law or any charter provision provides a limit expressed as a percentage of the assessed value or the full and true value of taxable property (except any ~~adjusted assessed value determined by the state equalization aid review committee commissioner under section 124.2131~~) shall not exceed 33 $\frac{1}{3}$  percent of such limit until and unless such law or charter is amended to provide a different limit.

Sec. 23. Minnesota Statutes 1986, section 273.1313, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given them.

(b) "Commissioner" means the commissioner of ~~revenue~~ energy and economic development.

(c) "Employment property" means taxable property, excluding land but including buildings, structures, fixtures, and improvements that satisfy each of the following conditions:

(1) The property is located within an enterprise zone designated according to section 273.1312.

(2) The property is commercial or industrial property which is not used in a trade or business which either is described in section 103(b)(6)(O) of the Internal Revenue Code of 1954, as amended through December 31, 1984, or is property of a public utility.

(d) "Market value" of a parcel of employment property means the value of the taxable property as annually determined pursuant to section 273.12, less (i) the market value of all property existing at the time of application for classification, as last assessed prior to the time of application, and (ii) any increase in the market value of the property referred to in clause (i) as assessed in each year after the employment property is first placed in service. In each year, any change in the values of the employment property and the other property on the land shall be deemed to be proportionate unless caused by a capital improvement or loss.

(e) "Municipality" means any home rule charter or statutory city or county, but a county may not exercise the powers granted in this section with reference to property situated within a city.

(f) Notwithstanding the provisions of paragraphs (c) and (d) "employment property" and "market value" includes in the case of taxable real property located in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), the entire value of the commercial and industrial property, including land, used in a trade or business which is not used in a trade or business which either is described in section 103(b)(O)(ii) of the Internal Revenue Code of 1954, as amended through December 31, 1984, or is the property of a public utility. The provisions of this paragraph shall not apply to employment property located in an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), that is assessed pursuant to the first clause of the first sentence of section 273.13, subdivision 24, paragraph (b).

Sec. 24. Minnesota Statutes 1986, section 275.125, subdivision 9, is amended to read:

Subd. 9. [LEVY REDUCTIONS; TACONITE.] (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections 294.21 to 294.26; 298.23 to 298.28, except an amount distributed under section 298.28, subdi-

vision 4, paragraph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; 477A.15; and any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties, or recognized revenue pursuant to section 477A.15; shall not include a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, in the year in which the levy is certified.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.03, subdivision 1, to an amount less than the amount raised by a levy of 12.5 mills times the adjusted assessed valuation of that district for the preceding year as determined by the equalization aid review committee commissioner. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2 shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by subdivision 11a, and the community service levy authorized by subdivision 8, the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to subdivision 11a and for community services pursuant to subdivision 8. The reduction of the capital expenditure levy and the community services levy shall be computed on the basis of the amount so ascertained.

(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections 294.21 to 294.26; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; or any law imposing a tax on severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties; and not deducted from foundation aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year except 1986, the amount required to be subtracted from the previous fiscal year's foundation aid pursuant to section 124A.035, subdivision 5, which is in excess of the foundation aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 25. Minnesota Statutes 1986, section 275.125, subdivision 9b, is amended to read:

Subd. 9b. [OPERATING DEBT LEVY.] (1) Each year, a district may make an additional levy to eliminate a deficit in the net unappropriated operating funds of the district, determined as of June 30, 1983, and certified and adjusted by the commissioner. This levy may in each year be an amount not to exceed the amount raised by a levy of 1.5 mills times the adjusted assessed valuation of the district for the preceding year as determined by the ~~equalization aid review committee~~ commissioner. However, the total amount of this levy for all years it is made shall not exceed the lesser of (a) the amount of the deficit in the net unappropriated operating funds of the district as of June 30, 1983, or (b) the amount of the aid reduction, according to Laws 1981, Third Special Session chapter 2, article 2, section 2, but excluding clauses (l), (m), (n), (o), and (p), and Laws 1982, Third Special Session chapter 1, article 3, section 6, to the district in fiscal year 1983. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(2) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(3) Any district which levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.03, subdivision 1 or 3 in that same year.

Sec. 26. Minnesota Statutes 1986, section 275.125, subdivision 15, is amended to read:

Subd. 15. [ADJUSTMENTS.] If any school district levy is found to be excessive as a result of a decision of the tax court or a redetermination by the equalization aid review committee commissioner of revenue under section 124.2131, subdivisions 2 to 11 or for any other reason, the amount of the excess shall be deducted from the levy certified in the next year for the same purpose; provided that if no levy is certified in the next year for the same purpose or if the amount certified is less than the amount of the excess, the excess shall be deducted from that levy and the levy certified pursuant to section 124A.03, subdivision 1. If any aid entitlement pursuant to sections 124.225, 124.245, and 124A.02 would have been increased in a prior year as a result of a decision of the tax court or a redetermination by the equalization aid review committee commissioner, the amount of the increase shall be added to the current aid entitlement for the same purposes.

Sec. 27. Minnesota Statutes 1986, section 276.11, is amended to read:

276.11 [WHEN TREASURER SHALL PAY FUNDS FROM MARCH AND MAY SETTLEMENTS.]

Subdivision 1. [GENERALLY.] As soon as practical after the March and May settlements the county treasurer shall pay over to the state treasurer or the treasurer of any town, city, school district, or special district, on the warrant of the county auditor, all receipts arising from taxes levied by and belonging to the state, or to such municipal corporation, or other body, and deliver up all orders and other evidences of indebtedness of such municipal corporation or other body, taking triplicate receipts therefor. The treasurer shall file one of the receipts with the county auditor, and shall return one by mail on the day of its reception to the clerk of the town, city, school district, or special district to which payment was made. The clerk shall preserve the receipt in the clerk's office. Upon written request of the state, a municipal corporation or other public body, the county treasurer shall, to the extent practicable, make partial payments of amounts collected periodically in advance of the next settlement and distribution. Accompanying each payment shall be a statement prepared by the county treasurer designating the years for which taxes included in the payment were collected and, for each year, the amount of the taxes and any penalties thereon. The county treasurer shall pay, upon written request of the state, a municipal corporation or other public body except school districts, at least 70 percent of the estimated collection within 30 days after the March and May settlement dates. Within seven business days after the due date, the county treasurer shall pay to the treasurer of the school districts 50 percent of the estimated collections arising from taxes levied by and belonging to the school district and the remaining 50 percent of the estimated collections shall be paid to the treasurer of the school district within the next seven business days. The treasurer shall pay the balance of the amounts collected to the state or

to a municipal corporation or other body within 60 days after the March and May settlement dates, provided, however, that after 45 days interest shall accrue at a rate of eight percent per annum to the credit of and shall be paid to the state, municipal corporation or other body. Interest shall be payable upon appropriation from the general revenue fund of the county and, if not paid, may be recovered by the state, municipal corporation, or other body, in a civil action.

Subd. 2. [DEFINITION.] For purposes of this section and section 276.111, "estimated collections" includes estimated collections of taxes and special assessments, and penalties and interest due to the taxing district.

Subd. 3. [APPEAL.] The treasurer or other appropriate fiscal officer of a town, city, school district, or special district may appeal to the county board the determination of the amount of estimated collections by the county treasurer under this section or section 276.111. If the county board finds that the amount of estimated collections has been determined by the county treasurer incorrectly, resulting in underpayment to the local taxing districts, it shall order the county treasurer to pay the additional amount necessary to comprise the correct estimated collection amount.

#### Sec. 28. [276.19] [UNCLAIMED OVERPAYMENTS.]

Subdivision 1. [NOTICE OF OVERPAYMENT.] If an overpayment of property tax arises on a parcel for any reason, the responsible county official shall promptly notify the payer by regular mail that the overpayment has occurred. The notice must state the amount of overpayment and identify the parcel on which the overpayment occurred. The notice must also instruct the payer how to claim the overpayment and advise that the overpayment is subject to forfeiture under this section. If the name or address of the payer is not known, the notice of unclaimed overpayment must be mailed to the taxpayer of record in the office of the county auditor.

Subd. 2. [FAILURE TO CLAIM REFUND.] If the person entitled to the refund fails to claim the overpayment within three years after the date of overpayment, the county auditor shall cause notice to be published at least once in an English language newspaper of general circulation in the county. The county board shall designate the newspaper of publication that in the judgment of the board is most likely to be read by the claimants, notwithstanding any law to the contrary. The published notice must be called "Notice of unclaimed property tax refunds." The notice must contain:

(1) the names in alphabetical order and last known addresses, if any, of persons listed in the notice that may be entitled to unclaimed property tax refund;

(2) a statement that information concerning the amount of overpayment and affected property may be obtained from the county auditor at the address given in the notice; and

(3) a statement that if proof of claim is not presented to the county auditor within 90 days from the date of publication of notice, the overpayment will be considered abandoned and all claims to property tax overpayment will be forfeited.

The county auditor is not required to include and publish in the notice any item of less than \$25 overpaid on a parcel.

Subd. 3. [DISTRIBUTION OF REFUNDS.] If the person entitled to the refund fails to claim the overpayment within the time provided in this section, the county auditor shall distribute the refund to the affected taxing districts in proportion to the amount of their respective taxes included in the levy for the tax year overpaid. At the option of the county auditor, the overpayment may be distributed to the affected taxing districts in proportion to the current tax year levy.

Subd. 4. [APPLICABILITY.] Sections 345.31 to 345.60 do not apply to unclaimed property tax refunds, overpayments, and warrants.

Sec. 29. Minnesota Statutes 1986, section 277.01, is amended to read:

**277.01 [WHEN TAX IS DELINQUENT; PENALTY.]**

Subdivision 1. All unpaid personal property taxes where the amount is \$10 \$50 or less shall be deemed delinquent on the later of March 1 next after they become due or 30 days after the postmark date on the envelope containing the property tax statement, and thereupon a penalty of eight percent shall attach and be charged upon all such taxes. When the amount of such tax exceeds the sum of \$10 \$50 the first half shall become delinquent if not paid prior to March 1 or 30 days after the postmark date on the envelope containing the property tax statement, whichever is later, and thereupon a penalty of eight percent shall attach on such unpaid first half. The second half of a tax in excess of \$10 \$50 shall become delinquent if not paid prior to July 1 and thereupon a penalty of eight percent shall attach on such unpaid second half. This section shall not apply to class 2a property.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section

277.011 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 30. Minnesota Statutes 1986, section 278.05, subdivision 4, is amended to read:

Subd. 4. [SALES RATIO STUDIES AS EVIDENCE.] The sales ratio studies published by the department of revenue, or any part of the studies, or any copy of the studies or records accumulated to prepare the studies which is prepared by the commissioner of revenue ~~for the equalization aid review committee~~ for use in determining school aids shall be admissible in evidence as a public record without the laying of a foundation if the sales prices used in the study are adjusted for the terms of the sale to reflect market value and are adjusted to reflect the difference in the date of sale compared to the assessment date. Additional evidence relevant to the sales ratio study is also admissible. No sales ratio study received into evidence shall be conclusive or binding on the court and evidence of its reliability or unreliability may be introduced by any party including, but not limited to, evidence of inadequate adjustment of sale prices for terms of financing, inadequate adjustment of sales prices to reflect the difference in the date of sale compared to the assessment date, and inadequate sample size.

No reduction in value on the grounds of discrimination shall be granted on the basis of a sales ratio study published by the department of revenue unless

(a) the sales prices are adjusted for the terms of the sale to reflect market value,

(b) the sales prices are adjusted to reflect the difference in the date of sale compared to the assessment date, and

(c) there is an adequate sample size.

Sec. 31. Minnesota Statutes 1986, section 279.01, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3, on May 16, of each year, with respect to property actually occupied and used as a homestead by the owner of the property, a penalty of three percent shall accrue and thereafter be charged upon all unpaid taxes on real estate on the current lists in the hands of the county treasurer, and a penalty of seven percent on nonhomestead property, except that this penalty shall not accrue until June 1 of each year on commercial use real property used for seasonal residential recreational purposes and classified as class 1c or 6a, and on other commercial use real property classified as class 3a, provided that over 60 percent of the gross income earned by the enterprise on the class 3a property is earned during the months of May, June, July, and August. Any



property owner of such class 3a property who pays the first half of the tax due on the property after May 15 and before June 1 shall attach an affidavit to the payment attesting to compliance with the income provision of this subdivision. Thereafter, for both homestead and nonhomestead property, on the 16th day of each month, up to and including October 16 following, an additional penalty of one percent for each month shall accrue and be charged on all such unpaid taxes. When the taxes against any tract or lot exceed \$50, one-half thereof may be paid prior to May 16; and, if so paid, no penalty shall attach; the remaining one-half shall be paid at any time prior to October 16 following, without penalty; but, if not so paid, then a penalty of four percent shall accrue thereon for homestead property and a penalty of four percent on nonhomestead property. Thereafter, for homestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of two percent for each month shall accrue and be charged on all such unpaid taxes. Thereafter, for nonhomestead property, on the 16th day of each month up to and including December 16 following, an additional penalty of four percent for each month shall accrue and be charged on all such unpaid taxes. If one-half of such taxes shall not be paid prior to May 16, the same may be paid at any time prior to October 16, with accrued penalties to the date of payment added, and thereupon no penalty shall attach to the remaining one-half until October 16 following; provided, also, that the same may be paid in installments as follows: One-fourth prior to March 16; one-fourth prior to May 16; one-fourth prior to August 16; and the remaining one-fourth prior to October 16, subject to the aforesaid penalties. Where the taxes delinquent after October 16 against any tract or parcel exceed \$100, upon resolution of the county board, they may be paid in installments of not less than 25 percent thereof, together with all accrued penalties and costs, up to the next tax judgment sale, and after such payment, penalties, interest, and costs shall accrue only on the sum remaining unpaid. Any county treasurer who shall make out and deliver or countersign any receipt for any such taxes without including all of the foregoing penalties therein, shall be liable to the county for the amount of such penalties.

The county treasurer may accept payments of more or less than the exact amount of a tax installment due. If the accepted payment is less than the amount due, payments must be applied first to the penalty accrued for the year the payment is made. Acceptance of partial payment of tax does not constitute a waiver of the minimum payment required as a condition for filing an appeal under section 278.03 or any other law, nor does it affect the order of payment of delinquent taxes under section 280.39.

Sec. 32. Minnesota Statutes 1986, section 282.014, is amended to read:

## 282.014 [COMPLETION OF SALE AND CONVEYANCE.]

Upon compliance by the purchaser with the provisions of sections 282.011 to 282.015 and with the terms and conditions of the sale, and upon full payment for the land, plus a \$10 \$20 fee in addition to the sale price, the sale shall be complete and a conveyance of the land shall be issued to the purchaser as provided by the appropriate statutes according to the status of the land upon forfeiture.

The conveyance must be forwarded to the county recorder who shall record the conveyance before the auditor issues it to the purchaser.

Sec. 33. Minnesota Statutes 1986, section 282.02, is amended to read:

## 282.02 [LIST OF LANDS OFFERED FOR SALE.]

Immediately after classification and appraisal of the land, and after approval by the commissioner of natural resources when required pursuant to section 282.01, subdivision 3, the county board shall provide and file with the county auditor a list of parcels of land to be offered for sale. This list shall contain a description of the parcels of land and the appraised value thereof; ~~provided that the description and appraised value may be omitted in the discretion of the county board.~~ The auditor shall publish a notice of the forfeiture and intended public sale of such parcels of land and a copy of the resolution of the county board fixing the terms of the sale, if other than for cash only, by publication once a week for two weeks in the official newspaper of the county, the last publication to be not less than ~~ten~~ 20 days previous to the commencement of the sale.

A notice in substantially the following form shall be sufficient:

"Notice is hereby given that I shall sell to the highest bidder, at my office in the courthouse in the city of ....., in the county of ....., the following described parcels of land forfeited to the state for nonpayment of taxes which have been classified and appraised as provided by law. Such sale will be governed, as to terms, by the resolution of the county board authorizing the same, and commence at ..... o'clock a.m., on the ..... day of ....., 19.....

Description ..... Appraised value

Subdivision	Sec.	Twp.	Range	\$
or	or			
Lot	Block			

Given under my hand and seal this .... day of ....., 19..

.....  
County Auditor,

..... County, Minnesota."

The notice shall include the parcel's description and appraised value. The notice shall also indicate the amount of any special assessments which may be the subject of a reassessment or new assessment or which may result in the imposition of a fee or charge pursuant to sections 429.071, subdivision 4, 435.23, and 444.076. The county auditor shall also mail notice to the owners of land adjoining the parcel to be sold and to the owners of platted or unplatted land whose boundaries are within 300 feet of the boundaries of a parcel offered for sale having an appraised value of \$1,000 or more. For purposes of this section, "owner" means the taxpayer as listed in the records of the county auditor.

If the county board of St. Louis or Koochiching counties determines that the sale shall take place in a county facility other than the courthouse, the notice shall specify the facility and its location.

Sec. 34. Minnesota Statutes 1986, section 282.33, subdivision 1, is amended to read:

Subdivision 1. Whenever an unrecorded deed from the state of Minnesota conveying tax-forfeited lands shall have been lost or destroyed, an application, in form approved by the attorney general, for a new deed may be made by the grantee or the grantee's successor in interest to the commissioner of revenue. If it appears to the commissioner of revenue that the facts stated in the petition are true, the commissioner shall issue a new deed to the original grantee, in form approved by the attorney general, with like effect as the original deed. The commissioner shall send the new deed to the county recorder, who after recording the deed will forward it to the county auditor. The application shall be accompanied by a fee of \$10 \$20, payable to the commissioner of revenue, which shall be deposited with the state treasurer and credited to the general fund.

Sec. 35. Minnesota Statutes 1986, section 473F.02, subdivision 12, is amended to read:

Subd. 12. "Market value" of real property within a municipality means the "actual market value" of real property within the municipality, determined in the manner and with respect to the property described for school districts in section 475.53, subdivision 4, except that no adjustment shall be made for property on which taxes are paid into the state treasury under gross earnings tax laws applicable to common carrier railroads. For purposes of sections

473F.01 to 473F.13, the equalization aid review committee commissioner of revenue shall annually make determinations and reports with respect to each municipality which are comparable to those it makes for school districts under section 124.2131, subdivision 1, in the same manner and at the same times as are prescribed by the subdivision. The commissioner of revenue shall annually determine, for each municipality, information comparable to that required by section 475.53, subdivision 4, for school districts, as soon as practicable after it becomes available. The commissioner of revenue shall then compute the market value of property within each municipality.

Sec. 36. Minnesota Statutes 1986, section 475.53, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] Except as otherwise provided by law, no school district shall be subject to a net debt in excess of ten percent of the actual market value of all taxable property and of exempt property referred to in section 275.49, situated within its corporate limits, as computed in accordance with this subdivision. The county auditor of each county containing taxable real or personal property situated within any school district shall certify to the district upon request the market value of all such property. The county auditor of each county containing exempt property referred to in section 275.49, situated within any school district, shall certify to the district upon request the total market value of all such property as determined under section 275.49. The commissioner of revenue shall certify to the district upon request the market value of railroad property within the district as most recently determined under section 270.87. Whenever the state equalization aid review committee commissioner of revenue, in accordance with section 124.2131, subdivision 1, has determined that the assessed valuation of any district furnished by county auditors is not based upon the market value of taxable property in the district, the commissioner of revenue shall certify to the district upon request the ratio most recently ascertained to exist between such value and the actual market value of property within the district. The actual market value of property within a district, on which its debt limit under this subdivision is based, is (a) the value certified by the county auditors and, where applicable, by the commissioner of revenue under section 270.87, or (b) this value divided by the ratio certified by the commissioner of revenue, whichever results in a higher value.

Sec. 37. [REPEALER.]

(a) Minnesota Statutes 1986, section 124.38, subdivision 10, is repealed.

(b) Minnesota Statutes 1986, section 282.021, is repealed.

## Sec. 38. [EFFECTIVE DATE.]

Section 2 is effective August 1, 1987. Sections 1, 3 to 19, 21, 22, 24 to 26, 28, 30, 35, 36, and 37, paragraph (a) are effective the day following final enactment. Sections 20, 23, 29, 31 to 34, and 37, paragraph (b), are effective July 1, 1987. Section 27 is effective for taxes paid after July 31, 1987.

## ARTICLE 5

## MINERALS

Section 1. Minnesota Statutes 1986, section 16A.26, is amended to read:

## 16A.26 [ONE DEPOSITORY ACCOUNT FOR EACH TAX.]

Notwithstanding sections 290.361, 297.13, 298.17, 298.282, 298.39, 298.396, ~~298.51, 298.64, 298.65,~~ 297C.02 to 297C.08 and similar laws to the contrary relating to the depositing, disposition, or apportionment of tax receipts, the commissioner may use one depository account for each tax. To do so, there must be enough information to identify and dispose of or apportion the tax under law. The commissioner shall ask the appropriate officials for the transfers and necessary certifications. The commissioner may issue directives to carry out this section.

Sec. 2. Minnesota Statutes 1986, section 121.904, subdivision 11a, is amended to read:

Subd. 11a. ~~Beginning with payments received in fiscal year 1978, Revenues received pursuant to sections 294.21 to 294.28; 298.23 to 298.28; 298.32; 298.34 to 298.39; 298.391 to 298.396; 298.405; 298.51 to 298.67; or any law imposing a tax on severed mineral values or any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties, shall be recognized as revenue in the school year received.~~

Sec. 3. Minnesota Statutes 1986, section 121.904, subdivision 11b, is amended to read:

Subd. 11b. (1) Each district affected by the provisions of subdivision 11a shall account for and expend according to the provisions of this subdivision the total amount by which its 1976 payable 1977 and its 1977 payable 1978 permissible levies pursuant to sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 275.125 were reduced on account of payments pursuant to sections ~~294.21 or 294.28;~~ 298.23 to 298.28; 298.32; 298.34 to

298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67; or any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties.~~ Notwithstanding the provisions of section 124A.035, subdivision 5, clause (2) and the provisions of section 275.125, subdivision 9, clause (2) or any other law to the contrary, this total amount shall not be applied to reduce the foundation aid which the district is entitled to receive pursuant to section 124A.02 or again be applied to reduce the permissible levies of the district.

(2) The lesser of the amount in (1) or an amount equal to \$200 times the pupil units in the district computed pursuant to section 124.17 for the 1977-1978 school year shall be reflected in an "appropriated fund balance reserve account for current use of taconite payments" which shall be established in the general fund. Each school year, beginning in 1978-1979, each affected district shall transfer an amount equal to \$20 times the number of pupil units in the district in 1977-1978 out of this account into other operating accounts in the general fund, until the amount transferred equals the amount originally reflected in the reserve account; provided that in the last year in which the district is required to make this transfer, it shall transfer the balance of the reserve account, not to exceed an amount equal to \$20 times the number of pupil units in the district in 1977-1978. Notwithstanding the provisions of section 121.917, each affected district may use the amount so transferred each year to increase its expenditures above the amount it would otherwise be authorized to expend in that school year.

(3) Of the amount in (1), any amount not reflected in the account established pursuant to clause (2) shall be reflected in the district's appropriated fund balance reserve account for purposes of reducing statutory operating debt, if the district has established this account pursuant to section 275.125, subdivision 9a. The June 30, 1977 statutory operating debt of the district shall be reduced by the amount so reflected and shall be recertified accordingly by the commissioner.

(4) Notwithstanding the provisions of section 121.912, any portion of the amount in (1) remaining after the application of clauses (2) and (3) shall be transferred to the district's capital expenditure fund; provided that before July 1, 1979 not exceeding \$75,000 of the amount transferred to the capital expenditure fund pursuant to this clause may be transferred to the district's general fund.

Sec. 4. Minnesota Statutes 1986, section 124.195, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] (a) The term "other district receipts" means payments by county treasurers pursuant to section 276.10, apportionments from the school endowment fund pursuant to section 124.09, apportionments by the county auditor pursuant to

section 124.10, subdivision 2, and payments to school districts by the commissioner of revenue pursuant to ~~sections 294.21 to 294.26~~ and chapter 298.

(b) The term "cumulative amount guaranteed" means the sum of the following:

(1) one-third of the final adjustment payment according to subdivision 6; plus

(2) the product of

(i) the cumulative disbursement percentage shown in subdivision 3; times

(ii) the sum of

85 percent of the estimated aid and credit entitlements paid according to subdivision 10; plus

100 percent of the entitlements paid according to subdivisions 8 and 9; plus

the other district receipts; plus

the final adjustment payment according to subdivision 6.

Sec. 5. Minnesota Statutes 1986, section 124A.035, subdivision 5, is amended to read:

Subd. 5. [TACONITE DEDUCTIONS.] (1) Notwithstanding any provisions of any other law to the contrary, the adjusted assessed valuation used in calculating foundation aid shall include only that property which is currently taxable in the district.

(2) For districts which received payments under sections ~~294.21 to 294.26~~; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67~~; any law imposing a tax upon severed mineral values, or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties or recognized revenue pursuant to section 477A.15; the foundation aid shall be reduced in the October adjustment payment by the difference between the dollar amount of the payments received pursuant to those sections, or revenue recognized pursuant to section 477A.15 in the fiscal year to which the October adjustment is attributable and the amount which was calculated, pursuant to section 275.125, subdivision 9, as a reduction of the levy attributable to the fiscal year to which the October adjustment is attributable. If the October adjustment of a district's foundation aid for a fiscal year is a negative amount because of this clause, the next fiscal year's foundation aid

to that district shall be reduced by this negative amount in the following manner: there shall be withheld from each monthly scheduled foundation aid payment due the district in such fiscal year, 15 percent of the total negative amount, until the total negative amount has been withheld. The amount reduced from foundation aid pursuant to this clause shall be recognized as revenue in the fiscal year to which the October adjustment payment is attributable.

Sec. 6. Minnesota Statutes 1986, section 270.80, subdivision 2, is amended to read:

Subd. 2. "Railroad company" means:

(1) any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota; or

(2) any company owning or operating, other than as a common carrier, a railway principally used for transportation of taconite concentrates from the plant at which the taconite concentrates are produced in shipping form to a point of consumption or port for shipment beyond the state; or

(3) any company that produces concentrates from taconite and transports that taconite in the course of the concentrating process and before the concentrating process is completed to a concentrating plant located within the state over a railroad that is not a common carrier and shall not use a common carrier or taconite railroad company as defined in clause (2) for the movement of the concentrate to a point of consumption or port for shipment beyond the state.

Sec. 7. Minnesota Statutes 1986, section 273.12, is amended to read:

#### 273.12 [ASSESSMENT OF REAL PROPERTY.]

It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to every element and factor affecting the market value thereof, including its location with reference to roads and streets and the location of roads and streets thereon or over the same, and to take into consideration a reduction in the acreage of each tract or lot sufficient to cover the amount of land actually used for any improved public highway and the reduction in area of land caused thereby, provided, that in determining the market value of vacant land, the fact that such land is platted shall not be taken into account. An individual lot of such platted property shall not be assessed in excess of the assessment of the land as if it were unplatted until the lot is improved with a permanent improvement all or a portion of which is located upon the lot, or for a period



of three years after final approval of said plat whichever is shorter. When a lot is sold or construction begun, the assessed value of that lot or any single contiguous lot fronting on the same street shall be eligible for reassessment. It shall be the duty of every assessor and board, in estimating and determining the value of lands for the purpose of taxation, to consider and give due weight to lands which are comparable in character, quality, and location, to the end that all lands similarly located and improved will be assessed upon a uniform basis and without discrimination and, for agricultural lands, to consider and give recognition to its earning potential as measured by its free market rental rate.

Notwithstanding the provisions of this or any other section, no additional value shall be assessed for unmined mineral value except for iron ore or taconite concentrates.

Sec. 8. Minnesota Statutes 1986, section 275.125, subdivision 9, is amended to read:

Subd. 9. [LEVY REDUCTIONS; TACONITE.] (1) Reductions in levies pursuant to subdivision 10, and section 273.138, shall be made prior to the reductions in clause (2).

(2) Notwithstanding any other law to the contrary, districts which received payments pursuant to sections ~~294.21 to 294.26~~; 298.23 to 298.28, except an amount distributed under section 298.28, subdivision 4, paragraph (c), clause (ii); 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67~~; 477A.15; and any law imposing a tax upon severed mineral values, ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties~~, or recognized revenue pursuant to section 477A.15; shall not include a portion of these aids in their permissible levies pursuant to those sections, but instead shall reduce the permissible levies authorized by this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, by the greater of the following:

(a) an amount equal to 50 percent of the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year; or

(b) an amount equal to the total dollar amount of the payments received pursuant to those sections or revenue recognized pursuant to section 477A.15 in the previous fiscal year less the product of the same dollar amount of payments or revenue times the ratio of the maximum levy allowed the district under sections 124A.03, subdivision 2, 124A.06, subdivision 3a, 124A.08, subdivision 3a, 124A.10, subdivision 3a, 124A.12, subdivision 3a, and 124A.14, subdivision 5a, to the total levy allowed the district under this section and sections 124A.03, 124A.06, subdivision 3a, 124A.08, subdivision 3a,

124A.10, subdivision 3a, 124A.12, subdivision 3a, 124A.14, subdivision 5a, and 124A.20, subdivision 2, in the year in which the levy is certified.

(3) No reduction pursuant to this subdivision shall reduce the levy made by the district pursuant to section 124A.03, subdivision 1, to an amount less than the amount raised by a levy of 12.5 mills times the adjusted assessed valuation of that district for the preceding year as determined by the equalization aid review committee. The amount of any increased levy authorized by referendum pursuant to section 124A.03, subdivision 2 shall not be reduced pursuant to this subdivision. The amount of any levy authorized by subdivision 4, to make payments for bonds issued and for interest thereon, shall not be reduced pursuant to this subdivision.

(4) Before computing the reduction pursuant to this subdivision of the capital expenditure levy authorized by subdivision 11a, and the community service levy authorized by subdivision 8, the commissioner shall ascertain from each affected school district the amount it proposes to levy for capital expenditures pursuant to subdivision 11a and for community services pursuant to subdivision 8. The reduction of the capital expenditure levy and the community services levy shall be computed on the basis of the amount so ascertained.

(5) Notwithstanding any law to the contrary, any amounts received by districts in any fiscal year pursuant to sections ~~294.21 to 294.26~~; 298.23 to 298.28; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67~~; or any law imposing a tax on severed mineral values; ~~or under any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties~~; and not deducted from foundation aid pursuant to section 124A.035, subdivision 5, clause (2), and not applied to reduce levies pursuant to this subdivision shall be paid by the district to the St. Louis county auditor in the following amount by March 15 of each year except 1986, the amount required to be subtracted from the previous fiscal year's foundation aid pursuant to section 124A.035, subdivision 5, which is in excess of the foundation aid earned for that fiscal year. The county auditor shall deposit any amounts received pursuant to this clause in the St. Louis county treasury for purposes of paying the taconite homestead credit as provided in section 273.135.

Sec. 9. Minnesota Statutes 1986, section 287.09, is amended to read:

**287.09 [MORTGAGE ON EXEMPT PROPERTY; PROPERTY NOT DIRECTLY TAXED; RECEIPT; APPORTIONMENT OF TAX.]**

When any real estate ~~situate~~ situated in this state and described in any such mortgage is exempt from taxation under the Constitution of the state of Minnesota, article 10, section 1, the tax herein

provided shall be paid to the treasurer of the county in which such real estate is ~~situate~~ situated in the same manner as if such real estate was not exempt from taxation. When any real estate ~~situate~~ situated in this state and described in such mortgage is not exempt from taxation under such section, but is not taxed by direct tax upon the assessed valuation thereof, then the tax herein provided shall be paid to the county. Real estate taxed under sections 298.23 to 298.28, relating to taconite and taconite operations ~~or under sections 294.21 to 294.28, relating to railroads transporting taconite or taconite concentrates other than as a common carrier~~, shall not be considered to be real estate not taxed by direct tax upon the assessed valuation thereof within the meaning of this section.

Sec. 10. Minnesota Statutes 1986, section 290.92, subdivision 6, is amended to read:

Subd. 6. [RETURNS, DEPOSITS.] (1)(a) [RETURNS.] Every employer who is required to deduct and withhold tax under subdivision 2a or 3 and every person required to deduct and withhold tax under section 20, subdivision 2, shall file a return with the commissioner for each quarterly period, on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner. Any tax required to be deducted and withheld during the quarterly period shall be paid with the return unless an earlier time for payment is provided. However, any return may be filed on or before the tenth day of the second calendar month following the period if the return shows timely deposits in full payment of the taxes due for that period. For the purpose of the preceding sentence, a deposit which is not required to be made within the return period, may be made on or before the last day of the first calendar month following the close of the period. Every employer, in preparing a quarterly return, shall take credit for monthly deposits previously made in accordance with this subdivision.

The return shall be in the form and contain the information prescribed by the commissioner. The commissioner may grant a reasonable extension of time for filing the return, but no extension shall be granted for more than six months.

(b) [ADVANCE DEPOSITS REQUIRED IN CERTAIN CASES.] (i) Unless clause (ii) is applicable, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld during that quarter under subdivision 2a or 3, or under section 20, subdivision 2, exceeds \$500, the employer shall deposit the aggregate amount with the commissioner within 15 days after the close of the calendar month. (ii) If at the close of any eighth-monthly period the aggregate amount of undeposited taxes is \$3,000 or more, the employer, or person withholding tax under section 20, subdivision 2, shall deposit the undeposited taxes with the commissioner within three banking days after the close of the

eighth-monthly period. For purposes of this subparagraph, the term "eighth-monthly period" means the first three days of a calendar month, the fourth day through the seventh day of a calendar month, the eighth day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of the month.

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

(2) If less than the correct amount of tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in the manner and at the times as the commissioner prescribes. If the underpayment cannot be adjusted, the amount of the underpayment shall be assessed and collected in the manner and at the times as the commissioner prescribes.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed, or makes and files a false or fraudulent return, the commissioner shall make for the employer a return from the commissioner's own knowledge and from information the commissioner obtains through testimony, or otherwise, and assess a tax on the basis of it. The amount of tax shown on it shall be paid to the commissioner at the times as the commissioner prescribes. Any return or assessment made by the commissioner shall be prima facie correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect to it.

(4) The commissioner, in any case, on having reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, may immediately assess the tax, whether or not the time otherwise prescribed by law for making and filing the return and paying the tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer, or person withholding tax under section 20, subdivision 2, in the office of the commissioner in accordance with rules prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within 3½ years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later. In the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time. The tax may be assessed within 6½ years after the due date of the return or the date the return was filed, whichever is later, where the employer omitted withholding tax from the return which is properly includable therein and the omitted withholding tax is in excess of 25 percent of the amount of withholding tax stated on the return.

(7)(a) Except as provided in (b) of this paragraph, every employer, or person withholding tax under section 20, subdivision 2, who fails to pay to or deposit with the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state for the sum or sums (and any added penalties and interest). Any sum or sums deducted and withheld in accordance with the provisions of subdivision 2a or 3, or section 20, subdivision 2, shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, or person withholding tax under section 20, subdivision 2, in violation of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which the tax may be credited are paid, the tax required to be deducted and withheld shall not be collected from the employer; but this does not relieve the employer from liability for any penalties and interest otherwise applicable for failure to deduct and withhold.

(8) Upon the failure of any employer, or person required to withhold tax under section 20, subdivision 2, to pay to or deposit with the commissioner, within the time provided by paragraph (1), (2), or (3) of this subdivision, any tax required to be withheld in accordance with the provisions of subdivision 2a or 3, or section 20, subdivision 2, if the commissioner has assessed a tax pursuant to paragraph (4), the tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from the employer. The statement shall also give the address of the employer owing the tax, the period for which the tax is due, the date of the delinquency, and any other information required by the attorney general. The attorney general shall institute legal action in the name of the state to recover the amount of the tax, penalties, interest and costs. The commissioner's certified statement to the attorney general shall for all purposes and in all courts be prima facie evidence of the facts stated in it and that the amount shown in it is due from the employer named in the statement. If an action is instituted, the court shall, upon application of the attorney general, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding it as security for any judgment which has been or may

be recovered. Any action must be brought within five years after the date of assessment of any tax under this subdivision.

(8a) The period of time during which a tax must be assessed or collection proceedings commenced under this subdivision shall be suspended during the period from the date of filing of a petition in bankruptcy until 30 days after the commissioner of revenue receives notice that the bankruptcy proceedings have been closed or dismissed or the automatic stay has been terminated or has expired.

The suspension of the statute of limitations under this subdivision shall apply to the person against whom the petition in bankruptcy is filed and all other persons who may also be wholly or partially liable for the tax under this chapter.

(9) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may appeal the judgment as in other civil cases.

(10) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added to it.

Sec. 11. Minnesota Statutes 1986, section 290.92, subdivision 7, is amended to read:

Subd. 7. [WITHHOLDING STATEMENT TO EMPLOYEE OR PAYEE AND TO COMMISSIONER.] (1) Every person required to deduct and withhold from an employee a tax under subdivision 2a or subdivision 3, or section 20, subdivision 2, or who would have been required to deduct and withhold a tax under subdivision 2a or subdivision 3, or persons required to withhold tax under section 20, subdivision 2, determined without regard to subdivision 19, if the employee or payee had claimed no more than one withholding exemption, or who paid wages or made payments not subject to withholding under subdivision 2a or 3, or section 20, subdivision 2, to an employee or person receiving royalty payments in excess of \$600, or who has entered into a voluntary withholding agreement with a payee pursuant to subdivision 20, shall furnish to each such employee or person receiving royalty payments in respect to the remuneration paid by such person to such employee or person receiving royalty payments during the calendar year, on or before January 31 of the succeeding year, or, if employment is terminated before the close of such calendar year, within 30 days after the date of receipt of a written request from the employee if the 30-day period ends before January 31, a written statement showing the following:

(a) Name of such person,

(b) The name of the employee or payee and the employee's or payee's social security account number,

(c) The total amount of wages as that term is defined in subdivision 1(1), and/or the total amount of remuneration subject to withholding pursuant to subdivision 20, and the amount of sick pay as required under section 6051(f) of the Internal Revenue Code of 1954, as amended through December 31, 1985,

(d) The total amount deducted and withheld as tax under subdivision 2a or subdivision 3, or section 20, subdivision 2.

(2) The statement required to be furnished by this subdivision in respect of any remuneration shall be furnished at such other times, shall contain such other information, and shall be in such form as the commissioner may prescribe.

(3) The commissioner may prescribe rules providing for reasonable extensions of time, not in excess of 30 days, to employers or payers required to furnish such statements to their employees or payees under this subdivision.

(4) A duplicate of any statement made pursuant to this subdivision and in accordance with rules prescribed by the commissioner, along with a reconciliation in such form as the commissioner may prescribe of all such statements for the calendar year (including a reconciliation of the quarterly returns required to be filed pursuant to subdivision 6), shall be filed with the commissioner on or before February 28 of the year after the payments were made.

Sec. 12. Minnesota Statutes 1986, section 290.92, subdivision 9, is amended to read:

Subd. 9. [DETERMINATION OF TAX DUE.] The commissioner may grant permission to employers, or persons withholding tax under section 20, subdivision 2, who do not desire to use the withholding tax tables provided in accordance with paragraph (3) of subdivision 2a, or section 20, subdivision 2, to determine the amount of tax to be withheld by use of a method of withholding other than withholding tax tables, provided such method will withhold from each employee or person receiving royalty payments substantially the same amount of tax as would be withheld by use of the withholding tax tables. Employers, or persons withholding tax under section 20, subdivision 2, who desire to determine the amount of tax to be withheld by a method other than by use of the withholding tax tables shall obtain permission from the commissioner before the beginning of a payroll period for which the employer, or person withholding tax under section 20, subdivision 2, desires to withhold the tax by such other method. Applications to use such other method must be accompanied by evidence establishing the need for the use of such method.

Sec. 13. Minnesota Statutes 1986, section 290.92, subdivision 11, is amended to read:

Subd. 11. [REFUNDS.] Where there has been an overpayment of tax imposed by this section, refund of such overpayment or credit shall be made to the employer, or person withholding tax under section 20, subdivision 2, in accordance with rules prescribed by the commissioner, but only to the extent that the amount of such overpayment was not deducted and withheld under subdivision 2a or 3, or section 20, subdivision 2, by the employer or other person subject to withholding. Any overpayment which is refunded shall bear interest at the rate specified in section 270.76, computed from the date of payment until the date the refund is paid to the employer. The commissioner of finance shall cause any such refund of tax and interest to be paid out of the general fund in accordance with the provisions of section 290.62 and so much of said fund as may be necessary is hereby appropriated for that purpose. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

Sec. 14. Minnesota Statutes 1986, section 290.92, subdivision 12, is amended to read:

Subd. 12. [WITHHELD AMOUNT, CREDIT AGAINST TAX.] The amount deducted and withheld as tax under subdivision 2a or subdivision 3, or section 20, subdivision 2, during any calendar year upon the wages of any individual or person receiving royalty payments shall be allowed as a credit to the recipient of the income against the taxes imposed by this chapter or by chapter 298, for a taxable year beginning in such calendar year. If more than one taxable year begins in such calendar year, such amount shall be allowed as a credit against the taxes for the last taxable year so beginning.

Sec. 15. Minnesota Statutes 1986, section 290.92, subdivision 13, is amended to read:

Subd. 13. [REFUNDS.] (1) Where the amount of the tax withheld at the source under subdivision 2a or 3, or section 20, subdivision 2, exceeds by \$1 or more the taxes (and any added penalties and interest) reported in the return of the employee taxpayer or imposed upon the employee taxpayer by this chapter, the amount of such excess shall be refunded to the employee taxpayer. If the amount of such excess is less than \$1 the commissioner shall not be required to refund that amount. Where any amount of such excess to be refunded exceeds \$10, such amount on the original return shall bear interest at the rate specified in section 270.76, computed from 90 days after (a) the due date of the return of the employee taxpayer or (b) the date on which the return is filed, whichever is later, to the date the refund is paid to the taxpayer. A return shall not be treated as filed until it is in processible form. A return is in processible form when it is filed on a permitted form containing the taxpayer's name,



address, social security account number, the required signature, and sufficient required information (whether on the return or on required attachments) to permit the mathematical verification of tax liability shown on the return. Notwithstanding the provisions of section 290.50, written findings by the commissioner, notice by mail to the taxpayer, and certificate for refundment by the commissioner, shall not be necessary. The provisions of section 270.10, shall not be applicable.

(2) Any action of the commissioner in refunding the amount of such excess shall not constitute a determination of the correctness of the return of the ~~employee~~ taxpayer within the purview of section 290.46.

(3) The commissioner of finance shall cause any such refund of tax and interest, to be paid out of the general fund in accordance with the provisions of section 290.62, and so much of said fund as may be necessary is hereby appropriated for that purpose.

Sec. 16. Minnesota Statutes 1986, section 290.92, subdivision 14, is amended to read:

Subd. 14. [RECORDS MUST BE KEPT.] Every person liable for any tax imposed by this section, or for the collection thereof, shall keep such records, render such statements, make such returns, and comply with such rules, as the commissioner may from time to time prescribe. Any such return or statement shall include therein the information required by such rules and by the forms prescribed by the commissioner. For the purpose of determining compliance with the provisions of this subdivision, or for the purpose of collection of any taxes due under this section or section 20, the commissioner shall have power to examine, or cause to be examined, any books, papers, records, or memoranda relevant to making such determination, whether such books, papers, records, or memoranda are the property of or in the possession of such person or any other person or corporation. The commissioner shall further have power to require the attendance of any persons 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.

Sec. 17. Minnesota Statutes 1986, section 290.92, subdivision 18, is amended to read:

Subd. 18. [RETURNS; CONFESSION OF JUDGMENT.] Any return that is required to be filed with the commissioner of revenue under this section or section 20 shall (a) contain a written declaration that it is correct and complete, and (b) shall contain language prescribed by the commissioner providing a confession of judgment

for the amount of the tax shown due thereon to the extent not timely paid.

Sec. 18. Minnesota Statutes 1986, section 290.92, subdivision 24, is amended to read:

Subd. 24. [APPLICATION FOR ACCOUNT NUMBER.] An employer, or person withholding tax under section 20, desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number on or before the due date of the first payment required to be made under the provisions of subdivision 6. An application for an account number shall be made upon a form prescribed by the commissioner and shall set forth the name of the employer or payor, the location of the place or places of business, the names, addresses and social security numbers of the owners or partners, or if the employer or payor is a corporation of the officers, or if the employer or payor is a trust of the trustees, and such other information as the commissioner may require. The application shall be filed by the owner if the employer or payor is a natural person; by a member or partner if the employer or payor is an association or partnership; by a trustee if the employer or payor be a trust, or by a person authorized to sign the application if the employer or payor is a corporation.

No fee shall be charged for the application.

The account number is not assignable.

An employer or payor who fails to file an application for a withholding account number shall be liable to the commissioner for a penalty of \$100. The penalty shall be collected in the same manner as delinquent withholding tax is collected. The commissioner may abate this penalty.

Sec. 19. Minnesota Statutes 1986, section 290.92, subdivision 25, is amended to read:

Subd. 25. [DELEGATION OF DUTY OF EMPLOYER OR PAYOR.] The delegation to an agent, fiduciary or employee of an employer, or person withholding tax under section 20, of any duty prescribed for the employer or payor by this section shall not relieve the employer or payor of full compliance with such duty.

Sec. 20. [290.923] [TAX WITHHELD ON ROYALTIES UPON ORE.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the term "royalty" means the amount in money or value of property received by any person or corporation having any right, title, or

interest in any tract of land in this state for permission to explore, mine, take out, and remove ore from the land.

Subd. 2. [COLLECTION AT SOURCE.] (a) Every person making payment of royalties shall deduct and withhold upon such royalties a tax as provided in this section.

(b) The amount of tax to be withheld shall be based upon tables to be prepared and distributed by the commissioner. The tables must be computed for several permissible withholding periods and shall take into account any exemptions allowed under this chapter and the amounts computed for withholding shall be such that the amount withheld for any person or corporation during the person's or corporation's taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under this chapter for that taxable year upon the person's or corporation's income subject to tax.

Subd. 3. [RETURNS; DEPOSITS.] Every person who is required to deduct and withhold tax under subdivision 2 shall file returns and make deposits as required under section 290.92, subdivision 6.

Subd. 4. [WITHHOLDING STATEMENT.] Every person or corporation required to deduct and withhold tax under this section shall furnish withholding statements as required by section 290.92, subdivision 7.

Subd. 5. [PAYOR LIABLE FOR TAX WITHHELD.] The payor shall be liable for the payment of tax required to be deducted and withheld under subdivision 2 and shall not be liable to any person for the amount of any such payment.

Subd. 6. [DETERMINATION OF TAX DUE.] The commissioner may grant permission to payors who do not wish to use the withholding tax tables provided in accordance with subdivision 2, paragraph (b), in accordance with section 290.92, subdivision 9.

Subd. 7. [REFUNDS.] Refunds of overpayments or credits due to overpayments of tax imposed by this section shall be allowed in accordance with section 290.92, subdivisions 11 to 13.

Subd. 8. [RECORDS.] Every person liable for tax imposed by this section or for the collection of it shall be subject to the provisions of section 290.92, subdivision 14.

Subd. 9. [PAYEES INCURRING NO INCOME TAX LIABILITY.] Notwithstanding any other provision of this section a payor shall not be required to deduct and withhold any tax under this chapter upon a payment of royalties to a payee if there is in effect with respect to the payment a withholding exemption certificate, in the form and

containing the information prescribed by the commissioner, furnished to the payor by the payee certifying that the payee:

(1) incurred no liability for income tax imposed under this chapter for the payee's preceding taxable year; and

(2) anticipates incurring no liability for income tax under this chapter for the current taxable year.

The commissioner shall provide by rule for the coordination of the provisions of this subdivision with the provisions of subdivision 4.

Subd. 10. [APPLICATION FOR ACCOUNT NUMBER.] A payor desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number in accordance with section 290.92, subdivisions 24 and 25.

Sec. 21. Minnesota Statutes 1986, section 298.01, subdivision 1, is amended to read:

Subdivision 1. [OCCUPATION TAX; IRON ORE; TACONITE CONCENTRATES.] Every person engaged in the business of mining or producing iron ore or ~~other ores~~ taconite concentrates in this state shall pay to the state of Minnesota an occupation tax equal to 15 percent of the valuation of ~~all the ores~~ mined or produced before January 1, 1986, 14.5 percent of the valuation of ~~all the ores~~ produced after December 31, 1985 and before January 1, 1987, and 14 percent of the valuation of ~~all the ores~~ produced after December 31, 1986. Said tax shall be in addition to all other taxes provided for by law and shall be due and payable from such person on or before June 15 of the year next succeeding the calendar year covered by the report thereon to be filed as hereinafter provided.

Sec. 22. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 3. [OCCUPATION TAX; OTHER ORES.] Every person engaged in the business of mining or producing ores, except iron ore or taconite concentrates, shall pay an occupation tax to the state of Minnesota as provided in this subdivision. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided in chapter 290, except that sections 290.05, subdivision 1, clause (a), and 290.01, subdivision 19c, clause (11), do not apply. Corporations shall be subject to the alternative minimum tax imposed under chapter 290. The tax applies to all ores, except iron ore and taconite concentrates, mined after December 31, 1986. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Sec. 23. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 4. [OCCUPATION TAX; IRON ORE; TACONITE CONCENTRATES.] A person engaged in the business of mining or producing iron ore or taconite concentrates shall pay an occupation tax to the state of Minnesota. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided for in chapter 290, except that sections 290.05, subdivision 1, clause (a), and 290.01, subdivision 19c, clause (11), do not apply. Corporations shall be subject to the alternative minimum tax imposed under chapter 290. The tax applies to all iron ore and taconite concentrates mined after December 31, 1989. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Sec. 24. Minnesota Statutes 1986, section 298.01, is amended by adding a subdivision to read:

Subd. 5. [IF DECLARED UNCONSTITUTIONAL.] If the taxes imposed by this section are found unconstitutional by any court of last resort, then persons engaged in the business of mining or producing iron ore or other ores shall pay the occupation taxes imposed in Minnesota Statutes 1986, chapter 298.

Sec. 25. [298.015] [NET PROCEEDS TAX ON MINING.]

Subdivision 1. [TAX IMPOSED.] A person engaged in the business of mining shall pay to the state of Minnesota a net proceeds tax equal to two percent of the net proceeds from mining in Minnesota. The tax applies to all mineral and energy resources mined or extracted within the state of Minnesota except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, soil, iron ore, and taconite concentrates. The tax is in addition to all other taxes provided for by law. The tax is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Subd. 2. [NET PROCEEDS.] For purposes of this section, the term "net proceeds" means the gross proceeds from mining, as defined in section 26, less the deductions allowed in section 27. No other credits or deductions shall apply to this tax except for those provided in section 27.

Sec. 26. [298.016] [GROSS PROCEEDS.]

Subdivision 1. [COMPUTATION; ARMS-LENGTH TRANSACTIONS.] In cases where a metal or mineral product is sold by the producer in an arms-length transaction, the gross proceeds are

equal to the proceeds from the sale of the product. This subdivision applies to sales realized on all metal or mineral products produced from mining, including without limitation, reduction, beneficiation, or any treatment used by a producer to obtain a metal or mineral product which is commercially marketable.

Subd 2. [OTHER TRANSACTIONS.] When a metal or mineral product is used by the producer or disposed of in a non-arms-length transaction, the gross proceeds must be determined using the alternative computation in subdivision 3. Transactions subject to this subdivision include, but are not limited to, shipments to a wholly owned smelter, transactions with associated or affiliated companies, and any other transactions which are not at arms-length.

Subd. 3. [ALTERNATIVE COMPUTATION.] The commissioner of revenue shall determine the alternative computation of gross proceeds using the following procedure:

(a)(1) Metal and mineral prices shall be determined by using the average annual market price as published in the Engineering and Mining Journal; (2) For metals or mineral products with a monthly or weekly price quotation in the Engineering and Mining Journal, but for which no average annual price has been published, an arithmetic average of the monthly or weekly prices published in the Engineering and Mining Journal shall be used; (3) If the price of a particular metal or mineral product is not published in the Engineering and Mining Journal, another recognized published price, as established by the commissioner of revenue will be used.

(b) The quantity of each particular metal or mineral product recovered and paid or credited for by the smelter will be multiplied by the average annual market price as determined in clause (a). Special smelter charges for particular metals will be allowed as a deduction from this price. The resulting amount will be the gross proceeds for calculating the tax in section 25.

Subd. 4. [DEFINITIONS.] (a) For the purposes of this section and sections 25 and 27, the terms defined in this subdivision have the meaning given them unless the context clearly indicates otherwise.

(b) "Metal or mineral products" means all those mineral and energy resources subject to the tax imposed in section 25.

(c) "Exploration" means activities designed and engaged in to ascertain the existence, location, extent, or quality of any deposit of metal or mineral products prior to the development of a mining site.

(d) "Development" means activities designed and engaged in to prepare or develop a potential mining site for mining after the existence of metal or mineral products in commercially marketable

quantities has been disclosed including, but not limited to, the clearing of forestation, the building of roads, removal of overburden, or the sinking of shafts.

(e) "Research" means activities designed and engaged in to create new or improved methods of mining, producing, processing, beneficiating, smelting, or refining metal or mineral products.

Sec. 27. [298.017] [DEDUCTIONS.]

Subdivision 1. [DEDUCTIONS NOT ALLOWED.] For purposes of calculating the net proceeds under section 25, the following expenses are not deductible: (1) all sales, marketing, and interest expenses; (2) all insurance expense and taxes, except as specifically provided in this section; (3) all administrative expenses outside of Minnesota; (4) any research expense prior to production; (5) all reclamation expenses after production ends; and (6) royalty expenses, depletion allowances, and cost of mining land.

Subd. 2. [DEDUCTIONS ALLOWED.] (a) In calculating the net proceeds for the purpose of determining the tax imposed in section 25, only those expenses specifically allowed in this subdivision may be deducted from gross proceeds. The carryback or carryforward of deductions shall not be allowed.

(b) Ordinary and necessary expenses actually paid for the mining, production, processing, beneficiation, smelting, or refining of metal or mineral products for (1) labor, including wages, salaries, fringe benefits, unemployment and workers' compensation insurance; (2) machinery, equipment, and supplies, including any sales and use tax paid on it, except that machinery and equipment subject to depreciation shall only be deductible under clause (b)(3); (3) depreciation as defined and allowed by section 167 of the Internal Revenue Code of 1986, as amended through December 31, 1986; and (4) administrative expenses inside Minnesota are deductible.

(c) Ordinary and necessary expenses of transporting metal or mineral products are allowed as a deduction if the costs are included in the sale price of the products.

(d) Expenses of exploration, research, or development in this state for the mining and processing of minerals within Minnesota paid in a production year are deductible in the production year.

(e) Expenses of exploration and development in Minnesota incurred prior to production must be amortized and deducted on a straight-line basis over the first five years of production.

Sec. 28. Minnesota Statutes 1986, section 298.026, is amended to read:

**298.026 [CREDIT FOR RESEARCH, EXPERIMENTATION,  
AND EXPLORATION.]**

A tax credit shall be allowed to each taxpayer against the taxes payable by such taxpayer as computed each year under sections 298.01, subdivision 1, and 298.02, for the cost of all research, experimentation, pilot plant tests and exploration work performed in Minnesota in such year for the express purpose of furthering the discovery, development, or beneficiation of Minnesota iron ore or other Minnesota ores.

Such credit shall be computed by applying to such costs and allowances the weighted average net effective rate of all the occupation taxes applicable to such taxpayer for such year imposed pursuant to section 298.01, subdivision 1, after the application of the credits against such occupation taxes allowed under section 298.02, subdivision 1, but before the application of the credit herein provided.

Any such credit shall be applied against the tax for the year for which such credit is computed except that any such credit in excess of such tax shall be applied in like manner in the next year and thereafter from year to year, but not exceeding two years, until the entire credit has been so applied.

The determination as to what type of costs will qualify under this law, and the amount allowable, will be made by the commissioner of revenue who may use the services of the University of Minnesota department of civil and mineral engineering which is hereby established as a technical consultant to the commissioner for the purposes of this section.

Sec. 29. Minnesota Statutes 1986, section 298.027, is amended to read:

**298.027 [COSTS OF MINING EXCEEDING VALUE OF ORE  
TAX CREDIT.]**

A tax credit shall be allowed to each taxpayer against the taxes computed under this chapter where the allowable costs for any mine determined under section 298.03 except taconite and semitaconite exceed the value of the ore at the place where the same is brought to the surface of the earth. The said allowable costs shall not include amounts attributable to or payable by reason of the termination of mining operations.

The credit shall be computed by applying the tax rates specified in section 298.01, subdivision 1, to the excess of such deductions over such value, but limited to; in the case of open pit iron ore mines, 53.68 percent of the credit so computed and in the case of underground mines, 42.10 percent of the credit so computed.



Such credit shall be allowed for the year in which such excess occurs.

Sec. 30. Minnesota Statutes 1986, section 298.028, subdivision 1, is amended to read:

Subdivision 1. A credit of five percent of the net cost of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules or standards to the extent the property is so used may be deducted from the tax imposed by section 298.01, subdivision 1, in the first year in which the equipment is installed.

The credit allowed by this subdivision shall not exceed so much of the liability for tax for the taxable year as does not exceed \$75,000. The credit shall apply only if the equipment meets rules prescribed by the Minnesota pollution control agency and is installed or operated in accordance with a permit or order issued by the agency.

Sec. 31. Minnesota Statutes 1986, section 298.03, subdivision 1, is amended to read:

Subdivision 1. [GENERAL RULES.] The valuation of iron or other ores for the purposes of determining the amount of tax to be paid under the provisions of section 298.01, subdivision 1, shall be ascertained by subtracting from the value of such ore, at the place where the same is brought to the surface of the earth, such value to be determined by the commissioner of revenue:

(1) the reasonable cost of supplies used and labor performed at the mine in separating the ore from the ore body, including hoisting, elevating, or conveying the same to the surface of the earth;

(2) if the ore is taken from an open pit mine, an amount for each ton of ore mined or produced during the year equal to the cost of removing the overburden, divided by the number of tons of ore uncovered, the number of tons of ore uncovered in each case to be determined by the commissioner of revenue;

(3) if the ore is taken from an underground mine, an amount for each ton of ore mined or produced during the year equal to the cost of sinking and constructing shafts and running drifts, divided by the number of tons of ore that can be advantageously taken out through such shafts and drifts, the number of tons of ore that can be advantageously taken out in each case to be determined by the commissioner of revenue;

(4) the amount of royalties paid on the ore mined or produced during the year;

(5) for persons mining or producing iron ore the mining or production of which is subject to the occupation tax imposed by section 298.01, subdivision 1, the amount of the ad valorem taxes levied and paid for the year against the realty in which the ore is deposited; for all others a percentage of the ad valorem taxes levied and paid for such year against the realty in which the ore is deposited equal to the percentage that the tons mined or produced during such year bears to the total tonnage in the mine;

(6) in the case of taconite, semitaconite and iron sulphide operations, the tax payable under section 298.24, and that payable under section 298.35, on the concentrates produced in said year and any taxes paid under Laws 1955, chapter 391, 429, 514, 576 or 540, or any other law imposing on such taconite operations a specific tax for school or other governmental purposes;

(7) the amount or amounts of all the foregoing subtractions shall be ascertained and determined by the commissioner of revenue. Deductions for interest on plant investment shall not exceed the greater of (a) four percent of book value, or (b) the amount actually paid but not exceeding six percent of book value. No subtraction shall be allowed for shrinkage of iron ore.

Sec. 32. Minnesota Statutes 1986, section 298.031, subdivision 2, is amended to read:

Subd. 2. [VALUE OF CERTAIN ORE; HOW ASCERTAINED.] (1) The taxpayer shall be given a credit in each taxable year upon the occupation tax assessed in such year upon iron ore or taconite concentrates, under Minnesota Statutes 1957, chapter 298, against a given mine after credit for labor credits has been given, in an amount equal to the occupation tax under said chapter 298 upon an amount produced by multiplying the number of tons of ore sold at a discount by the amount of such discount.

(2) The aggregate amount of all credits allowed under this section to all mines shall not exceed four percent of the aggregate amount of all occupation taxes imposed under section 298.01, subdivision 1, assessed against all mines in the state for said year prior to the deduction of the credit allowed by this section.

(3) The amount of the foregoing subtraction shall be ascertained and determined by the commissioner.

(4) If ore stockpiled from previous years operations is sold at a discount, the discount credit shall be allowed against all ore currently being produced by the same company to the extent that the discount credit is available. Any unused credit may be carried forward and utilized with future years production of ore from the stockpiled property or other properties operated by the same company.

Sec. 33. Minnesota Statutes 1986, section 298.08, is amended to read:

**298.08 [PROCEDURE WHEN NO REPORT IS FILED; PENALTY FOR FAILURE TO REPORT.]**

If any person subject to sections 298.01, 298.03, 298.05 to 298.16, and 298.21 and section 25 shall fail to make the report provided for in section 298.05 at the time and in the manner therein provided, the commissioner of revenue shall in such case, upon information as the commissioner may possess or obtain, ascertain the kind and amount of ore mined or produced, together with the valuation thereof, and thereon find and determine the amount of the tax due from such person. There shall be added thereto a penalty for failure to report, which penalty shall equal ten percent of the tax imposed and be treated as a part thereof.

Sec. 34. Minnesota Statutes 1986, section 298.09, subdivision 1, is amended to read:

Subdivision 1. On or before May 1 in each year, the commissioner of revenue shall send to each person subject to ~~an~~ an occupation tax ~~taxes under the provisions of Laws 1921, chapter 223~~ section 298.01, as amended, or the net proceeds tax under the provisions of section 25, a notice of the amount of the tax so determined to be due. Said notice shall be sent by certified mail and directed to the person at the address given in the report filed by the person, and, if no report has been filed or no address given, then at such address as the commissioner of revenue may be able to ascertain; but the validity of the tax shall not be affected by the failure of the commissioner of revenue to mail such notice or the failure of the person subject to the tax to receive it.

Sec. 35. Minnesota Statutes 1986, section 298.25, is amended to read:

**298.25 [TAXES ADDITIONAL TO OTHER TAXES.]**

The taxes imposed under section 298.24 shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore ~~and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore~~. Except as herein otherwise provided, such taxes shall be in lieu of all other taxes upon such taconite and iron sulphides, or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrate therefrom, or upon the concentrate produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying or production, or upon the lands occupied by, or used in connection with, such mining, quarrying or production facilities. If electric or steam power for the mining, transportation or concentration of such taconite or the concentrates

produced therefrom is generated in plants principally devoted to the generation of power for such purposes, the plants in which such power is generated and all machinery, equipment, tools, supplies, transmission and distribution lines used in the generation and distribution of such power, shall be considered to be machinery, equipment, tools, supplies and buildings used in the mining, quarrying or production of taconite and taconite concentrates within the meaning of this section. If part of the power generated in such a plant is used for purposes other than the mining or concentration of taconite or the transportation or loading of taconite or the concentrates thereof, a proportionate share of the value of such generating facilities, equal to the proportion that the power used for such other purpose bears to the generating capacity of the plant, shall be subject to the general property tax in the same manner as other property; provided, power generated in such a plant and exchanged for an equivalent amount of power which is used for the mining, transportation or concentration of such taconite or concentrates produced therefrom, shall be considered as used for such purposes within the meaning of this section. Nothing herein shall prevent the assessment and taxation of the surface of reserve land containing taconite and not occupied by such facilities or used in connection therewith at the value thereof without regard to the taconite or iron sulphides therein, nor the assessment and taxation of merchantable iron ore or other minerals, or iron-bearing materials other than taconite or iron sulphides in such lands in the manner provided by law, nor the assessment and taxation of facilities used in producing sulphur or sulphur products from iron sulphide concentrates, or in refining such sulphur products, under the general property tax laws. Nothing herein shall except from general taxation or from taxation as provided by other laws any property used for residential or townsite purposes, including utility services thereto.

Sec. 36. Minnesota Statutes 1986, section 298.28, subdivision 4, is amended to read:

Subd. 4. [SCHOOL DISTRICTS.] (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), shall be distributed to a group of school districts comprised of those school districts wherein the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct

proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted assessed value per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted assessed value per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections ~~294.21 to 294.26~~; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; ~~298.51 to 298.67~~ or any law imposing a tax on several severed mineral values or any other law distributing proceeds in lieu of ad valorem tax assessments on copper or nickel properties that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1, clause (a), shall be distributed to any school district described in paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988 and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) \$150 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of  $1\frac{3}{4}$  mills times the district's taxable valuation in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the amount certified pursuant to section 124A.03, subdivision 2, in the previous year, to the product of  $1\frac{3}{4}$  mills times the district's taxable valuation in the second previous year.

If the total amount provided by paragraph (d) is insufficient to make the payments herein required then the entitlement of \$150 per

pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to paragraph (d) shall not be applied to reduce foundation aids which the district is entitled to receive pursuant to section 124A.02 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

(e) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

#### Sec. 37. [REPEALER.]

(a) Minnesota Statutes 1986, sections 294.21; 294.22; 294.23; 294.24; 294.25; 294.26; 299.01; 299.012; 299.013; 299.02; 299.03; 299.04; 299.05; 299.06; 299.07; 299.08; 299.09; 299.10; 299.11; 299.12; 299.13; and 299.14, are repealed.

(b) Minnesota Statutes 1986, sections 290.082; 298.04; 298.28, subdivision 14; 298.51; 298.52; 298.53; 298.54; 298.55; 298.61; 298.62; 298.63; 298.64; 298.65; 298.66; and 298.67, are repealed.

(c) Minnesota Statutes 1986, sections 298.01, subdivision 1; 298.02; 298.026; 298.027; 298.028; 298.03; 298.031; and 298.40, are repealed.

#### Sec. 38. [EFFECTIVE DATE.]

Sections 1, 2, 3, 5, and 36 are effective December 31, 1986, except the parts of sections 2, 3, 5, and 36 that strike references to sections 294.21 to 294.28 or sections 294.21 to 294.26 are effective January 1, 1990. Section 4 is effective January 1, 1990. Sections 6 and 9 are effective for taxes assessed in 1990 and thereafter. Sections 7 and 8 are effective for taxes assessed in 1987 and thereafter, except the part of section 8 striking references to sections 294.21 to 294.26 is effective for taxes assessed in 1990 and thereafter. Section 37, paragraph (b), is effective for taxable years beginning after December 31, 1986. Sections 21, 22, 24 to 34, are effective for ores mined after December 31, 1986. Sections 23, 35, and 37, paragraph (c), are effective for ores mined after December 31, 1989. Sections 10 to 20 and 37, paragraph (a) are effective for taxable years beginning after December 31, 1989.

### ARTICLE 6

#### PROPERTY TAX ASSESSMENT AND REVIEW

Section 1. Minnesota Statutes 1986, section 270.11, subdivision 1, is amended to read:

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.~~

Sec. 2. Minnesota Statutes 1986, section 270.11, subdivision 2, is amended to read:

Subd. 2. [COUNTY ASSESSOR'S REPORTS OF ASSESSMENT FILED WITH COMMISSIONER.] Each county assessor shall file by June 1 with the commissioner of revenue a copy of the abstract that will be acted upon by the county board of review. The abstract must list the real and personal property in the county, as equalized by the local board of review or equalization, itemized by assessment districts. A printed or typewritten copy of the proceedings of the local board of review or equalization must also be filed with the commissioner. The commissioner of revenue may require The assessor of each county in the state ~~to shall~~ file with the commissioner, ~~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, within five working days following final action of the county board of equalization, any changes made by the county board of equalization. The information must be filed in the manner prescribed by the commissioner. It must be accompanied by a printed or typewritten copy of the proceedings of the county board of equalization, and it shall be the duty of the county assessor 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 November 15 of each calendar year.

Sec. 3. Minnesota Statutes 1986, section 270.12, subdivision 2, is amended to read:

Subd. 2. The board shall meet annually ~~on August 15 between July 1 and October 1~~ 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 market 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 market value in money, such percent as will bring the same to its market 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 market value in money, such percent as will reduce the same to its market 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 market value in money;

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

(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; and

(8) In equalizing values pursuant to this section, the board shall utilize a 12-month assessment/sales ratio study conducted by the department of revenue containing only sales that occurred between October 1 of the year immediately preceding the previous year to September 30 of the previous year. The sales prices used in the study must be discounted for terms of financing. The board shall use the



median ratio as the statistical measure of the level of assessment for any particular category of property.

Sec. 4. Minnesota Statutes 1986, section 270.12, subdivision 3, is amended to read:

Subd. 3. ~~For taxes levied in 1985 and thereafter~~ When a taxing jurisdiction lies in two or more counties, if the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than five percent, the board may order the apportionment of the levy. When the sales ratio studies prepared by the department of revenue show that the average levels of assessment in the several portions of the taxing jurisdictions in the different counties differ by more than ten percent, the board shall order the apportionment of the levy unless (a) the proportion of total adjusted assessed value in one of the counties is less than ten percent of the total adjusted assessed value in the taxing jurisdiction and the average level of assessment in that portion of the taxing jurisdiction is the level which differs by more than five percent from the assessment level in any one of the other portions of the taxing jurisdiction; (b) significant changes have been made in the level of assessment in the taxing jurisdiction which have not been reflected in the sales ratio study, and those changes alter the assessment levels in the portions of the taxing jurisdiction so that the assessment level now differs by five percent or less; or (c) commercial, industrial, mineral, or public utility property predominates in one county within the taxing jurisdiction and another class of property predominates in another county within that same taxing jurisdiction. If one or more of these factors are present, the board may order the apportionment of the levy.

Notwithstanding any other provision, the levy for the metropolitan mosquito control district, metropolitan council, metropolitan transit district, and metropolitan transit area must be apportioned without regard to the percentage difference.

If, pursuant to this subdivision, the board apportions the levy, then that levy apportionment among the portions in the different counties shall be made in the same proportion as the adjusted assessed value as determined by the equalization aid review committee in each portion is to the total adjusted assessed value of the taxing jurisdiction.

For the purposes of this section, the average level of assessment in a taxing jurisdiction or portion thereof shall be the aggregate assessment sales ratio. Assessed values as determined by the equalization aid review committee shall be the values as determined for the year preceding the year in which the levy to be apportioned is levied.

Actions pursuant to this subdivision shall be commenced subsequent to the annual meeting on ~~August 15~~ July 1 of the state board of equalization, but notice of the action shall be given to the affected jurisdiction and the appropriate county auditors by the following ~~November 15~~ October 1.

Apportionment of a levy pursuant to this subdivision shall be considered as a remedy to be taken after equalization pursuant to subdivision 2, and when equalization within the jurisdiction would disturb equalization within other jurisdictions of which the several portions of the jurisdiction in question are a part.

Sec. 5. Minnesota Statutes 1986, section 270.13, is amended to read:

**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 each year to the auditor of each county wherein such property is situated, on or before ~~November 15~~ October 1 or 30 days after submission of the abstract required by section 270.11, subdivision 2, whichever is later. 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 the 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 the 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.

Sec. 6. Minnesota Statutes 1986, section 270.87, is amended to read:

## 270.87 [CERTIFICATION TO COUNTY ASSESSORS.]

After making an annual determination of the equalized fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, the commissioner shall certify the equalized fair market value to the county assessor on or before October 1, which shall constitute the equalized fair market value of the operating property of the railroad company in such county and the taxing districts therein upon which taxes shall be levied and collected in the same manner as on the commercial and industrial property of such county and the taxing districts therein.

Sec. 7. Minnesota Statutes 1986, section 271.21, subdivision 2, is amended to read:

Subd. 2. At the election of the taxpayer, the small claims division shall have jurisdiction only in the following matters:

(a) any case concerning the valuation, assessment, or taxation of residential property homesteaded by the taxpayer; or

(b) any other case concerning the tax laws as defined in section 271.01, subdivision 5 in which the amount of tax in controversy does not exceed \$2,500 \$5,000, including penalty and interest.

Sec. 8. Minnesota Statutes 1986, section 273.061, subdivision 1, is amended to read:

Subdivision 1. [OFFICE CREATED; APPOINTMENT, QUALIFICATIONS.] Every county in this state shall have a county assessor. The county assessor shall be appointed by the board of county commissioners and shall be a resident of this state. The assessor shall be selected and appointed because of knowledge and training in the field of property taxation and appointment shall be approved by the commissioner of revenue before the same shall become effective. Upon receipt by the county commissioners of the commissioner of revenue's refusal to approve an appointment, the term of the appointee shall terminate at the end of that day. Notwithstanding any law to the contrary, a county assessor must have senior accreditation from the state board of assessors by January 1, 1989.

Sec. 9. Minnesota Statutes 1986, section 273.061, subdivision 8, is amended to read:

Subd. 8. [POWERS AND DUTIES.] The county assessor shall have the following powers and duties:

(1) To call upon and confer with the township and city assessors in the county, and advise and give them the necessary instructions and

directions as to their duties under the laws of this state, to the end that a uniform assessment of all real property in the county will be attained.

(2) To assist and instruct the local assessors in the preparation and proper use of land maps and record cards, in the property classification of real and personal property, and in the determination of proper standards of value.

(3) To keep the local assessors in the county advised of all changes in assessment laws and all instructions which the assessor receives from the commissioner of revenue relating to their duties.

(4) To have authority to require the attendance of groups of local assessors at sectional meetings called by the assessor for the purpose of giving them further assistance and instruction as to their duties.

(5) To immediately commence the preparation of a large scale topographical land map of the county, in such form as may be prescribed by the commissioner of revenue, showing thereon the location of all railroads, highways and roads, bridges, rivers and lakes, swamp areas, wooded tracts, stony ridges and other features which might affect the value of the land. Appropriate symbols shall be used to indicate the best, the fair and the poor land of the county. For use in connection with the topographical land map, the assessor shall prepare and keep available in the assessor's office tables showing fair average minimum and maximum market values per acre of cultivated, meadow, pasture, cut-over, timber and waste lands of each township. The assessor shall keep the map and tables available in the office for the guidance of town assessors, boards of review, and the county board of equalization.

(6) To also prepare and keep available in the office for the guidance of town assessors, boards of review and the county board of equalization, a land valuation map of the county, in such form as may be prescribed by the commissioner of revenue. This map, which shall include the bordering tier of townships of each county adjoining, shall show the average market value per acre, both with and without improvements, as finally equalized in the last assessment of real estate, of all land in each town or unorganized township which lies outside the corporate limits of cities.

(7) To regularly examine all conveyances of land outside the corporate limits of cities of the first and second class, filed with the county recorder of the county, and keep a file, by descriptions, of the considerations shown thereon. From the information obtained by comparing the considerations shown with the market values assessed, the assessor shall make recommendations to the county board of equalization of necessary changes in individual assessments or aggregate valuations.

(8) To prepare annually and keep available in the assessor's office for the guidance of boards of review and the county board of equalization, a table showing the market value per capita of all personal property in each assessment district in the county as finally equalized in the last previous assessment of personal property. For the guidance of the county board of equalization, the assessor shall also add to the table the market value per capita of all personal property of each assessment district for the current year as equalized by the local board of review.

(9) To become familiar with the values of the different items of personal property so as to be in a position when called upon to advise the boards of review and the county board of equalization concerning property, market values thereof.

(10) While the county board of equalization is in session, to give it every possible assistance to enable it to perform its duties. The assessor shall furnish the board with all necessary charts, tables, comparisons and data which it requires in its deliberations, and shall make whatever investigations the board may desire.

(11) At the request of either the board of county commissioners or the commissioner of revenue, to investigate applications for reductions of valuation and abatements and settlements of taxes, examine the real or personal property involved, and submit written reports and recommendations with respect to the applications, in such form as may be prescribed by the board of county commissioners and commissioner of revenue.

(12) To make diligent search each year for real and personal property which has been omitted from assessment in the county, and report all such omissions to the county auditor.

(13) To regularly confer with county assessors in all adjacent counties about the assessment of property in order to uniformly assess and equalize the value of similar properties and classes of property located in adjacent counties. The conference shall emphasize the assessment of agricultural and commercial and industrial property or other properties that may have an inadequate number of sales in a single county.

(14) To render such other services pertaining to the assessment of real and personal property in the county as are not inconsistent with the duties set forth in this section, and as may be required by the board of county commissioners or by the commissioner of revenue.

Sec. 10. Minnesota Statutes 1986, section 273.065, is amended to read:

273.065 [DELIVERY OF ASSESSMENT APPRAISAL RECORDS; EXTENSIONS.]

Assessment districts shall complete the assessment appraisal records on or before ~~May~~ March 1. The records shall be delivered to the county assessor as of that date and any work which is the responsibility of the local assessor which is not completed by ~~May~~ March 1 shall be accomplished by the county assessor or persons employed by the county assessor and the cost of such work shall be charged against the assessment district as provided in section 273.064. Extensions of time to complete the assessment appraisal records may be granted to the local assessor by the county assessor if such extension is approved by the county board.

Sec. 11. Minnesota Statutes 1986, section 273.11, is amended by adding a subdivision to read:

Subd. 10. [VALUATION OF AGRICULTURAL LAND.] Annually on December 1, beginning in 1988 and each year thereafter, the commissioner of revenue shall provide county assessors with a land valuation schedule showing a range of values to be used in the valuation of agricultural lands for the succeeding year's assessment. The land valuation schedule shall be developed matching the sales data obtained on the certificates of real estate value filed in the 12-month period between October 1 of the year immediately preceding to September 30 of the current year with information obtained from soil surveys. A range of values for each major soil type by region will be provided. Counties having similar soil types, number of degree days, and other similar characteristics will be grouped into regions for purposes of the valuation schedule. The department of revenue, in consultation with the county assessors, shall develop the land valuation schedule.

Sec. 12. Minnesota Statutes 1986, section 273.33, subdivision 2, is amended to read:

Subd. 2. The personal property, consisting of the pipeline system of mains, pipes and equipment attached thereto, of pipeline companies and others engaged in the operations or business of transporting natural gas, gasoline, crude oil, or other petroleum products by pipe lines, shall be listed with and assessed by the commissioner of revenue. This subdivision shall not apply to the assessment of the products transported through the pipe lines nor to the lines of local commercial gas companies engaged primarily in the business of distributing gas to consumers at retail nor to pipe lines used by the owner thereof to supply natural gas or other petroleum products exclusively for such owner's own consumption and not for resale to others. On or before ~~the fifteenth day of November~~ October 1, the commissioner shall certify to the auditor of each county, the amount of such personal property assessment against each company in each district in which such property is located.

Sec. 13. Minnesota Statutes 1986, section 273.37, subdivision 2, is amended to read:

Subd. 2. Transmission lines of less than 69 kv, transmission lines of 69 kv and above located in an unorganized township, and distribution lines, and equipment attached thereto, having a fixed situs outside the corporate limits of cities except distribution lines taxed as provided in sections 273.40 and 273.41, shall be listed with and assessed by the commissioner of revenue in the county where situated. The commissioner shall assess such property at the percentage of market value fixed by law; and, on or before ~~the 15th day of November~~ October 1, shall certify to the auditor of each county in which such property is located the amount of the assessment made against each company and person owning such property.

Sec. 14. Minnesota Statutes 1986, section 274.01, subdivision 1, is amended to read:

Subdivision 1. (a) The town board of each town, the council or other governing body of each city, except in cities whose charters provide for a board of equalization, shall be a board of review. The county assessor shall fix a day and time when each of ~~such~~ boards ~~board~~ and the board of equalization of any city whose charter provides for a board of equalization shall meet in the several assessment districts of the county, and shall on or before ~~April 1st~~ February 1 of each year give written notice thereof to the clerk. ~~Such meetings~~ Notwithstanding the provisions of any charter to the contrary ~~shall, the meeting must~~ be held between ~~April 1st~~ March 15 and June 30th ~~May 20~~ in each year, and. The clerk shall give published and posted notice of ~~such~~ the meeting at least ten days prior to the date fixed. ~~Such~~ The board shall meet at the office of the clerk to review the assessment and classification of property in such town or district, and immediately proceed to examine and see that all taxable property in the town or district has been properly placed upon the list, and duly valued by the assessor. ~~In case~~ If any property, real or personal ~~shall have~~ has been omitted, the board shall place it upon the list with its market value, and correct the assessment so that each tract or lot of real property, and each article, parcel, or class of personal property, shall be is entered on the assessment list at its market value; but no assessment of the property of any person shall be raised until the person has been duly notified of the intent of the board so to do. On application of any person feeling aggrieved, the board shall review the assessment or classification or both, and correct it as shall appear just. A majority of the members may act at such meeting, and adjourn from day to day until they finish the hearing of all cases presented. The assessor shall attend, with the assessment books and papers, and take part in the proceedings, but shall not vote. The county assessor, or an assistant delegated by the county assessor shall attend such meetings. The board shall list separately, on a form appended to the assessment book, all omitted property added to the list by the board and all items of property increased or decreased, with the market value of each item of property, added or changed by the board, placed opposite such item. The county assessor shall enter all changes made by the board in the assessment book.

(b) If a person fails to appear in person, by counsel, or by written communication before the board after being duly notified of the board's intent to raise the assessment of the property, or if a person feeling aggrieved by an assessment or classification fails to apply for a review of the assessment or classification, the person may not appear before the county board of equalization for a review of the assessment or classification, except when an assessment was made subsequent to the meeting of the board, as provided in section 273.01, or that the person can establish not having received notice of market value at least five days before the local board of review meeting.

The board of review, and the board of equalization of any city, unless a longer period is approved by the commissioner of revenue, shall complete its work and adjourn within 20 days from the time of convening specified in the notice of the clerk and no action taken subsequent to such date shall be valid. All complaints in reference to any assessment or classification made after the meeting of such board, shall be heard and determined by the county board of equalization. Any nonresident may, at any time, before the meeting of the board of review file written objections to an assessment or classification with the county assessor and if any such objections are filed they shall be presented to the board of review at its meeting by the county assessor for its consideration.

Sec. 15. Minnesota Statutes 1986, section 274.14, is amended to read:

#### 274.14 [LENGTH OF SESSION; RECORD.]

The county board of equalization or the special board of equalization appointed by it ~~may continue in session and adjourn from time to time commencing on the first Monday following the fourth day of July or, if the first Monday following the fourth day of July is a legal holiday, the first Tuesday following the fourth day of July and ending on or before the tenth following working day, when it shall adjourn and no action taken subsequent to the day of adjournment shall be valid unless a longer session period is approved by the commissioner of revenue meet during the first two weeks in June. The commissioner may extend the session period to August 10 June 30 but no action taken by the county board of review after the extended termination date shall be valid. The county auditor shall keep an accurate record of the proceedings and orders of the board, which record shall be published in the same manner as other proceedings of county commissioners. A copy of such the published record shall must be transmitted to the commissioner of revenue, with the abstract of assessment required by section 274.16.~~

Sec. 16. Minnesota Statutes 1986, section 274.16, is amended to read:



## 274.16 [CORRECTED LISTS, ABSTRACTS.]

The county assessor or, in Ramsey county, the official designated by the board of county commissioners shall calculate the changes of the assessment lists determined by the county board of equalization, and make corrections accordingly, in the real or personal lists, or both, and shall make duplicate abstracts of the same; one shall be filed in the assessor's office, and one shall be forwarded to the commissioner of revenue ~~on or before August 1~~ as provided in section 270.11, subdivision 2.

Sec. 17. Minnesota Statutes 1986, section 275.07, subdivision 1, is amended to read:

Subdivision 1. The taxes voted by cities, towns, and school districts shall be certified by the proper authorities to the county auditor on or before October 10 in each year. If a city, town, county, school district or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year. If the local unit notifies the commissioner of revenue before October 10 of its inability to certify its levy by that date, and the commissioner is satisfied that the delay is unavoidable and is not due to the negligence of the local unit's officials or staff, the commissioner shall extend the time within which the local unit shall certify its levy up to 15 calendar days beyond the date of request for extension. For 1988 only, the commissioner may extend the certification time to November 7 if the requirements of this subdivision are met.

## Sec. 18. [EFFECTIVE DATE.]

Sections 1 to 7, 9, 10, and 12 to 17 are effective for the 1988 assessment and thereafter, and taxes payable in 1989 and thereafter. Section 11 is effective for the 1989 assessment and thereafter, and taxes payable in 1990 and thereafter.

## ARTICLE 7

## TAX EXEMPT PROPERTY

Section 1. Minnesota Statutes 1986, section 272.01, subdivision 2, is amended to read:

Subd. 2. (a) When any real or personal property which for any reason is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same

amount and to the same extent as though the lessee or user was the owner of such property.

(b) The tax imposed by this subdivision shall not apply to (1) property leased or used by way of a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 458C, ~~municipal auditorium, airport owned by a city, town, county or group thereof but not the metropolitan airports commission, municipal museum or municipal stadium~~ or (2) property constituting or used as a public pedestrian ramp, or concourse, ~~passenger check-in area or ticket sale counter, boarding area or luggage claim area~~ in connection with a public airport; ~~provided that real estate which is owned by a municipality in connection with the operation of a public airport and which is leased or used for agricultural purposes shall not be exempt.~~

A municipal auditorium or a municipal stadium is exempt from the tax imposed by this subdivision, only if the facility is available for use by the public as participants, spectators, or members of the audience. The exemption does not extend to any part of the property that is reserved for the use of a private individual, association, or corporation and is not available for use by the public on a regular basis.

(c) Taxes imposed by this subdivision shall be due and payable as in the case of personal property taxes and such taxes shall be assessed to such lessees or users of real or personal property in the same manner as taxes assessed to owners of real or personal property, except that such taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee or user to the state, township, city, county and school district for which the taxes were assessed and shall be collected in the same manner as personal property taxes. If property subject to the tax imposed by this subdivision is leased or used jointly by two or more persons, each lessee or user shall be jointly and severally liable for payment of the tax.

Sec. 2. Minnesota Statutes 1986, section 272.01, subdivision 3, is amended to read:

Subd. 3. The provisions of subdivision 2 shall not apply to:

(a) Federal property for which payments are made in lieu of taxes in amounts equivalent to taxes which might otherwise be lawfully assessed;

(b) Real estate exempt from ad valorem taxes and taxes in lieu thereof which is leased, loaned, or otherwise made available to telephone companies or electric, light and power companies upon which personal property consisting of transmission and distribution

lines is situated and assessed pursuant to sections 273.37, 273.38, 273.40 and 273.41, or upon which are situated the communication lines of express, railway, telephone or telegraph companies, and pipelines used for the transmission and distribution of petroleum products;

(c) ~~Property presently owned by any educational institution chartered by the territorial legislature;~~

~~(d) Inventories of raw materials, work in process and finished goods and machinery and equipment owned by the federal government and leased, loaned or otherwise made available and used by private individuals, associations or corporations in connection with the production of goods for sale to the federal government;~~

(e) Indian lands;

~~(f)~~ (d) Property of any corporation organized as a tribal corporation under the Indian Reorganization Act of June 18, 1934, (Statutes at Large, volume 48, page 984);

~~(g)~~ (e) Real property owned by the state and leased pursuant to section 161.23 and acts amendatory thereto;

~~(h)~~ (f) Real property owned by a seaway port authority on June 1, 1967 upon which there has been constructed docks, warehouses, tank farms, administrative and maintenance buildings, railroad and ship terminal facilities and other maritime and transportation facilities or those directly related thereto, together with facilities for the handling of passengers and baggage and for the handling of freight and bulk liquids, and personal property owned by a seaway port authority used or usable in connection therewith, when said property is leased to a private individual, association or corporation, but only when such lease provides that the said facilities are available to the public for the loading and unloading of passengers and their baggage and the handling, storage, care, shipment and delivery of merchandise, freight and baggage and other maritime and transportation activities and functions directly related thereto, but not including property used for grain elevator facilities; it being the declared policy of this state that such property when so leased is public property used exclusively for a public purpose, notwithstanding the three one year limitation in the provisions of section 273.19.

~~(i)~~ (g) Notwithstanding the provisions of clause ~~(h)~~ (f), when the annual rental received by a seaway port authority in any calendar year for such leased property exceeds an amount reasonably required for administrative expense of the authority per year, plus promotional expense for the authority not to exceed the sum of \$100,000 per year, to be expended when and in the manner decided upon by the commissioners, plus an amount sufficient to pay all installments of principal and interest due, or to become due, during

such calendar year and the next succeeding year on any revenue bonds issued by the authority, plus 25 percent of the gross annual rental to be retained by the authority for improvement, development or other contingencies, the authority shall make a payment in lieu of real and personal property taxes of a reasonable portion of the remaining annual rental to the county treasurer of the county in which such seaway port authority is principally located. Any such payments to the county treasurer shall be disbursed by the treasurer on the same basis as real estate taxes are divided among the various governmental units, but if such port authority shall have received funds from the state of Minnesota and funds from any city and county pursuant to Laws 1957, chapters 648, 831 and 849 and acts amendatory thereof, then such disbursement by the county treasurer shall be on the same basis as real estate taxes are divided among the various governmental units, except that the portion of such payments which would otherwise go to other taxing units shall be divided equally among the state of Minnesota and said county and city.

Sec. 3. Minnesota Statutes 1986, section 272.02, subdivision 1, is amended to read:

Subdivision 1. All property described in this section to the extent herein limited shall be exempt from taxation:

- (1) All public burying grounds;
- (2) All public schoolhouses;
- (3) All public hospitals;
- (4) All academies, colleges, and universities, and all seminaries of learning;
- (5) All churches, church property, and houses of worship;
- (6) Institutions of purely public charity except parcels of property containing structures and the structures assessed as class 7(a), (b), (c), or (d);
- (7) All public property exclusively used for any public purpose;
- (8) Except for the taxable personal property enumerated below, all personal property and the property described in section 272.03, subdivision 1, paragraphs (c) and (d) shall be exempt.

The following personal property shall be taxable:

- (a) personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transport-

ing or distributing water, gas, crude oil, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings and structures;

(b) railroad docks and wharves which are part of the operating property of a railroad company as defined in section 270.80;

(c) personal property defined in section 272.03, subdivision 2, clause (3);

(d) leasehold or other personal property interests which are taxed pursuant to section 272.01, subdivision 2; 273.124, subdivision 7; or 273.19, subdivision 1; or any other law providing the property is taxable as if the lessee or user were the fee owner;

(e) manufactured homes and sectional structures; and

(f) flight property as defined in section 270.071.

(9) Real and personal property used primarily for the abatement and control of air, water, or land pollution to the extent that it is so used, other than real property used primarily as a solid waste disposal site.

Any taxpayer requesting exemption of all or a portion of any equipment or device, or part thereof, operated primarily for the control or abatement of air or water pollution shall file an application with the commissioner of revenue. The equipment or device shall meet standards, rules or criteria prescribed by the Minnesota pollution control agency, and must be installed or operated in accordance with a permit or order issued by that agency. The Minnesota pollution control agency shall upon request of the commissioner furnish information or advice to the commissioner. On determining that property qualifies for exemption, the commissioner shall issue an order exempting the property from taxation. The equipment or device shall continue to be exempt from taxation as long as the permit issued by the Minnesota pollution control agency remains in effect.

(10) Wetlands. For purposes of this subdivision, "wetlands" means (1) land described in section 105.37, subdivision 15, or (2) land which is mostly under water, produces little if any income, and has no use except for wildlife or water conservation purposes, provided it is preserved in its natural condition and drainage of it would be legal, feasible, and economically practical for the production of livestock, dairy animals, poultry, fruit, vegetables, forage and grains, except wild rice. "Wetlands" shall include adjacent land which is not suitable for agricultural purposes due to the presence of the wetlands. "Wetlands" shall not include woody swamps containing shrubs or trees, wet meadows, meandered water, streams, rivers, and floodplains or river bottoms. Exemption of wetlands from taxation

pursuant to this section shall not grant the public any additional or greater right of access to the wetlands or diminish any right of ownership to the wetlands.

(11) Native prairie. The commissioner of the department of natural resources shall determine lands in the state which are native prairie and shall notify the county assessor of each county in which the lands are located. Pasture land used for livestock grazing purposes shall not be considered native prairie for the purposes of this clause and section 273.116. Upon receipt of an application for the exemption and credit provided in this clause and section 273.116 for lands for which the assessor has no determination from the commissioner of natural resources, the assessor shall refer the application to the commissioner of natural resources who shall determine within 30 days whether the land is native prairie and notify the county assessor of the decision. Exemption of native prairie pursuant to this clause shall not grant the public any additional or greater right of access to the native prairie or diminish any right of ownership to it.

(12) Property used in a continuous program to provide emergency shelter for victims of domestic abuse, provided the organization that owns and sponsors the shelter is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 31, 1982, notwithstanding the fact that the sponsoring organization receives funding under section 8 of the United States Housing Act of 1937, as amended.

(13) If approved by the governing body of the municipality in which the property is located, property not exceeding one acre which is owned and operated by any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders; provided the property is used primarily as a clubhouse, meeting facility or recreational facility by the group or association and the property is not used for residential purposes on either a temporary or permanent basis.

(14) To the extent provided by section 295.44, real and personal property used or to be used primarily for the production of hydroelectric or hydromechanical power on a site owned by the state or a local governmental unit which is developed and operated pursuant to the provisions of section 105.482, subdivisions 1, 8, and 9.

(15) If approved by the governing body of the municipality in which the property is located, and if construction is commenced after June 30, 1983:

(a) a "direct satellite broadcasting facility" operated by a corporation licensed by the federal communications commission to provide direct satellite broadcasting services using direct broadcast satellites operating in the 12-ghz. band;

(b) a "fixed satellite regional or national program service facility" operated by a corporation licensed by the federal communications commission to provide fixed satellite-transmitted regularly scheduled broadcasting services using satellites operating in the 6-ghz. band; and

(c) a facility at which a licensed Minnesota manufacturer produces distilled spirituous liquors, liqueurs, cordials, or liquors designated as specialties regardless of alcoholic content, but not including ethyl alcohol, distilled with a majority of the ingredients grown or produced in Minnesota.

An exemption provided by paragraph (15) shall apply for a period not to exceed five years. When the facility no longer qualifies for exemption, it shall be placed on the assessment rolls as provided in subdivision 4. Before approving a tax exemption pursuant to this paragraph, the governing body of the municipality shall provide an opportunity to the members of the county board of commissioners of the county in which the facility is proposed to be located and the members of the school board of the school district in which the facility is proposed to be located to meet with the governing body. The governing body shall present to the members of those boards its estimate of the fiscal impact of the proposed property tax exemption. The tax exemption shall not be approved by the governing body until the county board of commissioners has presented its written comment on the proposal to the governing body, or 30 days has passed from the date of the transmittal by the governing body to the board of the information on the fiscal impact, whichever occurs first.

(16) Real and personal property owned and operated by a private, nonprofit corporation exempt from federal income taxation pursuant to United States Code, title 26, section 501(c)(3), primarily used in the generation and distribution of hot water for heating buildings and structures.

(17) (16) Notwithstanding section 273.19, state lands that are leased from the department of natural resources under section 92.46.

Sec. 4. Minnesota Statutes 1986, section 272.02, is amended by adding a subdivision to read:

Subd. 7. (a) Notwithstanding the provisions of subdivision 1 or any other law to the contrary, property owned and operated by a (1) hospital, medical clinic, nursing home, or related facility; (2) school, academy, college, university, or seminary of learning; (3) church; or (4) other charitable or nonprofit entity, is taxable if used primarily

for the sale of tangible personal property and meals or for other business not directly related to the charitable or exempt purpose of the entity.

(b) If properties are used for multiple uses some of which are exempt and others taxable, the taxable part of the value of the property must be determined using an appropriate apportionment factor, such as the time of use for exempt and nonexempt purposes.

(c) The provisions of this subdivision do not apply to property owned by the United States, the state, a political subdivision of the state, an Indian tribe or tribal corporation, or a property or part of a property on which a tax or payment in lieu of tax is imposed under section 272.01, subdivision 2, 273.19, or other law.

Sec. 5. Minnesota Statutes 1986, section 273.19, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 3 or 4, property held under a lease for a term of ~~three or more years~~ at least one year, and not taxable under section 272.01, subdivision 2, or under a contract for the purchase thereof, when the property belongs to the United States, to the state, or to any religious, scientific, or benevolent society or institution, incorporated or unincorporated, or to any railroad company or other corporation whose property is not taxed in the same manner as other property, or when the property is school or other state lands, shall be considered, for all purposes of taxation, as the property of the person so holding the same. This subdivision does not apply to property exempt from taxation under section 272.01, subdivision 2, clause (b)(2).

Sec. 6. Minnesota Statutes 1986, section 273.19, is amended by adding a subdivision to read:

Subd. 1a. For purposes of this section, a lease includes any agreement permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease. A lease has a "term of at least one year" if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users.

Sec. 7. Minnesota Statutes 1986, section 273.19, subdivision 3, is amended to read:

Subd. 3. The assessed value of property held under a lease for a term of ~~three or more years~~ at least one year which (i) is located within a federal reservation; (ii) has been conveyed to the state of Minnesota by the federal government; and (iii) had been occupied



and used by a branch of the armed services of the United States, shall be no greater than the value added to the property by improvements to the property made by the lessee.

Sec. 8. Minnesota Statutes 1986, section 273.19, subdivision 4, is amended to read:

Subd. 4. Property held under a lease for a term of ~~three or more years~~ at least one year which is owned by the United States and located within a national park shall be exempt, provided the property was acquired by the United States by condemnation or purchased by the United States under threat of condemnation, and within a reasonable time leased back for noncommercial residential purposes to the person owning the property at the time of acquisition by the United States. If property exempt under this subdivision is subsequently leased or subleased for a term of ~~three or more years~~ at least one year to another person, it shall no longer qualify for the exemption provided in this subdivision and shall be placed on the assessment rolls as provided in section 272.02, subdivision 4, and taxed pursuant to subdivision 1 of this section.

The value of improvements made to property otherwise exempt pursuant to this subdivision which are owned by the lessee or to which the lessee has salvage rights shall be taxable to the lessee pursuant to subdivision 1.

Sec. 9. Minnesota Statutes 1986, section 473.556, subdivision 4, is amended to read:

Subd. 4. [EXEMPTION OF PROPERTY.] Any real or personal property acquired, owned, leased, controlled, used, or occupied by the commission for any of the purposes of sections 473.551 to 473.595 is declared to be acquired, owned, leased, controlled, used and occupied for public, governmental, and municipal purposes, and shall be exempt from ad valorem taxation by the state or any political subdivision of the state, provided that such properties shall be subject to special assessments levied by a political subdivision for a local improvement in amounts proportionate to and not exceeding the special benefit received by the properties from the improvement. No possible use of any such properties in any manner different from their use under sections 473.551 to 473.595 at the time shall be considered in determining the special benefit received by the properties. All assessments shall be subject to final confirmation by the council, whose determination of the benefits shall be conclusive upon the political subdivision levying the assessment. ~~Notwithstanding the provisions of section 272.01, subdivision 2, or 273.19,~~ Real or personal property leased by the commission to another person for uses related to the purposes of sections 473.551 to 473.595, including the operation of the metropolitan sports area, but not including property sold or leased for development pursuant to subdivision 6, shall be exempt from taxation regardless of the length

of the lease taxable as provided in section 272.01, subdivision 2, or 273.19. The provisions of this subdivision, insofar as they require exemption or special treatment, shall not apply to any real property at the metropolitan sports area which is leased by the commission for development pursuant to subdivision 6.

Sec. 10. [429.102] [SERVICE CHARGES; TAX EXEMPT PROPERTY.]

Subdivision 1. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given them.

(b) "Basic public services" means the amount expended by the city for police, fire, street and road construction and maintenance, street lighting, sanitation, and other similar property service related public services, as determined by resolution of the city pursuant to rules adopted by the commissioner of revenue. Basic public services does not include expenditures for improvements or services that are specially assessed or charged under chapter 429, 430, 435, or the provisions of any other law or charter.

(c) "Tax exempt property" means a building or part of a building exempt from ad valorem property taxation under section 272.02 or other law, except a building or part of a building owned by the federal government, state, or a political subdivision of the state; a building or part of a building owned by an Indian tribe or tribal corporation; a building or part of a building for which payments in lieu of property taxes are made under any other law; or a building or part of a building on which a tax is imposed under section 272.01, subdivision 2, 273.19, or any other law.

(d) "Qualifying costs" means basic public services multiplied by a fraction. The numerator of the fraction is the city's levy for the current year. The denominator of the fraction is total city expenditures for the current year.

(e) "Qualifying value" means the total market values of tax exempt property as defined in clause (c) in the city as determined by the assessor under subdivision 3, divided by the total value of all taxable and tax exempt property in the city.

(f) "City" means a home rule charter or statutory city.

Subd. 2. [CITY SERVICE CHARGE.] A city may by resolution impose a service charge to pay for the cost of providing basic public services to tax exempt property. If imposed, the service charge must apply to all tax exempt property located within the city and must be calculated as provided in this section. The resolution must be adopted by August 1 to be effective for service charges payable the following year. The city clerk shall forward a copy of the resolution to the city and county assessor, county auditor, and county treasurer

of the county in which the city is located within ten business days after adoption of the resolution.

Subd. 3. [CALCULATION OF SERVICE CHARGE.] (a) The assessor responsible for assessing taxable property in the city shall determine at the time and in the manner specified for other properties the market value of each tax exempt property as defined in clause (c) in the city with reference to January 2 of the current year.

(b) The county auditor shall determine and multiply the qualifying value for the city times the qualifying costs for the city. The product of the calculation is the service charge to be allocated among all tax exempt properties in the city for the current calendar year. The amount of the service charge must be allocated to each tax exempt property in the proportion that its value determined under paragraph (a) bears to the total tax exempt value for the city. The service charge must be calculated and allocated to the individual properties by October 1.

Subd. 4. [PAYMENT.] A statement of the amount due under subdivision 3 must be mailed to the owner of the tax exempt property by January 15 of the succeeding year. For the purpose of mailing statements under this section, owners shall be those shown on the records of the county auditor or other appropriate records. Owners of the properties may designate in writing to the county auditor the person and address to which the statements must be mailed.

Payment must be made to the county treasurer by March 15. If the amount due exceeds \$100, payment may be made in two equal installments on March 15 and September 15. The city may provide by resolution an alternate payment schedule, if the schedule applies equally to all properties on which a service charge is imposed under this section. If the service charge is not paid by the due date, interest accrues from the date the installment is due and is payable at the rate determined under section 549.09. Service charges imposed under this section constitute a lien upon the property on which they are imposed. The liens attach and may be enforced in the same manner and have the same priority as liens for special assessments. The city may enforce payment of the charges in the same manner as other debts owed the city.

Subd. 5. [LEVY LIMIT.] The amount of the service charges imposed by a city under this section must be deducted from the levy limit of the city under sections 275.50 to 275.56 for the year following the year for which the service charge is imposed.

Subd. 6. [DUTIES OF COMMISSIONER; RULES.] The commissioner of revenue shall adopt emergency and permanent rules to implement this section. The emergency and permanent rules must

further define "basic public services" for purposes of a service charge imposed under this section, and must establish the accounting practices by which a city must compute its expenditures for basic public services.

Subd. 7. [AUDIT.] The commissioner may audit cities imposing a service charge under this section for compliance with the requirements of this section and the rules adopted pursuant to subdivision 6. A city imposing a service charge and the county officials of the county in which the city is located must make available to the commissioner any records the commissioner requires to determine whether the city is in compliance. If the commissioner determines that the city is not in compliance or does not have sufficient information to determine compliance, the commissioner shall notify the county officials and the city council of the records needed to determine compliance or bring the city into compliance. If the city or county officials do not furnish the required records or take the action required by the commissioner within 90 days, the service charge payable the year following the year of notification may not be imposed, nor may it be imposed for any following years until the commissioner has certified that the requirements of this section have been met.

Subd. 8. [SEVERABILITY.] If a provision of this section or the application of this section to a type or use of property is held unconstitutional, the remainder of the section and its application to other properties remain valid.

#### Sec. 11. [EFFECTIVE DATE.]

Sections 1 to 9 are effective beginning for property taxes assessed in 1987 and payable in 1988. Section 10 is effective for service charges imposed after December 31, 1986.

### ARTICLE 8

#### PROPERTY TAX VALUES, AIDS, AND LEVY LIMITS

##### Section 1. [273.1195] [STATE PAID SMALL BUSINESS CREDIT.]

The property tax payable on class 3a commercial industrial property is eligible for a state paid small business property tax credit if the property taxes on the first \$100,000 of market value of the property exceed three percent of the market value.

The business property tax credit is equal to the sum of: (1) 35 percent of the property tax amount attributable to the first \$100,000 of market value that is in excess of a three percent effective tax rate but less than a four percent effective tax rate, and (2) 50 percent of

the property tax amount attributable to the first \$100,000 of market value that is in excess of a four percent effective tax rate.

"Effective tax rate" means the net property taxes payable by the owner, divided by the assessor's estimated market value of the property on January 2 of the preceding year. Only a parcel that qualifies for the 28 percent assessment ratio contained in section 273.13, subdivision 24, paragraph (a), qualifies for the credit provided in this section.

In the case of taxes paid in installments pursuant to section 279.01, subdivision 1, the credit under this section must be deducted from the second one-half installment payable October 15. The amount of the reduction must be reported to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under section 275.29.

There is annually appropriated from the general fund to the commissioners of revenue and education the amount necessary to replace the revenue lost to local units of government and school districts as a result of the reduction in property taxes provided in this section. The payment amounts must be determined and the installments paid under the provisions of sections 273.13, subdivision 15a, and 273.1392.

Sec. 2. [273.126] [CITY TAX BASE EQUALIZATION CREDIT.]

Subdivision 1. [DEFINITIONS.] (a) "Adjusted assessed value per capita" means the city's previous year taxable valuation adjusted for the contributions and distributions required by chapter 473F in the case of a city located within the metropolitan area and less the captured value in any tax increment district, divided by the municipality's most recent aggregate sales ratio prepared by the department of revenue under section 124.2131; divided by the population of the city.

(b) "City" means a home rule charter or statutory city.

(c) "Equalized municipal mill rate" means a city's mill rate for taxes payable in that year multiplied by its most recent aggregate sales ratio prepared by the department of revenue under section 124.2131.

(d) "Population" means the population established by the most recent federal census, by a special census conducted under contract with the United States Bureau of the Census, by a population estimate made by the metropolitan council, or by a population estimate of the state demographer under section 116K.04, subdivision 4, clause (10), whichever is the most recent as to the stated date of the count or estimate. The term "per capita" refers to population as defined by this clause.

(e) "State average adjusted assessed value per capita" means the sum of all of the cities' adjusted assessed values divided by the sum of the population of all of the cities.

Subd. 2. [ALLOCATION OF TAX BASE EQUALIZATION CREDIT.] A tax base equalization credit shall be determined and allocated by the commissioner of revenue to cities whose adjusted assessed values per capita are less than the statewide average adjusted assessed value per capita as follows: the credit per capita shall be determined by multiplying the lesser of 13 mills, or the equalized municipal mill rate, by the amount that the state average adjusted assessed value per capita exceeds the city's average adjusted assessed value per capita. The credit per capita shall be multiplied by the population of the city to determine the preliminary tax base equalization credit allocated to each city. The preliminary tax base equalization credit for the city shall not exceed 50 percent of the previous year's levy which was certified to the county auditor by that city. The amount of the tax base equalization credit allocated to the city shall be equal to the preliminary credit amount multiplied by a fraction. The numerator of the fraction is the assessed value of all nonhomestead property excluding the assessed value of property classified under section 273.13, subdivision 24, paragraph (b) and the denominator of the fraction is the assessed value of all taxable property located within the city.

If the city is located in more than one county, the home county auditor shall apportion each respective county's share of the tax credit in proportion to each county's share of assessed value of eligible property and certify the resulting amount of tax credit to each of the affected county auditors. The commissioner shall notify the county auditor and each city of the city's allocation by December 1 of the year the taxes are levied.

Subd. 3. [CREDIT TO TAXPAYER.] The county auditor shall use the city's tax base equalization credit as certified by the commissioner in subdivision 2 to reduce the taxes payable the following year on each parcel of nonhomestead taxable property located within the city excluding parcels of property classified under section 273.13, subdivision 24, paragraph (b). The equalization credit shall be allocated to each qualifying nonhomestead parcel in proportion to the parcel's assessed value, relative to the total qualifying assessed value of all nonhomestead property in the city. The amount of the credit allocated to each parcel of property shall be a reduction of the property tax liability of the owner of the property for taxes payable in the year following the year the credit is allocated. In the case of taxes paid in installments pursuant to section 279.01, subdivision 1, the credit under this section must be deducted from the second one-half installment payable October 15.

Subd. 4. [APPROPRIATION.] There is annually appropriated from the general fund to the commissioners of revenue and educa-

tion the amount necessary to replace the revenue lost to local units of government and school districts as a result of the reduction in property taxes provided in this section. The payment amounts must be determined and the installments paid under the provisions of sections 273.13, subdivision 15a, and 273.1392.

Sec. 3. Minnesota Statutes 1986, section 273.13, subdivision 22, is amended to read:

Subd. 22. [CLASS 1.] (a) Except as provided in subdivision 23, real estate which is residential and used for homestead purposes is class 1. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first ~~\$64,000~~ \$66,000 of market value of class 1a property must be assessed at ~~18~~ 16 percent of its market value. The homestead value of class 1a property that exceeds ~~\$64,000~~ \$66,000 must be assessed at ~~28~~ 26 percent of its value.

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

(1) any blind person, if the blind person is the owner thereof or if the blind person and the blind person's spouse are the sole owners thereof; or

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

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

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

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

(3) any person who:

(i) is permanently and totally disabled and

(ii) receives 90 percent or more of total income from

- (A) aid from any state as a result of that disability; or
- (B) supplemental security income for the disabled; or
- (C) workers' compensation based on a finding of total and permanent disability; or
- (D) social security disability, including the amount of a disability insurance benefit which is converted to an old age insurance benefit and any subsequent cost of living increases; or
- (E) aid under the Federal Railroad Retirement Act of 1937, United States Code Annotated, title 45, section 228b(a)5; or
- (F) a pension from any local government retirement fund located in the state of Minnesota as a result of that disability.

Property is classified and assessed pursuant to clause (1) only if the commissioner of human services certifies to the assessor that the owner of the property satisfies the requirements of this subdivision. The commissioner of human services shall provide a copy of the certification to the commissioner of revenue.

Class 1b property is valued and assessed as follows: in the case of agricultural land, including a manufactured home, used for a homestead, the first ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at five percent, the next ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at 14 percent, and the remaining market value shall be valued and assessed at 18 percent; and in the case of all other real estate and manufactured homes, the first ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at five percent, the next ~~\$32,000~~ \$33,000 of market value shall be valued and assessed at 18 16 percent, and the remaining market value shall be valued and assessed at ~~28~~ 26 percent. In the case of agricultural land including a manufactured home used for purposes of a homestead, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and 18 percent rates; and for all other real estate and manufactured homes, the commissioner of revenue shall adjust, as provided in section 273.1311, the maximum amount of the market value of the homestead brackets subject to the five percent and 18 16 percent rates. Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income.

(c) Class 1c property is commercial use real property that abuts a lakeshore line and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the



owner. It must be assessed at 12 percent of market value with the following limitation: the area of the property must not exceed 100 feet of lakeshore footage for each cabin or campsite located on the property up to a total of 800 feet and 500 feet in depth, measured away from the lakeshore.

(d) The tax to be paid on class 1a or class 1b property, less any reduction received pursuant to sections 273.123 and 473H.10, shall be reduced by 54 49 percent of the tax imposed on the first \$68,000 of market value. The amount of the reduction shall not exceed \$700.

Sec. 4. Minnesota Statutes 1986, section 273.1312, subdivision 4, is amended to read:

Subd. 4. [ELIGIBILITY REQUIREMENTS.] An area is eligible for designation if the following requirements are met:

(a) The boundary of the zone or each subdivision of the zone is continuous and includes vacant or underutilized lands or buildings.

(b) The area of the zone is less than 400 acres. The total market value of the taxable property contained in the zone at the time of application is less than \$100,000 per acre or \$300,000 per acre for an area located wholly within a first class city. A zone which is located in a city of the third or fourth class may be divided into two to four separate subdivisions which need not be contiguous with each other. Each subdivision must contain not less than 100 acres. The restrictions provided by this paragraph shall not apply to areas designated pursuant to paragraph (c), clause (2), or (3), ~~or~~ (4).

(c) (1) The proposed zone is located within an economic hardship area, as established by meeting two or more of the following criteria:

(A) the number of residential housing units within the area which are substandard is 15 percent or greater under criteria prescribed by the commissioner using data collected by the bureau of the census or data submitted by the municipality and approved by the commissioner;

(B) the percentage of households within the area that fall below the poverty level, as determined by the United States Census Bureau, is 20 percent or greater;

(C) (i) the total market value of commercial and industrial property in the area has declined over three of the preceding five years, or (ii) the total market value of all property in the area has declined or it has increased less than 10.5 percent over the preceding three-year period;

(D) for the last full year for which data is available, the per capita income in the area was 90 percent or less of the per capita income for the state, excluding standard metropolitan statistical areas, or for the standard metropolitan statistical area if the area is located in a standard metropolitan statistical area;

(E) (i) the current rate of unemployment in the area is 120 percent of the statewide average unemployment for the last 12-month period for which verifiable figures are available, or (ii) the total number of employment positions has declined by ten percent during the last 18 months; or

(2) the area is so designated under federal legislation providing for federal tax benefits to investors, employers or employees in enterprise zones; and

(3) the area consists of a statutory or home rule charter city with a contiguous border with a city in another state or with a contiguous border with a city in Minnesota which has a contiguous border with a city in another state and the area is determined by the commissioner to be economically or fiscally distressed; or

(4) the area is to be utilized by a single corporation for a new manufacturing facility that has a projected employment of no less than 5,000 people, a projected capital investment of at least \$3,000,000,000, and the commissioner determines the direct and indirect economic benefits of the new facility justify the designation of the area as a special enterprise zone.

For purposes of this subdivision, an economic hardship area must have a population under the most recent federal decennial census of at least (i) 4,000 if any of the area is located wholly or partly within a standard metropolitan statistical area, or (ii) 2,500 for an area located outside of a standard metropolitan statistical area, or (iii) no minimum in the case of an area located in an Indian reservation; except that, in the case of two or more cities seeking designation of an enterprise zone under a joint exercise of power pursuant to section 471.59, the minimum population required by this provision shall not exceed the sum of the populations of those cities.

Sec. 5. Minnesota Statutes 1986, section 273.1313, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given them.

(b) "Commissioner" means the commissioner of revenue.

(c) "Employment property" means taxable property, excluding land but including buildings, structures, fixtures, and improvements that satisfy each of the following conditions:

(1) The property is located within an enterprise zone designated according to section 273.1312.

(2) The property is commercial or industrial property which is not used in a trade or business which either is described in section ~~103(b)(6)(O)~~ 144(c)(6)(B) or 147(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1984~~ 1986, or is property of a public utility.

(d) "Market value" of a parcel of employment property means the value of the taxable property as annually determined pursuant to section 273.12, less (i) the market value of all property existing at the time of application for classification, as last assessed prior to the time of application, and (ii) any increase in the market value of the property referred to in clause (i) as assessed in each year after the employment property is first placed in service. In each year, any change in the values of the employment property and the other property on the land shall be deemed to be proportionate unless caused by a capital improvement or loss.

(e) "Municipality" means any home rule charter or statutory city or county, but a county may not exercise the powers granted in this section with reference to property situated within a city.

(f) Notwithstanding the provisions of paragraphs (c) and (d) "employment property" and "market value" includes in the case of taxable real property located in an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), the entire value of the commercial and industrial property, including land, used in a trade or business which is not used in a trade or business which either is described in section ~~103(b)(6)(ii)~~ 144(c)(6)(B) or 147(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, ~~1984~~ 1986, or is the property of a public utility. The provisions of this paragraph shall not apply to employment property located in an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), that is assessed pursuant to the first clause of the first sentence of section 273.13, subdivision 24, paragraph (b).

Sec. 6. Minnesota Statutes 1986, section 273.1314, subdivision 8, is amended to read:

Subd. 8. [FUNDING LIMITATIONS.] The maximum amount of the tax reductions which may be authorized pursuant to designations of enterprise zones under section 273.1312 and this section is limited to \$36,400,000. The maximum amount of this total which may be authorized by the commissioner for tax reductions pursuant

to subdivision 9 that will reduce tax revenues which otherwise would have been received during fiscal years 1984 and 1985 is limited to \$9,000,000 \$38,400,000. Of the total limitation and the 1984-1985 biennial limitation the commissioner shall allocate to enterprise zones designated under section 273.1312, subdivision 4, paragraph (c), clause (3), an amount equal to \$16,610,940 and \$5,000,000 respectively. These funds shall be An additional \$2,000,000 is allocated to the zones designated under section 273.1312, subdivision 4, paragraph (c), clause (3), except no additional amounts may be allocated to a zone located in a first class city. The funds for zones designated under section 273.1312, subdivision 4, paragraph (c), clause (3), are allocated among such zones on a per capita basis except that of the original \$16,610,940 allocation the maximum allocation to any one city is \$6,610,940 and no city's allocation shall exceed \$210 on a per capita basis. An amount sufficient to fund the state funded property tax credits, the refundable income tax credits, and the sales tax exemption, as authorized pursuant to this section is appropriated to the commissioner of revenue. Upon designation of an enterprise zone the commissioner shall certify the total amount available for tax reductions in the zone for its duration. The amount certified shall reduce the amount available for tax reductions in other enterprise zones. If subsequent estimates indicate or actual experience shows that the approved tax reductions will result in amounts of tax reductions in excess of the amount certified for the zone, the commissioner shall implement a plan to reduce the available tax reductions in the zone to an amount within the sum certified for the zone. If subsequent estimates indicate or actual experience shows that the approved tax reductions will result in amounts of tax reductions below the amount certified, the difference shall be available for certification in other zones or used in connection with an amended plan of tax reductions for the zone as the commissioner determines appropriate. If the tax reductions authorized result in reduced revenues for a dedicated fund, the commissioner of finance shall transfer equivalent amounts to the dedicated fund from the general fund as necessary. Of the \$36,400,000 in tax reductions authorized under this subdivision, an additional \$800,000 in tax reductions may be authorized within an enterprise zone located within five municipalities which was designated by the commissioner in 1984.

This subdivision, including the funding limitations, does not apply to enterprise zones designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (4).

Sec. 7. Minnesota Statutes 1986, section 273.1314, subdivision 9, is amended to read:

Subd. 9. [AUTHORIZED FORMS OF STATE TAX REDUCTIONS.] (a) The following types of tax reductions may be approved by the commissioner for businesses located in an enterprise zone:

(1) an exemption from the general sales tax imposed by chapter 297A for purchases of construction materials or equipment for use in the zone if the purchase was made after the date of application for the zone;

(2) a credit against the income tax of an employer for additional workers employed in the zone, other than workers employed in construction, up to a maximum of \$3,000 per employee per year;

(3) an income tax credit for a percentage of the cost of debt financing to construct new or expanded facilities in the zone; and

(4) a state paid property tax credit for a portion of the property taxes paid by a new commercial or industrial facility or the additional property taxes paid by an expansion of an existing commercial or industrial facility in the zone; and

(5) a complete abatement of all corporate income and excise taxes under chapter 290, property taxes, and sales and use taxes under chapter 297A on the purchase of construction materials or equipment for use in the zone if the zone is designated pursuant to section 273.1312, subdivision (4), paragraph (e), clause (4). Local taxing authorities with an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (e), clause (4), will be reimbursed by the state for foregone property taxes only to the extent that the local taxing authority can demonstrate the development within that zone has imposed an additional net financial burden on its budget. The additional net financial burden shall be determined by subtracting the increase in the total equalized assessed property value of the local taxing authority that is in excess of a statewide average increase in equalized assessed property values as determined by the commissioner of revenue, multiplied by the mill rate of the local taxing authority for taxes payable in the current year, from the additional direct costs the development has placed on the local taxing authority's budget for the current year. The commissioner of energy and economic development, in consultation with the commissioner of revenue, shall review that local taxing authority's demonstration of additional financial burden and determine the amount which the state will reimburse the local taxing authority for foregone property tax revenue.

(b) The municipality shall specify in its application for designation the types of tax reductions it seeks to be made available in the zone and the percentage rates and other appropriate limitations on the reductions.

(c) Upon designation of an enterprise zone and approval by the commissioner of the tax reductions to be made available therein, the commissioner of revenue shall take the steps necessary to implement the tax reductions.

(d) The tax reductions provided by this subdivision shall not apply to any facility described in section ~~103(b)(6)(O)~~ 144(c)(6)(B) or 147(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through January 15, 1983 December 31, 1986, or to any regulated public utility.

(e) The commissioner shall approve tax reductions authorized by paragraph (a) within an enterprise zone designated pursuant to section 273.1312, subdivision 4, paragraph (c), clause (3), only after the governing body of a city designated as an enterprise zone has designated an area or areas, each consisting of at least 100 acres, of the city not in excess of 400 acres in which the tax reductions may be provided.

(f) In addition to the tax reductions authorized by paragraph (a), for an enterprise zone designated under section 273.1312, subdivision 4, paragraph (c), clause (3), the following types of tax reductions may be approved:

(1) A credit against income tax for workers employed in the zone and not qualifying for a credit under paragraph (a), clause (2), subject to a maximum of \$1,500 per employee per year;

(2) A state paid property tax credit for a portion of the property taxes paid by a commercial or industrial facility located in the zone. Notwithstanding paragraph (d), the credits provided by this paragraph may be provided to the businesses described in section ~~103(b)(6)(O)(i)~~ 144(c)(6)(B) or 147(e) of the Internal Revenue Code of ~~1954~~ 1986, as amended through December 31, 1983 1986.

(g) Each tax reduction provided to a business pursuant to this subdivision shall terminate not longer than five years after the effective date of the tax reduction for the business. Subject to the five-year limitation, the tax reductions may be provided after expiration of the zone's designation.

(h) The income tax credits provided pursuant to clauses (a) and (f) may be refundable.

Sec. 8. Minnesota Statutes 1986, section 273.1392, is amended to read:

#### 273.1392 [PAYMENT; AIDS TO SCHOOL DISTRICTS.]

The amounts of homestead credit under section 273.13, subdivisions 22 and 23; wetlands credit and reimbursement under section 273.115; native prairie credit and reimbursement under section 273.116; small business credit under section 1; city tax base equalization credit under section 2; disaster or emergency reimbursement under section 273.123; attached machinery aid under section

273.138; and metropolitan agricultural preserve reduction under section 473H.10, shall be certified to the department of education by the department of revenue. The amounts so certified shall be paid according to section 124.195, subdivisions 6 and 10.

Sec. 9. Minnesota Statutes 1986, section 273.1393, is amended to read:

273.1393 [COMPUTATION OF NET PROPERTY TAXES.]

Notwithstanding any other provisions to the contrary, "net" property taxes are determined by subtracting the credits in the order listed from the gross tax:

- (1) city tax base equalization credit as provided in section 2;
- (2) small business property tax credit as provided in section 1;
- (3) disaster credit as provided in section 273.123;
- (2)(4) wetlands credit as provided in section 273.115;
- (3)(5) native prairie credit as provided in section 273.116;
- (4)(6) powerline credit as provided in section 273.42;
- (5)(7) agricultural preserves credit as provided in section 473H.10;
- (6)(8) enterprise zone credit as provided in section 273.1314;
- (7)(9) state school agricultural credit as provided in section 124.2137;
- (8)(10) state paid homestead credit as provided in section 273.13, subdivisions 22 and 23;
- (9)(11) taconite homestead credit as provided in section 273.135;
- (10)(12) supplemental homestead credit as provided in section 273.1391.

The combination of all property tax credits must not exceed the gross tax amount.

Sec. 10. Minnesota Statutes 1986, section 275.51, subdivision 3h, is amended to read:

Subd. 3h. [ADJUSTED LEVY LIMIT BASE.] For taxes levied in 1985 and thereafter 1987, the adjusted levy limit base is equal to the levy limit base computed pursuant to subdivision 3f, increased by:

(a) a percentage equal to the percentage growth in the implicit price deflator, or ~~five~~ three percent, whichever is lesser;

(b) a percentage equal to the greater of the percentage increases in population or in number of households, if any, for the most recent 12-month period for which data is available, using figures derived pursuant to subdivision 6;

(c) one-half of the amount levied as a special levy in the previous year for paying the costs of municipal services provided to new private industrial and nonresidential commercial development pursuant to section 275.50, subdivision 5, clause (m), if the special levy is discontinued;

(d) the amount of any permanent increase in the levy limit base approved at a general or special election held during the 12-month period ending September 30 of the levy year, pursuant to section 275.58, subdivisions 1 and 2; and

(e) the amount, if known, equal to the decrease in federal revenue sharing allotment from the levy year to the year in which the levy is payable; otherwise the amount equal to the decrease in federal revenue sharing allotment in the levy year as compared to the previous year if the levy base for the previous year has not been adjusted for a decrease in federal revenue sharing allotment.

Sec. 11. Minnesota Statutes 1986, section 276.04, is amended to read:

**276.04 [NOTICE OF RATES; PROPERTY TAX STATEMENTS.]**

On receiving the tax lists from the county auditor, the county treasurer shall, if directed by the county board, give three weeks' published notice in a newspaper specifying the rates of taxation for all general purposes and the amounts raised for each specific purpose. The treasurer shall, whether or not directed by the county board, cause to be printed on all tax statements, or on an attachment, a tabulated statement of the dollar amount due to each taxing authority from the parcel of real property for which a particular tax statement is prepared. The dollar amounts due the county, township or municipality and school district shall be separately stated but the amounts due other taxing districts, if any, may be aggregated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The statement shall include the following sentence, printed in upper case letters in bold



face print: "THE STATE OF MINNESOTA DOES NOT RECEIVE ANY PROPERTY TAX REVENUES. THE STATE OF MINNESOTA REDUCES YOUR PROPERTY TAX BY PAYING CREDITS AND REIMBURSEMENTS TO LOCAL UNITS OF GOVERNMENT." The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property. The county treasurer shall mail to taxpayers statements of their personal property taxes due, such statements to be mailed not later than February 15 (except in the case of manufactured homes and sectional structures taxed as personal property), statements of the real property taxes due shall be mailed not later than January 31; provided, that the validity of the tax shall not be affected by failure of the treasurer to mail such statement. The taxpayer is defined as the owner who is responsible for the payment of the tax. Such real and personal property tax statements shall contain the market value, as defined in section 272.03, subdivision 8, used in determining the tax. The statement shall show the amount attributable to section 124.2137 as "state paid agricultural credit" and the amount attributable to section 273.13, subdivisions 22 and 23 as "state paid homestead credit." The statement must state the amount deducted under section 1 and identify it as "state paid small business credit." The statement must also state the amount deducted under section 2 and identify it as "state paid city equalization credit." If so directed by the county board, the treasurer shall visit places in the county as the treasurer deems expedient for the purpose of receiving taxes and the county board is authorized to pay the expenses of such visits and of preparing duplicate tax lists. Failure to mail the tax statement shall not be deemed a material defect to affect the validity of any judgment and sale for delinquent taxes.

#### Sec. 12. [1987 LOCAL GOVERNMENT AID REDUCTION.]

The final local government aid amount computed for calendar year 1987 for each county government under section 477A.012, subdivision 1, and each town and city under section 477A.013 shall be reduced by 1.6 percent. One-half of the reduction amount shall be deducted by the commissioner of revenue from each taxing district in the July 15, 1987, payment and the remaining one-half shall be subtracted from the taxing district's December 15, 1987, payment amount under section 477A.015.

Sec. 13. Minnesota Statutes 1986, section 477A.012, subdivision 1, is amended to read:

Subdivision 1. [AID AMOUNT.] In calendar year ~~1987~~ 1988, each county government shall receive a distribution equal to ~~104~~ 98.4 percent of the aid amount originally certified for ~~1986~~ 1987 pursuant to sections ~~477A.011 to 477A.03~~. Each county government that received no distribution in 1986 pursuant to sections 477A.011 to

477A.03 shall receive a distribution in calendar year 1987 computed by multiplying the county's population by a factor equal to the total increase in aid certified to all other counties under this section in 1987 over the total amount certified in 1986, divided by the total population of those counties this subdivision as reduced under section 12.

Sec. 14. Minnesota Statutes 1986, section 477A.013, is amended to read:

477A.013 [MUNICIPAL GOVERNMENT DISTRIBUTIONS.]

Subdivision 1. [TOWNS.] In calendar year 1987 1988, each town which had levied for taxes payable in the previous year at least one mill on the dollar of the assessed value of the town shall receive a distribution equal to 104 98.4 percent of the greater of: (a) 60 percent of the amount received in 1983 pursuant to Minnesota Statutes 1982, sections 273.138, 273.139, and 477A.011 to 477A.03; or (b) the amount received originally certified in 1986 1987 pursuant to sections 477A.011 to 477A.03 as reduced under section 12.

Subd. 2. [CITIES.] In calendar year 1987 1988, each city shall receive a local government aid distribution as determined by the following steps:

(1) A preliminary aid amount shall be computed for each city equal to the amount obtained by subtracting its local effort mill rate multiplied by its equalized assessed value from its fiscal need factor, except that its preliminary aid amount may not be less than its previous year aid amount.

For any city which received more than \$70 per capita in attached machinery aids in 1983 pursuant to Minnesota Statutes 1982, section 273.138, an amount equal to the amount of attached machinery aids received in 1983 shall be added to the preliminary aid amount.

(2) For each city, an aid increase amount equal to the amount by which its preliminary aid amount exceeds its previous year aid amount shall be determined. Each city's aid increase amount shall be reduced by a uniform percentage as determined by the commissioner of revenue, to make the sum of the final aid distributions for all cities equal the aid limitation imposed by subdivision 3.

(3) Each city's final aid amount shall be equal to the sum of its aid increase amount, as adjusted, and its previous year aid amount; provided, however, that no city's aid shall exceed its maximum aid amount, and further provided that no city which is a city of the first class shall have a final aid amount which is less than 102 percent of its previous year aid.

Subd. 3. [AID LIMITATION.] The total amount available for distribution to cities pursuant to subdivision 2 shall be \$297,440,000 for calendar year 1987 equal to 98.4 percent of the amount that the city was originally certified to receive for calendar year 1987 under this subdivision as reduced under section 12.

Sec. 15. [PAYABLE 1988 PROPERTY TAX LEVY LIMITATION FOR CITIES UNDER 5,000 POPULATION.]

Notwithstanding any other law to the contrary, the maximum amount of property taxes which may be levied in 1987 payable in 1988 for each charter or statutory city that has a population of less than 5,000 according to the most recent federal census, shall be determined as follows:

(a) add the total amount of property taxes levied in 1986 payable in 1987 and the local government aid amount originally certified for 1987 under section 477A.013, subdivision 2 before the aid reduction in section 12;

(b) multiply the amount in clause (a) by 103 percent; and

(c) subtract the local government aid amount certified for 1988 under section 477A.013, subdivision 2 as reduced under section 12.

Sec. 16. [HOMESTEAD CREDIT LIMITATION.]

The appropriation from the general fund to the commissioner of revenue for the purpose of making the payments provided in Minnesota Statutes, section 273.13, subdivisions 22 and 23, shall not exceed \$557,000,000 in fiscal year 1989. In the event that the sum of the county auditors' certifications exceeds the appropriation, the payment amounts shall be proportionally reduced so that their sum equals the appropriation. The homestead credit applicable to manufactured homes under section 274.19 shall not be included in the appropriation limitation specified in this section.

Sec. 17. [EFFECTIVE DATE.]

Sections 1 to 3 and 8, 9, and 11 are effective for taxes levied in 1987 and thereafter, for taxes payable in 1988 and thereafter. Sections 4 to 7 are effective the day following final enactment. Section 10 is effective for taxes levied in 1987 and payable in 1988.

## ARTICLE 9

### SALES TAX

Section 1. Minnesota Statutes 1986, section 297A.01, subdivision 3, is amended to read:

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

(a) Any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, and the leasing of or the granting of a license to use or consume tangible personal property other than manufactured homes used for residential purposes for a continuous period of 30 days or more, for a consideration in money or by exchange or barter. "Sales" also include the transfer of computer software, meaning information and directions which dictate the function to be performed by data processing equipment ~~and which are sold without adaptation to the specific requirements of the purchaser.~~ This type of. Computer software, whether contained on tape, discs, cards, or other devices, shall be considered tangible personal property. Master computer software programs that are purchased and used to make copies for sale or lease are property purchased for resale;

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

(c) The furnishing, preparing or serving for a consideration of food, meals or drinks, not including hospitals, sanatoriums, nursing homes or senior citizens homes, meals or drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to the handicapped and their spouses by governmental agencies, nonprofit organizations, agencies, or churches or pursuant to any program funded in whole or part through 42 USCA sections 3001 through 3045, wherever delivered, prepared or served, meals and lunches served at public and private schools, universities or colleges; ~~or the occasional meal thereof by a charitable or church organization.~~ "Sales" also includes meals furnished by employers to employees at less than fair market value. Notwithstanding section 297A.25, subdivision 2, taxable food or meals include, but are not limited to, the following:

(i) heated food or drinks;

(ii) sandwiches prepared by the retailer;

(iii) single sales of prepackaged ice cream or ice milk novelties prepared by the retailer;

(iv) hand-prepared or dispensed ice cream or ice milk products including cones, sundaes, and snow cones;

(v) soft drinks and other beverages prepared or served by the retailer;

- (vi) gum;
  - (vii) ice;
  - (viii) all food sold in vending machines;
  - (ix) party trays prepared by the retailers; and
  - (x) all meals and single servings of packaged snack food, single cans or bottles of pop, sold in restaurants and bars;
- (d) The granting of the privilege of admission to places of amusement, suntan facilities, or athletic events and the privilege of use of amusement devices, suntan facilities, or athletic facilities;
- (e) The furnishing for a consideration of lodging and related services by a hotel, rooming house, tourist court, motel or trailer camp and of the granting of any similar license to use real property other than the renting or leasing thereof for a continuous period of 30 days or more;
- (f) The furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state, or local exchange telephone service and, intrastate toll service, and interstate toll service, if that service originates from and is charged to a telephone located in this state; the tax imposed on amounts paid for telephone services is the liability of and shall be paid by the person paying for the services. Sales by municipal corporations in a proprietary capacity are included in the provisions of this clause. The furnishing of water and sewer services for residential use shall not be considered a sale;
- (g) The furnishing for a consideration of cable television services, including charges for basic monthly service, charges for monthly premium service, and charges for any other similar television services;
- (h) Notwithstanding subdivision 4, and section 297A.25, subdivision 9, the sales of horses including claiming sales and fees paid for breeding a stallion to a mare. This clause applies to sales and fees with respect to a horse to be used for racing whose birth has been recorded by the Jockey Club or the United States Trotting Association or the American Quarter Horse Association but shall not apply with respect to the sale of a horse bred and born in the state of Minnesota;
- (i) The furnishing for consideration of laundry and dry cleaning services, including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, carpet, drapery, and upholstery cleaning, cleaning and blocking hats, custom tailoring of

clothes, and making fur apparel to custom order, unless the sale is taxable under section 297A.25, subdivision 8, but excluding services provided by coin operated facilities operated by the customer;

(j) The furnishing for consideration of car wash, wax, and cleaning services, but excluding services provided by coin-operated facilities operated by the customer.

Sec. 2. Minnesota Statutes 1986, section 297A.01, subdivision 4, is amended to read:

Subd. 4. A "retail sale" or "sale at retail" means a sale for any purpose other than resale in the regular course of business. Property utilized by the owner only by leasing such property to others or by holding it in an effort to so lease it, and which is put to no use by the owner other than resale after such lease or effort to lease, shall be considered property purchased for resale. Sales of building materials, supplies and equipment to owners, contractors, subcontractors or builders for the erection of buildings or the alteration, repair or improvement of real property are "retail sales" or "sales at retail" in whatever quantity sold and whether or not for purpose of resale in the form of real property or otherwise. A sale of carpeting, linoleum, or other similar floor covering which includes installation of the carpeting, linoleum, or other similar floor covering is a contract for the improvement of real property. Aircraft and parts for the repair thereof purchased by a nonprofit, incorporated flying club or association utilized solely by the corporation by leasing such aircraft to shareholders of the corporation shall not be considered property purchased for resale. The leasing of the aircraft to the shareholders by the flying club or association shall not be considered a sale notwithstanding subdivision 3 if the tax imposed by this chapter was paid on the initial purchase as provided by this subdivision.

Leasing of aircraft utilized by a lessee for the purpose of leasing to others, whether or not the lessee also utilizes the aircraft for flight instruction where no separate charge is made for aircraft rental or for charter service, shall be considered a purchase for resale; provided, however, that a proportionate share of the lease payment reflecting use for flight instruction or charter service is subject to tax pursuant to section 297A.14.

Sec. 3. Minnesota Statutes 1986, section 297A.01, subdivision 8, is amended to read:

Subd. 8. "Sales price" means the total consideration valued in money, for a retail sale whether paid in money or otherwise, excluding therefrom any amount allowed as credit for tangible personal property taken in trade for resale, without deduction for the cost of the property sold, cost of materials used, labor or service cost, interest, or discount allowed after the sale is consummated, the cost of transportation incurred prior to the time of sale, any amount

for which credit is given to the purchaser by the seller, or any other expense whatsoever. A deduction may be made for charges for services that are part of the sale, including charges up to 15 percent in lieu of tips, if the consideration for such charges is separately stated, but no deduction shall be allowed for charges for services that are part of a sale as defined in subdivision 3, clauses (b) to (f). A deduction may also be made for interest, financing, or carrying charges, charges for labor or services used in installing or applying the property sold or transportation charges if the transportation occurs after the retail sale of the property only if the consideration for such charges is separately stated. There shall not be included in "sales price" cash discounts allowed and taken on sales, or the amount refunded either in cash or in credit for property returned by purchasers or the amount of any tax (not including, however, any manufacturers' or importers' excise tax) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

Sec. 4. Minnesota Statutes 1986, section 297A.01, subdivision 15, is amended to read:

Subd. 15. "Farm machinery" means new or used machinery, equipment, implements, accessories and contrivances used directly and principally in the production for sale, but not including the processing, of livestock, dairy animals, dairy products, poultry and poultry products, fruits, vegetables, forage, grains and bees and apiary products. "Farm machinery" ~~shall include~~ includes

(1) machinery for the preparation, seeding or cultivation of soil for growing agricultural crops and sod, harvesting and threshing of agricultural products, harvesting or moving of sod, and certain machinery for dairy, livestock and poultry farms, together with;

(2) barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations, whether or not the equipment is installed by the seller and becomes part of the real property;

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, except irrigation equipment which is situated below ground and considered to be a part of the real property, shall be included in the definition of farm machinery; and

(4) logging equipment, including chain saws used for logging only if the engine displacement equals or exceeds five cubic inches, shall be included in the definition of farm machinery.

Repair or replacement parts for farm machinery shall not be included in the definition of farm machinery.

Tools, shop equipment, grain bins, feed bunks, fencing material, communication equipment and other farm supplies shall not be considered to be farm machinery. "Farm machinery" does not include motor vehicles taxed under chapter 297B, snowmobiles, snow blowers, lawn mowers except those used in the production of sod for sale, garden-type tractors or garden tillers and the repair and replacement parts for those vehicles and machines.

Sec. 5. Minnesota Statutes 1986, section 297A.14, is amended to read:

297A.14 [USING, STORING OR CONSUMING TANGIBLE PERSONAL PROPERTY; ADMISSIONS; UTILITIES USE TAX.]

Subdivision 1. [IMPOSITION.] For the privilege of using, storing or consuming in Minnesota tangible personal property, tickets or admissions to places of amusement and athletic events, electricity, gas, and local exchange telephone service purchased for use, storage or consumption in this state, a use tax is imposed on every person in this state at the rate of six percent of tax imposed under section 297A.02 on the sales price of sales at retail of the items, unless the tax imposed by section 297A.02 was paid on the sales price. Notwithstanding the provisions of the preceding sentence, the rate of the use tax imposed upon the sales price of sales of special tooling, and capital equipment is four percent and upon the sales price of sales of farm machinery is two percent.

Subd. 2. [MOTOR VEHICLES.] A motor vehicle subject to tax under this section shall be taxed at its fair market value at the time of transport into Minnesota if the motor vehicle was acquired more than three months prior to its transport into this state.

Sec. 6. Minnesota Statutes 1986, section 297A.18, is amended to read:

297A.18 [ADVERTISING NO TAX; MINIMUM TAX.]

It shall be unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the use tax or any part thereof will be assumed or absorbed by the retailer, or that it will not be added to the sales price or that, if added, it or any part thereof will be refunded except that in computing the tax to be collected as the result of any transaction amounts of tax less than one-half of one cent may be disregarded and amounts of tax of one-half cent or more may be considered an additional cent.

It is unlawful for a person to broadcast or publish, or arrange to have broadcast or published, an advertisement in a publication or broadcast media, printed, distributed, broadcast, or intended to be received in this state, that states that no sales or use tax is due



under this chapter, when the person knows the advertisement is false.

Sec. 7. Minnesota Statutes 1986, section 297A.211, subdivision 2, is amended to read:

Subd. 2. (a) Such persons, when properly registered as retailers, may make purchases in this state, or import property into this state, without payment of the sales or use taxes imposed by this chapter at the time of purchase or importation, provided that such purchases or importations come within the provisions of this section and are made in strict compliance with the rules of the commissioner.

(b) Any person described in subdivision 1 may elect to pay directly to the commissioner any sales or use tax that may be due under this chapter for the acquisition of mobile transportation equipment and parts and accessories attached or to be attached to such equipment.

(c) The total cost of such equipment and parts and accessories attached or to be attached to such equipment shall be multiplied by a fraction, the numerator of which is the mileage operated during the past calendar year within the state of Minnesota and the denominator is the total mileage operated during the past calendar year. The amount so determined shall be multiplied by the tax rate to disclose the tax due.

(d) Each such retailer shall make a return and remit to the commissioner the tax due for the preceding calendar month in accordance with the provisions of sections 297A.26 and 297A.27.

#### Sec. 8. [297A.212] [RAILROAD ROLLING STOCK.]

Railroad rolling stock used by railroads operating in this state, which are licensed as common carriers by the Interstate Commerce Commission and parts thereof used to transport persons or property in interstate or foreign commerce are subject to the tax imposed by this chapter to the extent provided in this section. The basis of the tax is the ratio of intrastate mileage to interstate or foreign mileage traveled by the carrier during the previous fiscal year of the carrier, determined at the close of the carrier's fiscal year. The resulting ratio must be applied each month to the total purchases of the railroad which are used in this state to establish the portion used and consumed in intrastate movement and subject to tax under this chapter. "Railroad rolling stock" means all portable or moving apparatus and machinery of a railroad company and includes, but is not limited to, engines, cars, tenders, coaches, sleeping cars, and parts necessary for the repair and maintenance of the rolling stock.

Sec. 9. Minnesota Statutes 1986, section 297A.25, subdivision 7, is amended to read:

Subd. 7. [PETROLEUM PRODUCTS.] The gross receipts from the sale of and storage, use or consumption of the following petroleum products are exempt:

(1) products upon which a tax has been imposed and paid under the provisions of chapter 296, ~~whether or not any part of said tax may be subsequently refunded and no refund has been or will be allowed because the buyer used the fuel for nonhighway use, or~~

(2) products which are used in the improvement of agricultural land by constructing, maintaining, and repairing drainage ditches, tile drainage systems, grass waterways, water impoundment, and other erosion control structures.

Sec. 10. Minnesota Statutes 1986, section 297A.25, subdivision 11, is amended to read:

Subd. 11. [SALES TO GOVERNMENT.] The gross receipts from all sales, including sales in which title is retained by a seller or a vendor or is assigned to a third party under an installment sale or lease purchase agreement under section 465.71, of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities or a state ~~and its agencies, instrumentalities, and political subdivisions of the state are exempt. Sales exempted by this subdivision include sales pursuant to section 297A.01, subdivision 3, clauses (d) and (f). This exemption shall not apply to building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration or repair of a building or facility. This exemption does not apply to construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities.~~

Sec. 11. Minnesota Statutes 1986, section 297A.25, subdivision 12, is amended to read:

Subd. 12. [OCCASIONAL SALES.] The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale are exempt. For purposes of this subdivision, sales by a nonprofit organization shall be deemed to be "isolated or occasional" if they occur at sale events that have a duration of three or fewer consecutive days. The granting of the privilege of admission to places of amusement and the privilege of use of amusement devices by a nonprofit organization at an isolated or occasional event conducted on property owned or leased for a continuous period of more than 30 days by the nonprofit organiza-

tion are also exempt. The exemption provided for isolated sales of tangible personal property and of the granting of admissions or the privilege of use of amusement devices by nonprofit organizations pursuant to this subdivision shall be available only if the sum of the days on which the organization and any subsidiary nonprofit organization sponsored by it that does not have a separate sales tax exemption permit conduct sales of tangible personal property, plus the days with respect to which the organization charges for the use of amusement devices or admission to places of amusement, does not exceed eight days in a calendar year. For purposes of this subdivision, a "nonprofit organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, no part of the net earnings of which inures to the benefit of a private individual.

Sec. 12. Minnesota Statutes 1986, section 297A.25, is amended by adding a subdivision to read:

Subd. 35. [FOOD STAMPS.] The gross receipts from the sale of tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program are exempt. This exemption also applies to food purchased under the Special Supplemental Food Program for Women, Infants, and Children. The exemption provided by this subdivision is effective and applies only to the extent required by federal law.

Sec. 13. Minnesota Statutes 1986, section 297A.25, is amended by adding a subdivision to read:

Subd. 36. [INCOMING, INTERSTATE WATS LINES.] The gross receipts from the sale of long distance telephone services are exempt, if the service consists of a wide area telephone line that permits a long distance call to an individual or business located in Minnesota to be made from a location outside of Minnesota at no toll charge to the person placing the call.

Sec. 14. Minnesota Statutes 1986, section 297A.256, is amended to read:

297A.256 [EXEMPTIONS FOR CERTAIN NONPROFIT GROUPS.]

Notwithstanding the provisions of this chapter, the following sales made by a "nonprofit organization" are exempt from the sales and use tax.

(a) All sales made by an organization for fundraising purposes if that organization exists solely for the purpose of providing educational or social activities for young people primarily age 18 and

under. This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(b) All sales made by an organization for fundraising purposes if that organization is a senior citizen group ~~which qualifies for exemption on its purchases pursuant to section 297A.25, subdivision 16 or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and no part of the net earnings inure to the benefit of any private shareholders.~~ This exemption shall apply only if the gross annual sales receipts of the organization from fundraising do not exceed \$10,000.

(c) The gross receipts from the sales of tangible personal property at, admission charges for, and sales of food, meals, or drinks at fundraising events sponsored by a nonprofit organization when the entire proceeds, except for the necessary expenses therewith, will be used solely and exclusively for charitable, religious, or educational purposes. This exemption does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities. For purposes of this clause, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, senior citizens' or veterans' purposes, no part of the net earnings of which enures to the benefit of a private individual.

If the profits are not used solely and exclusively for charitable, religious, or educational purposes, the entire gross receipts are subject to tax.

Each nonprofit organization shall keep a separate accounting record, including receipts and disbursements from each fundraising event. All deductions from gross receipts must be documented with receipts and other records. If records are not maintained as required, the entire gross receipts are subject to tax.

The exemption provided by this section does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation.

The exemption for fundraising events under this section is limited to no more than 24 days a year. Fundraising events conducted on premises leased or occupied for more than four days but less than 30 days do not qualify for this exemption.

Sec. 15. Minnesota Statutes 1986, section 297A.43, is amended to read:

297A.43 [CONFIDENTIAL NATURE OF INFORMATION.]

It shall be unlawful for the commissioner or any other public official or employee to divulge or otherwise make known in any manner any particulars disclosed in any report or return required by sections 297A.01 to 297A.44, or any information concerning the affairs of the person making the return acquired from the person's records, officers, or employees while examining or auditing under the authority of sections 297A.01 to 297A.44, except in connection with a proceeding involving taxes due under this chapter from the taxpayer making such report or return or to comply with the provisions of section 297A.431 or where a question arises as to the proper tax applicable, that is, sales or use tax. In the latter instance, the commissioner may furnish information to a buyer and a seller with respect to the specific transaction in question. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

The commissioner may enter into an agreement with the commissioner or other taxing officials of another state for the interpretation and administration of the acts of their several states providing for the collection of a sales and/or use tax for the purpose of promoting fair and equitable administration of such acts and to eliminate double taxation. The commissioner may furnish information to the tax administration agency of another state where necessary in the administration of the laws of that state if the other state provides similar rights of examination or information to this state and agrees to be subject to the confidentiality restrictions of this section.

Notwithstanding the above provisions of this section, the commissioner, in order to implement the purposes of this chapter, may furnish information on a reciprocal basis to the taxing officials of another state, or to the taxing officials of any municipality of the state of Minnesota which has a local sales and/or use tax. The commissioner may furnish to the Minnesota supreme court and the board of professional responsibility information regarding the amount of any uncontested delinquent taxes due under this chapter or a failure to file a return due under this chapter by an attorney admitted to practice law in this state under chapter 481.

In order to facilitate processing of returns and payments of taxes required by this chapter, the commissioner may contract with outside vendors and may disclose private and nonpublic data to the vendor. The data disclosed will be administered by the vendor consistent with this section.

Sec. 16. Minnesota Statutes 1986, section 297B.01, subdivision 8, is amended to read:

Subd. 8. "Purchase price" means the total consideration valued in money for a sale, whether paid in money or otherwise, provided

however, that when a motor vehicle is taken in trade as a credit or as part payment on a motor vehicle taxable under Laws 1971, chapter 853, the credit or trade-in value allowed by the person selling the motor vehicle shall be deducted from the total selling price to establish the purchase price of the vehicle being sold and the trade-in allowance allowed by the seller shall constitute the purchase price of the motor vehicle accepted as a trade-in. The purchase price in those instances where the motor vehicle is acquired by gift or by any other transfer for a nominal or no monetary consideration shall also include the average value of similar motor vehicles, established by standards and guides as determined by the motor vehicle registrar. The purchase price in those instances where a motor vehicle is manufactured by a person who registers it under the laws of this state shall mean the manufactured cost of such motor vehicle and manufactured cost shall mean the amount expended for materials, labor and other properly allocable costs of manufacture, except that in the absence of actual expenditures for the manufacture of a part or all of the motor vehicle, manufactured costs shall mean the reasonable value of the completed motor vehicle. The term "purchase price" shall not include the transfer of a motor vehicle by way of gift between a husband and wife or parent and child, nor shall it include the transfer of a motor vehicle by a guardian to a ward when there is no monetary consideration and the title to such vehicle was registered in the name of the guardian, as guardian, only because the ward was a minor. ~~There shall not be included in "purchase price" the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or the consumer.~~

Sec. 17. Minnesota Statutes 1986, section 297B.031, is amended to read:

**297B.031 [REFUND OF TAX; MANDATORY REFUND OR REPLACEMENT LAWS.]**

If a manufacturer of motor vehicles is required by a court order under section 325F.665 or a decision of an informal dispute settlement mechanism as defined in section 325F.665, subdivision 3, to refund pay the consumer the tax imposed by this chapter, a portion of the tax so paid by the purchaser shall be refunded to the manufacturer. The amount of the refund shall be the tax paid by the purchaser less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the allowance deducted from the refund for the consumer's use of the vehicle. The refund shall be paid to the manufacturer only upon filing of a written application, in a form and providing information as prescribed by the commissioner. Payment of a refund pursuant to this section shall be made out of the general and highway user funds in the same proportion provided for deposit of tax proceeds for the fiscal year pursuant to section

297B.09, subdivision 1. The amounts necessary to pay the refunds are appropriated out of the respective funds.

Sec. 18. Minnesota Statutes 1986, section 325F.665, subdivision 3, is amended to read:

Subd. 3. [MANUFACTURER'S DUTY TO REFUND OR REPLACE.] (a) If the manufacturer, its agents, or its authorized dealers are unable to conform the new motor vehicle to any applicable express warranty by repairing or correcting any defect or condition which substantially impairs the use or market value of the motor vehicle to the consumer after a reasonable number of attempts, the manufacturer shall, at the consumer's option, either replace the new motor vehicle with a comparable motor vehicle or accept return of the vehicle from the consumer and refund to the consumer the full purchase price, or the total amount actually paid by the consumer under any vehicle lease, including the cost of any options or other modifications arranged, installed, or made by the manufacturer, its agent, or its authorized dealer within 30 days after the date of original delivery, and all other charges including, but not limited to, sales tax, license fees and registration fees, reimbursement for towing and rental vehicle expenses incurred by the consumer as a result of the vehicle being out of service for warranty repair, less a reasonable allowance for the consumer's use of the vehicle not exceeding ten cents per mile driven or ten percent of the purchase price or full lease cost of the vehicle, whichever is less. Refunds must be made to the consumer, and lienholder, if any, as their interests appear on the records of the registrar of motor vehicles. Refunds shall include the amount stated by the dealer as the trade-in value of a consumer's used motor vehicle, plus any additional amount paid by the consumer for the new motor vehicle. For a lease vehicle, refunds shall include the total amount actually paid by the consumer under any vehicle lease, less any finance charges paid by the consumer. A reasonable allowance for use is that amount directly attributable to use by the consumer and any previous consumer prior to the first report of the nonconformity to the manufacturer, agent, or dealer. It is an affirmative defense to any claim under this section (1) that an alleged nonconformity does not substantially impair the use or market value, or (2) that a nonconformity is the result of abuse, neglect, or unauthorized modifications or alterations of a motor vehicle by anyone other than the manufacturer, its agent or its authorized dealer.

(b) It is presumed that a reasonable number of attempts have been undertaken to conform a new motor vehicle to the applicable express warranties, if (1) the same nonconformity has been subject to repair four or more times by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, but the nonconformity continues to exist, or (2) the vehicle is out of service by reason of

repair for a cumulative total of 30 or more business days during the term or during the period, whichever is the earlier date.

(c) If the nonconformity results in a complete failure of the braking or steering system of the new motor vehicle and is likely to cause death or serious bodily injury if the vehicle is driven, it is presumed that a reasonable number of attempts have been undertaken to conform the vehicle to the applicable express warranties if the nonconformity has been subject to repair at least once by the manufacturer, its agents, or its authorized dealers within the express warranty term or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date, and the nonconformity continues to exist.

(d) The term of an express warranty, the one-year period and the 30-day period shall be extended by any period of time during which repair services are not available to the consumer because of a war, invasion, strike, or fire, flood, or other natural disaster.

(e) The presumption contained in paragraph (b) applies against a manufacturer only if the manufacturer, its agent, or its authorized dealer has received prior written notification from or on behalf of the consumer at least once and an opportunity to cure the defect alleged. If the notification is received by the manufacturer's agent or authorized dealer, the agent or dealer must forward it to the manufacturer by certified mail, return receipt requested.

(f) A consumer is eligible to receive a refund or replacement vehicle under this section if the nonconformity is reported to the manufacturer, its authorized agent or dealer, at any time during the motor vehicle's express warranty period, even if the motor vehicle's express warranty expires before the requirements of paragraphs (a), (b), and (c) have been met.

(g) At the time of purchase the manufacturer must provide directly to the consumer a written statement on a separate piece of paper, in 10-point all capital type, in substantially the following form: "IMPORTANT: IF THIS VEHICLE IS DEFECTIVE, YOU MAY BE ENTITLED UNDER STATE LAW TO REPLACEMENT OF IT OR A REFUND OF ITS PURCHASE PRICE. HOWEVER, TO BE ENTITLED TO REFUND OR REPLACEMENT, YOU MUST FIRST NOTIFY THE MANUFACTURER, ITS AGENT, OR ITS AUTHORIZED DEALER OF THE PROBLEM IN WRITING AND GIVE THEM AN OPPORTUNITY TO REPAIR THE VEHICLE."

(h) The amount of the sales tax to be paid by the manufacturer to the consumer under paragraph (a) shall be the tax paid by the consumer when the vehicle was purchased less an amount equal to the tax paid multiplied by a fraction, the denominator of which is the purchase price of the vehicle and the numerator of which is the



allowance deducted from the refund for the consumer's use of the vehicle.

Sec. 19. [REPEALER.]

Minnesota Statutes 1986, sections 270.89; 297A.25, subdivisions 13 and 19; and 360.654 are repealed.

Sec. 20. [EFFECTIVE DATE.]

Section 6 is effective June 1, 1987. Sections 1, clauses (i) and (j), and 12 are effective for sales made after September 30, 1987. The remainder of the article is effective for sales made after May 31, 1987, but the elimination of sales tax exemptions does not apply to sales of tangible personal property made pursuant to bona fide written contracts that were enforceable before June 1, 1987, and delivery is made on or before December 31, 1987.

ARTICLE 10

BUDGET AND CASH FLOW RESERVE

Section 1. Minnesota Statutes 1986, section 16A.15, subdivision 1, is amended to read:

Subdivision 1. [REDUCTION.] (a) If the commissioner determines that probable receipts for the general fund will be less than anticipated, and that the amount available for the remainder of the biennium will be less than needed, the commissioner shall, with the approval of the governor, and after consulting the legislative advisory commission, reduce the amount in the budget and cash flow reserve account established in subdivision 6 as needed to balance expenditures with revenue. ~~An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing allotments.~~

(b) An additional deficit shall, with the approval of the governor, and after consulting the legislative advisory commission, be made up by reducing unexpended allotments of any prior appropriation or transfer. Notwithstanding any other law to the contrary, the commissioner is empowered to defer or suspend prior statutorily created obligations which would prevent effecting such reductions.

(c) If the commissioner determines that probable receipts for any other fund, appropriation, or item will be less than anticipated, and that the amount available for the remainder of the term of the appropriation or for any allotment period will be less than needed, the commissioner shall notify the agency concerned and then reduce the amount allotted or to be allotted so as to prevent a deficit.

(e) (d) In reducing allotments, the commissioner may consider other sources of revenue available to recipients of state appropriations and may apply allotment reductions based on all sources of revenue available.

(d) (e) In like manner, the commissioner shall reduce allotments to an agency by the amount of any saving that can be made over previous spending plans through a reduction in prices or other cause.

Sec. 2. Minnesota Statutes 1986, section 16A.15, subdivision 6, is amended to read:

Subd. 6. [BUDGET AND CASH FLOW RESERVE ACCOUNT.] A budget and cash flow reserve account is created in the general fund in the state treasury. The commissioner of finance shall, as authorized from time to time by law, restrict part or all of the budgetary balance in the general fund for use as the budget and cash flow reserve account. The commissioner of finance on July 1, 1987, shall transfer to the budget and cash flow reserve account the amount necessary to bring the total amount, including any existing balance in the account on June 30, 1987, to \$250,000,000. The amounts restricted shall remain in the account until drawn down under subdivision 1.

Sec. 3. Minnesota Statutes 1986, section 16A.1541, is amended to read:

16A.1541 [ADDITIONAL REVENUES; PRIORITY.]

If on the basis of a forecast of general fund revenues and expenditures the commissioner of finance determines that there will be a positive unrestricted budgetary general fund balance at the close of the biennium, the commissioner of finance must allocate money in the following order of priority:

(1) pay the refund of occupation taxes under Laws 1985, First Special Session chapter 14, article 18, section 7;

(2) reduce property tax levy recognition percent under section 121.904, subdivision 4e; and

(3) increase the school aids payment current year percentage under section 121.904, subdivision 4d Beginning July 1, 1987, 75 percent of any forecasted increase in the unrestricted budgetary balance must be transferred to the budget and cash flow reserve account until the total amount in the budget reserve and cash flow account reaches \$550,000,000.

The amounts necessary to meet the requirements of clauses (1), (2), and (3) this section are appropriated from the general fund.

Sec. 4. Minnesota Statutes 1986, section 16A.275, is amended to read:

16A.275 [DAILY RECEIPTS DEPOSITED.]

Except as otherwise provided by law, an agency shall deposit receipts totaling \$250 or more in the state treasury daily. The depositing agency shall send a report to the commissioner on the disposition of receipts since the last report. The commissioner shall credit the deposits received during a month to the proper funds not later than the first day of the next month.

Notwithstanding the general rule stated above, the commissioner of revenue is not required to make daily deposits if (1) the volume of tax receipts cannot be processed daily with available resources, or (2) receipts cannot be immediately identified for posting to accounts.

Sec. 5. [REVENUE SHORTFALL; CONTINGENT TAX INCREASE]

(a) The commissioner of finance shall prepare a forecast of the state revenues and expenditures in November, 1988. If the forecast indicates that general fund receipts will be less than originally estimated and the amount of the budget and cash flow reserve account is estimated to be less than \$100,000,000 at the end of the 1988-1989 biennium, the income tax rates applicable to corporations, individuals, trusts, and estates under Minnesota Statutes, section 290.06, subdivisions 1, paragraph (b), and 2c, clauses (a)(3), (b)(3), and (c)(3) apply. The commissioner of finance shall notify the commissioner of revenue of the increased rates. The commissioner of revenue shall prepare forms for taxable years beginning after December 31, 1987, based on the contingent tax rates and shall prepare and distribute new withholding tables for payroll periods beginning after December 31, 1988.

(b) For taxable years beginning during calendar year 1988, no penalties or interest may be imposed on underpayments of estimated tax that result from an increase in tax rates imposed under this section.

Sec. 6. [REPEALER.]

Laws 1986, First Special Session chapter 1, article 5, section 8, is repealed.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 6 are effective July 1, 1987.

## ARTICLE 11

### COMPLIANCE

Section 1. [270.052] [AGREEMENT WITH INTERNAL REVENUE SERVICE.]

Notwithstanding sections 290.61 and 290A.17, the commissioner may enter into an agreement with the Internal Revenue Service to identify taxpayers who have refunds due from the department of revenue and liabilities owing to the Internal Revenue Service. In accordance with the procedures established in the agreement, the Internal Revenue Service may levy against the refunds to be paid.

Sec. 2. Minnesota Statutes 1986, section 270.066, is amended to read:

270.066 [COMMISSIONER TO REQUIRE SOCIAL SECURITY OR IDENTIFYING NUMBERS ON FORMS; FEE PAYABLE FOR ISSUANCE OF MINNESOTA TAX IDENTIFICATION NUMBER.]

Subdivision 1. [IDENTIFYING NUMBER FILED WITH FORMS.] Notwithstanding the provisions of any other law, the commissioner of revenue may require that a form required to be filed with the commissioner include the social security number, federal employer identification number, or Minnesota taxpayer identification number of the taxpayer or applicant.

Subd. 2. [FEE; REFUNDS.] An applicant for a Minnesota tax identification number must pay a fee of \$50 for each number requested. The fee must be paid when the application is filed with the commissioner or, if no application is filed, when a number is assigned by the commissioner. The fee, without interest, will be refunded to the applicant who has paid the fee and the identification number will be canceled upon the filing of a claim certifying that the applicant has ceased doing business. The claim for refund must be filed within one year from the date of the cessation of the business. The commissioner may credit the amount of a refund against any tax liability of the applicant.

Sec. 3. Minnesota Statutes 1986, section 270.10, subdivision 1, is amended to read:

Subdivision 1. [IN WRITING; APPROVAL BY ATTORNEY GENERAL.] All orders and decisions of the commissioner of revenue, or any subordinates, respecting any tax, assessment, or other obligation, shall be in writing, filed in the offices of the department. No

order or decision issued after June 30, 1983, increasing or decreasing any tax, assessment, or other obligation by a sum exceeding \$1,000 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 \$1,000, and no order or decision increasing or decreasing any other tax by a sum exceeding \$1,000 exclusive of penalties and interest, shall be made without the written signature or facsimile signature of the commissioner, a ~~deputy commissioner, assistant commissioner, division director, or acting division director~~ or the commissioner's delegate in each case. Written notice of every order granting a reduction, abatement, or refundment exceeding \$5,000 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 proper and legal, approve the same in writing; the attorney general may waive the right of appeal therefrom in behalf of the state or appeal from the order in behalf of the state as herein provided; but written approval of the commissioner or a ~~deputy delegate~~ 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 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 (6); (3) original orders for the refundment of gasoline and special fuel taxes.

Sec. 4. [270.271] [TIMELY MAILING TREATED AS TIMELY FILING AND PAYING.]

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

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

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

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

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

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

Subd. 3. [UNITED STATES POSTAL SERVICE POSTMARK.] Only the postmark of the United States Postal Service, rather than those of private postage meters, qualifies as proof of timely mailing under this section. If the document or payment is sent by United States registered mail, the date of registration shall be treated as the postmark date. If the document or payment is sent by United States certified mail and the sender's receipt is postmarked by the postal employee to whom the envelope containing such document or payment is presented, the date of the United States postmark on the receipt shall be treated as the postmark date of the document or payment.

Subd. 4. [RECEIPT DATE OTHERWISE GOVERNS.] In any case in which the document or payment is not treated as timely filed or paid under this section, the date of receipt by the commissioner, and not the postmark date, shall govern for purposes of determining the amount of any penalties for late filing or payment.

Sec. 5. [270.651] [ERRONEOUS REFUND.]

An erroneous refund shall be considered an underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous refund may be made at any time within two years from the making of the refund. If any part of the refund was induced by fraud or misrepresentation of a material fact, the assessment may be made at any time. If the erroneous refund results from a mistake of the department, no interest or penalty will be imposed, unless the deficiency assessment is not satisfied within 60 days of the order.

Sec. 6. Minnesota Statutes 1986, section 270.72, subdivision 1, is amended to read:

Subdivision 1. [TAX CLEARANCE REQUIRED.] The state or a political subdivision of the state may not issue, transfer, or renew a license for the conduct of a profession, occupation, trade, or business, if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes, penalties, or interest. The commissioner may not notify the licensing authority unless the applicant taxpayer owes \$500 or more in delinquent taxes. A licensing authority that has received a notice from the commissioner may issue, transfer, or renew the applicant's license only if (a) the commissioner issues a tax clearance certificate and (b) the commissioner or the applicant forwards a copy of the clearance to the authority. The commissioner may issue a clearance certificate only

if the applicant does not owe the state any uncontested delinquent taxes, penalties, or interest.

Sec. 7. Minnesota Statutes 1986, section 270.72, subdivision 2, is amended to read:

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

(a) "Taxes" are limited to withholding tax as provided in section 290.92, sales and use tax as provided in chapter 297A, and motor vehicle excise tax as provided in chapter 297B. Penalties and interest are limited to penalties and interest due on taxes included in this definition all taxes payable to the commissioner including penalties and interest due on the taxes.

(b) "Delinquent taxes" do not include a tax liability if (i) an administrative or court action which contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the applicant has entered into a payment agreement and is current with the payments.

(c) "Applicant" means an individual if the license is issued to or in the name of an individual or the corporation or partnership if the license is issued to or in the name of a corporation or partnership. "Applicant" also means an officer of a corporation or, a member of a partnership, or an individual who is liable for the delinquent taxes pursuant to section 270.10, subdivision 4, either for the entity for which the license is at issue or for another entity for which the liability was incurred, or personally as a licensee. In the case of a license transfer, "applicant" also means both the transferor and the transferee of the license.

Sec. 8. Minnesota Statutes 1986, section 270.77, is amended to read:

#### 270.77 [SUBSTANTIAL UNDERSTATEMENT OF LIABILITY.]

The commissioner of revenue shall impose a penalty for substantial understatement of any tax payable to the commissioner.

There must be added to the tax an amount equal to ~~ten~~ 25 percent of the amount of any underpayment attributable to the understatement. There is a substantial understatement of tax for the period if the amount of the understatement for the period exceeds the greater of: (1) ten percent of the tax required to be shown on the return for the period; or (2)(a) \$10,000 in the case of a corporation other than an S corporation as defined in section 290.9725 when the tax is imposed by chapter 290, or (b) \$5,000 in the case of any other

taxpayer, and in the case of a corporation any tax not imposed by chapter 290. The term "understatement" means the excess of the amount of the tax required to be shown on the return for the period, over the amount of the tax imposed which is shown on the return. The amount of the understatement shall be reduced by that portion of the understatement which is attributable to the tax treatment of any item by the taxpayer if there is or was substantial authority for the treatment, or any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return. The special rules in cases involving tax shelters provided in section 6661(b)(2)(C) of the Internal Revenue Code of 1954, as amended through December 31, 1985, shall apply and shall apply to a tax shelter the principal purpose of which is the avoidance or evasion of state taxes. The commissioner may abate all or any part of the addition to the tax provided by this section on a showing by the taxpayer that there was reasonable cause for the understatement, or part of it, and that the taxpayer acted in good faith. The additional tax and penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 9. Minnesota Statutes 1986, section 270A.07, subdivision 1, is amended to read:

Subdivision 1. [NOTIFICATION REQUIREMENT.] ~~On or before December 15~~ Any claimant agency, seeking collection of a debt through set-off against a refund due ~~in the succeeding year~~, shall submit to the commissioner information indicating the amount of each debt and information identifying the debtor, as required by section 270A.04, subdivision 3. ~~Subject to the notification deadline specified above~~ Where the notification is received before July 1, the notification shall be effective only to initiate set-off for claims against refunds that would be made in the same calendar year subsequent to the year in which notification is made to the commissioner. Where the notification is received on or after July 1, the notification is effective only to begin set-off for claims against refunds that would be made in the next calendar year.

The claimant agency shall submit to the commissioner the amount of \$3 per certification. The payment must accompany the certification. The claimant agency shall increase the amount of each debt certified by \$3 and this total amount is subject to recapture. If the total debt is not recaptured by the commissioner, the \$3 addition to the debt may be collected by the claimant agency from the debtor and must be considered an obligation of the debtor. The \$3 will not be refunded if the recapture is not accomplished.

Sec. 10. Minnesota Statutes 1986, section 290.53, subdivision 1, is amended to read:

Subdivision 1. [FAILURE TO PAY TAX.] If any tax imposed by this chapter is not paid within the time herein specified for the



payment thereof, or within 30 days after final determination of an appeal to the tax court relating thereto if the taxpayer is not required to pay the amount in dispute pending appeal under section 290.531, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid to the amount required to be shown as tax a penalty of three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Interest accruing upon the tax due as disclosed by the return or upon the amount determined as a deficiency from the date prescribed for the payment of the tax (if the tax is payable in installments, from the date the installment or installments become due and payable under the provisions of section 290.45, subdivision 1) shall be added to the tax and be collected as a part thereof. Where an extension of time for payment has been granted under section 290.45, subdivision 2, interest shall be paid at the rate specified in section 270.75 from the date when such payment should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this section shall apply.

Sec. 11. Minnesota Statutes 1986, section 290.53, is amended by adding a subdivision to read:

Subd. 1a. [APPLICABILITY TO CORPORATIONS.] In the case of a corporation, the penalty under subdivision 1 does not apply when:

(1) the corporation fulfills the requirements of section 290.42, paragraph (6), relating to a seven-month extension for filing the regularly required return and the filing of a tentative return;

(2) the amount of tax, determined without regard to any prepayment of tax, shown on the tentative return, or the amount of tax paid on or before the regular due date of the return, is at least 90 percent of the amount shown on the corporation's regularly required return;

(3) any balance due shown on the regularly required return is paid on or before the due date of the return, including any extensions of time for filing; and

(4) interest on any balance due is paid at the rate specified in section 270.75 from the regular due date of the return until the tax is paid.

Sec. 12. Minnesota Statutes 1986, section 290.53, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO MAKE AND FILE RETURN.] In case of any failure to make and file a return as required by this chapter within the time prescribed by law or prescribed by the commissioner in pursuance of law, there shall be added to the tax ~~or subtracted from the refund in lieu of the penalty provided in subdivision 1:~~ ten percent of the amount of tax unpaid not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days with an additional five percent for of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 23 percent in the aggregate; or ten percent of the amount of the refund claimed if the failure is for more than 60 but less than 90 days (determined with regard to any extensions of time for filing), with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate.

In addition to the penalty imposed above, in the case of a failure to file a return of tax imposed by this chapter within 60 days of the date prescribed for filing of the return (determined with regard to any extensions of time for filing), there shall be added to the tax or subtracted from the refund the lesser of (i) \$100 or (ii) 100 percent of either the amount of tax which is due or the amount of the refund.

The amount so added to any tax shall be collected at the same time and in the same manner and as a part of the tax, and the amount of said tax together with the amount so added shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid unless the tax has been paid before the discovery of the neglect, in which case the amount so added shall be collected in the same manner as the tax.

For the purposes of this subdivision the amount of any taxes required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed upon the return.

Sec. 13. Minnesota Statutes 1986, section 290.53, is amended by adding a subdivision to read:

Subd. 2a. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2 of this section, the penalties imposed under both subdivisions combined shall not exceed 38 percent in the aggregate.

Sec. 14. Minnesota Statutes 1986, section 290.53, subdivision 3a, is amended to read:

Subd. 3a. [INTENTIONAL DISREGARD OF LAW OR RULES.] If any part of any underpayment resulting from an additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to five ten percent of such additional assessment. The penalty imposed by this subdivision shall be collected as part of the tax and shall be in addition to any other penalties provided by this chapter. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Sec. 15. Minnesota Statutes 1986, section 290.53, subdivision 4, is amended to read:

Subd. 4. [FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS.] In addition to any other penalties prescribed, (a) any person required by this chapter to make a return, who knowingly fails to make it at the time required by law, is guilty of a gross misdemeanor; (b) any person who willfully makes and subscribes any return, statement, or other document knowing it to be false as to any material matter is guilty of a felony; (c) any person who willfully attempts in any manner to evade or defeat any tax imposed by this chapter is guilty of a felony; and (d) any person who willfully fails to pay the tax at the time required by law, with the intent to evade or defeat the tax, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Sec. 16. Minnesota Statutes 1986, section 290.56, subdivision 3, is amended to read:

Subd. 3. [FAILURE TO REPORT CHANGE OR CORRECTION OF FEDERAL RETURN.] If a taxpayer ~~shall fail~~ fails to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or ~~shall fail fails~~ to file a copy of an amended return ~~within 90 days as required by subdivision 2~~, the commissioner may, within six years ~~thereafter~~ after the report should have been filed, recompute the tax, including a refundment thereof ~~refund~~, based upon ~~such~~ information as may be available to the

commissioner, notwithstanding any period of limitations to the contrary.

If a taxpayer reports the change, correction, or renegotiation, or files the amended return after the 90-day period required by subdivision 2 has expired, the time limit for the commissioner to recompute and reassess the tax due under this chapter, including making a refund, is the time limit provided in subdivision 4 determined from the date the report or amended return was filed with the commissioner.

Sec. 17. Minnesota Statutes 1986, section 290.56, subdivision 4, is amended to read:

Subd. 4. [REPORT MADE OF CHANGE OR CORRECTION OF FEDERAL RETURN.] If a taxpayer is required to report a change or correction or renegotiation by the Commissioner of Internal Revenue or other officer of the United States or other competent authority or to file an amended return as required by subdivision 2 and does report ~~such~~ the change or files a copy of ~~such~~ the amended return ~~within 90 days~~, the commissioner may recompute and reassess the tax due under this chapter, including a refundment thereof (a) within one year after ~~such~~ the report or amended return is filed with the commissioner, notwithstanding any period of limitations to the contrary or (b) within the period set forth in section 290.49, whichever period is greater. The period provided for the carryback of any amount of loss or credit is also extended as provided in this subdivision, notwithstanding any other law to the contrary.

Sec. 18. Minnesota Statutes 1986, section 290.92, subdivision 15, is amended to read:

Subd. 15. [PENALTIES; FAILURE TO PAY TAX.] (1) In the case of any failure to withhold a tax on wages, ~~make and file quarterly returns or~~ make payments to or deposits with the commissioner of amounts withheld, as required by this section, within the time prescribed by law, there shall be added to the tax a penalty equal to ~~ten~~ three percent of the amount of tax that should have been properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional ~~five~~ three percent for each additional 30 days or fraction thereof during which the failure continues, not exceeding ~~25~~ 24 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount added shall be collected in the same manner as the tax.

(1a) In the case of a failure to make and file quarterly returns with the commissioner as required by this section, there shall be added to the tax a penalty equal to three percent of the amount of tax not properly withheld and paid over to or deposited with the commissioner if the failure is for not more than 30 days with an additional five percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which the failure continues, not exceeding 23 percent in the aggregate. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount added shall be collected in the same manner as the tax.

(1b) Where penalties are imposed under paragraphs (1) and (1a) of this subdivision, the combined penalty percentage shall not exceed 38 percent in the aggregate.

(2) If any employer required to withhold a tax on wages, make deposits, make and file quarterly returns and make payments to the commissioner of amounts withheld, as required by sections 290.92 to 290.97, willfully fails to withhold the tax or make the deposits, files a false or fraudulent return, willfully fails to make the payment or deposit, or willfully attempts in any manner to evade or defeat the tax or the payment or deposit of it, there shall also be imposed on the employer as a penalty an amount equal to 50 percent of the amount of tax, less any amount paid or deposited by the employer on the basis of the false or fraudulent return or deposit, that should have been properly withheld and paid over or deposited with the commissioner. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(3) If any person required under the provisions of subdivision 7 to furnish a statement to an employee or payee and a duplicate statement to the commissioner, or to furnish a reconciliation of the statements, and quarterly returns, to the commissioner, willfully furnishes a false or fraudulent statement to an employee or payee or a false or fraudulent duplicate statement or reconciliation of statements, and quarterly returns, to the commissioner, or willfully fails to furnish a statement or the reconciliation in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, there shall be imposed on the person a penalty of \$50 for each act or failure to act, but the total amount imposed on the delinquent person for all such failures during any calendar year shall not exceed

\$25,000. The penalty imposed by this paragraph is due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6, paragraph (8).

(4) In addition to any other penalties prescribed, any person required to withhold a tax on wages, file quarterly returns, and make payments or deposits to the commissioner of amounts withheld, as required by this section, who attempts to evade the tax by (i) willfully failing to withhold the tax, file the return, or make the payment or deposit, or (ii) willfully preparing or filing a false return, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony.

(5) In lieu of any other penalty provided by law, except the penalty provided by paragraph (3), any person required under the provisions of subdivision 7 to furnish a statement of wages to an employee and a duplicate statement to the commissioner, who willfully furnishes a false or fraudulent statement of wages to an employee or a false or fraudulent duplicate statement of wages to the commissioner, or who willfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or rules prescribed by the commissioner thereunder, is guilty of a gross misdemeanor.

(6) Any employee required to supply information to an employer under the provisions of subdivision 5, who willfully fails to supply information or willfully supplies false or fraudulent information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2a or 3, is guilty of a gross misdemeanor.

(7) The term "person," as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as an officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(8) All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

(9) In addition to any other penalty provided by law, any employee who furnishes a withholding exemption certificate to an employer which the employee has reason to know contains a materially incorrect statement is liable to the commissioner of revenue for a penalty of \$500 for each instance. The penalty is immediately due and payable and may be collected in the same manner as any delinquent income tax.

(10) In addition to any other penalty provided by law, any employer who fails to submit a copy of a withholding exemption certificate required by subdivision 5a, clause (1)(a), (1)(b), or (2) is liable to the commissioner of revenue for a penalty of \$50 for each instance. The penalty is immediately due and payable and may be collected in the manner provided in subdivision 6, paragraph (8).

(11) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under this section, of a return, affidavit, claim, or other document, which is fraudulent or false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document, is guilty of a gross misdemeanor, unless the tax involved exceeds \$300, in which event the actor is guilty of a felony.

(12) Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 19. Minnesota Statutes 1986, section 290.92, subdivision 24, is amended to read:

Subd. 24. [APPLICATION FOR ACCOUNT NUMBER.] An employer desiring to engage in business in Minnesota shall file with the commissioner an application for a withholding account number on or before the due date of the first payment required to be made under the provisions of subdivision 6. An application for an account number shall be made upon a form prescribed by the commissioner and shall set forth the name of the employer, the location of the place or places of business, the names, addresses and social security numbers of the owners or partners, or if the employer is a corporation of the officers, or if the employer is a trust of the trustees, and such other information as the commissioner may require. The application shall be filed by the owner if the employer is a natural person; by a member or partner if the employer is an association or partnership; by a trustee if the employer be a trust, or by a person authorized to sign the application if the employer is a corporation.

~~No fee shall be charged for the application.~~

The account number is not assignable.

An employer who fails to file an application for a withholding account number shall be liable to the commissioner for a penalty of \$100. The penalty shall be collected in the same manner as delinquent withholding tax is collected. The commissioner may abate this penalty.

Sec. 20. Minnesota Statutes 1986, section 290A.11, subdivision 2, is amended to read:

Subd. 2. [FRAUDULENT CLAIM; PENALTY.] In any case in which it is determined that the claim is or was excessive and was filed with fraudulent intent, the claim shall be disallowed in full. If the claim has been paid, the amount disallowed shall be recovered by assessment and collection in the manner provided in chapter 290 for collection of income tax. The assessment shall bear interest from the date the claim is paid by the state until the date of repayment by the claimant, at the rate specified in section 270.75.

Any person who knowingly prepares, assists in preparing, or files a false or excessive claim or claims with the intent of defrauding the state of Minnesota, is guilty of an offense and may be sentenced as follows:

(1) to imprisonment for not more than ten years or to payment of a fine of not more than \$20,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, exceeds \$2,500; or

(2) to imprisonment for not more than five years or to payment of a fine of not more than \$10,000; or both, if the amount of the claim or claims, aggregated within any 12-month period, is more than \$300, but not more than \$2,500; or

(3) to imprisonment for not more than one year or to payment of a fine of not more than \$3,000; or both, if the amount of the claim or claims does not exceed \$300.

Notwithstanding the provisions of section 628.26, or any other provisions of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 21. Minnesota Statutes 1986, section 291.131, subdivision 1, is amended to read:

Subdivision 1. [FAILURE TO PAY TAX.] If any tax imposed by this chapter is not paid within the time specified for payment, or within 30 days after final determination of an appeal to the appropriate judicial forum, a penalty equal to ~~ten~~ three percent of the unpaid tax shall be added to the tax if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which the failure continues, not exceeding 24 percent in the aggregate.



Sec. 22. Minnesota Statutes 1986, section 291.131, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO MAKE AND FILE RETURN.] In case of any failure to make and file a return within the time prescribed or an extension thereof, unless it is shown that such failure is due to reasonable cause, a penalty of ten three percent of the amount of tax not paid on or before the date prescribed for payment of the tax shall be added to the tax if the failure is for not more than 30 days with an additional five percent for of the amount of tax remaining unpaid during each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 23 percent in the aggregate. This penalty shall be in lieu of the penalty provided in subdivision 1.

Sec. 23. Minnesota Statutes 1986, section 291.131, is amended by adding a subdivision to read:

Subd. 2a. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined shall not exceed 38 percent in the aggregate.

Sec. 24. Minnesota Statutes 1986, section 291.131, subdivision 4, is amended to read:

Subd. 4. In addition to the penalties hereinbefore described, any person who knowingly fails to file a return at the time required by this chapter shall be guilty of a misdemeanor, unless no taxes are due. Any person who willfully files a false return with intent to evade such taxes shall be guilty of a gross misdemeanor. The term "person" includes any officer or employee of a corporation or a member or employee of a partnership who as such officer, member or employee is under a duty to perform the act in respect to which the violation occurs.

Notwithstanding section 628.26, or any other criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 25. Minnesota Statutes 1986, section 296.18, subdivision 7, is amended to read:

Subd. 7. [AVIATION GASOLINE TAX REFUND CLAIMS, CRIMINAL PENALTY.] In addition to the penalty prescribed in subdivision 6, any person who willfully makes a false claim for any refund provided for in subdivision 4 shall be guilty of a felony. The term "person," as used in this subdivision, includes any officer or employee of a corporation or a member or employee of a partnership who, as such officer, member, or employee, is under a duty to perform the act in respect to which the violation occurs.

Notwithstanding section 628.26, or any other criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon a criminal offense specified in this subdivision, in the proper courts within six years after the commission of the offense.

Sec. 26. Minnesota Statutes 1986, section 297A.151, is amended to read:

297A.151 [TAX ON LIQUOR AND BEER; DELINQUENCY.]

Subdivision 1. [POSTING, NOTICE.] Notwithstanding ~~section sections~~ 290.61 and 297A.43, the commissioner shall, by the 15th of each month, submit to the commissioner of public safety a list of all ~~permit holders~~ taxpayers who are required to withhold or collect the tax imposed by ~~section sections~~ 290.92 or 297A.02, ~~subdivision 3,~~ and who are 30 days or more delinquent in either filing a sales tax return or paying the sales tax. At least ten days before notifying the commissioner of public safety, the commissioner of revenue shall notify the ~~permit holder~~ taxpayer of the intended action.

The commissioner of public safety shall post the list in the same manner as provided in section 340A.318, subdivision 3. The list will prominently show the date of posting. If a ~~permit holder taxpayer~~ previously listed cures the delinquency by filing all returns and paying all taxes, the commissioner shall notify the commissioner of public safety within two business days that the delinquency was cured.

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

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

Sec. 27. Minnesota Statutes 1986, section 297A.26, subdivision 1, is amended to read:

Subdivision 1. The taxes imposed by sections 297A.01 to 297A.44 shall be due and payable to the commissioner monthly on or before the ~~25th~~ 20th day of the month next succeeding the month in which the taxable event occurred or succeeding such other reporting period as the commissioner may prescribe.

Sec. 28. Minnesota Statutes 1986, section 297A.27, subdivision 1, is amended to read:

Subdivision 1. Except as provided in section 297A.275, on or before the ~~25th~~ 20th day of each month in which taxes imposed by sections 297A.01 to 297A.44 are payable, a return for the preceding reporting period shall be filed with the commissioner in such form as the commissioner may prescribe, verified by a written declaration that it is made under the criminal penalties for willfully making a false return, and in addition shall contain a confession of judgment for the amount of the tax shown due thereon to the extent not timely paid. Any person making sales at retail at two or more places of business may file a consolidated return subject to such rules as the commissioner may prescribe.

Sec. 29. Minnesota Statutes 1986, section 297A.275, is amended to read:

**297A.275 [ACCELERATED PAYMENT OF JUNE LIABILITY.]**

Every vendor having a liability of \$1,500 or more in May ~~1982~~ 1988 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June ~~25~~ 20, ~~1982~~ 1988, or June ~~25~~ 20 of each subsequent year, the vendor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August ~~25~~ 20, ~~1982~~ 1988, or August ~~25~~ 20 of each subsequent year, the vendor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 30. Minnesota Statutes 1986, section 297A.39, subdivision 1, is amended to read:

Subdivision 1. [FAILURE TO PAY.] If any tax imposed by sections 297A.01 to 297A.44, or any portion thereof, is not paid within the time herein specified for the payment, or an extension thereof, or within 30 days after final determination of an appeal to the tax court relating thereto if the taxpayer is not required to pay the amount in dispute pending appeal under section 297A.391, there shall be added thereto a ~~specific~~ penalty equal to ~~ten~~ three percent of the amount remaining unpaid if the failure is for not more than 30 days, with an additional penalty of three percent of the amount of tax remaining unpaid during each additional 30 days or fraction thereof, not exceeding 24 percent in the aggregate.

Sec. 31. Minnesota Statutes 1986, section 297A.39, subdivision 2, is amended to read:

Subd. 2. [FAILURE TO FILE RETURNS.] In case of any failure to make and file a return within the time prescribed by sections 297A.01 to 297A.44 or an extension thereof, there shall be added to the tax in lieu of the ten percent specific penalty provided in subdivision 1 ten three percent of the amount of tax not paid on or before the date prescribed for payment of the tax if the failure is for not more than 30 days, with an additional five percent of the amount of tax remaining unpaid for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 23 percent in the aggregate. If the penalty as computed does not exceed \$10, a minimum penalty of \$10 shall be assessed. The amount so added to any tax under subdivisions 1 and 2 shall be collected at the same time and in the same manner and as a part of the tax and shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid, unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

Sec. 32. Minnesota Statutes 1986, section 297A.39, is amended by adding a subdivision to read:

Subd. 2a. [COMBINED PENALTIES.] Where penalties are imposed under subdivisions 1 and 2, the penalties imposed under both subdivisions combined shall not exceed 38 percent in the aggregate.

Sec. 33. Minnesota Statutes 1986, section 297A.39, subdivision 4, is amended to read:

Subd. 4. [PENALTIES; FAILURE TO FILE OR PAY.] In addition to any other penalties prescribed, any person who willfully fails to make a return or willfully makes a false return or willfully fails to pay over taxes imposed by this chapter collected for or on behalf of the state, or attempts in any manner to evade or defeat the taxes imposed by this chapter is guilty of a gross misdemeanor unless the amount of the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this subdivision includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act in respect to which the violation occurs. Notwithstanding the provisions of section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this subdivision, in the proper court within six years after the commission of the offense.

Sec. 34. Minnesota Statutes 1986, section 297B.10, is amended to read:

## 297B.10 [PENALTIES.]

(1) Any person, including persons other than the purchaser, who prepares, completes or submits a false or fraudulent motor vehicle purchaser's certificate with intent to defeat or evade the tax imposed under this chapter or any purchaser who fails to complete or submit a motor vehicle purchaser's certificate with intent to defeat or evade the tax or who attempts to defeat or evade the tax in any manner, is guilty of a gross misdemeanor unless the tax involved exceeds \$300, in which event the person is guilty of a felony. The term "person" as used in this section includes any officer or employee of a corporation or a member or employee of a partnership who as an officer, member or employee is under a duty to perform the act with respect to which the violation occurs. Notwithstanding the provisions of section 628.26 or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this section, in the proper court within six years after the commission of the offense.

(2) Any person who violates any of the provisions of this chapter, unless the violation be of the type referred to in clause (1), is guilty of a misdemeanor and shall be punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not less than 30 days, or both.

Sec. 35. Minnesota Statutes 1986, section 297D.02, is amended to read:

## 297D.02 [ADMINISTRATION.]

The commissioner of revenue shall administer this chapter. Payments required by this chapter must be made to the commissioner on the form provided by the commissioner. Dealers are not required to give their name, address, social security number, or other identifying information on the form. The commissioner shall collect all taxes under this chapter.

Sec. 36. Minnesota Statutes 1986, section 297D.07, is amended to read:

## 297D.07 [MEASUREMENT.]

For the purpose of calculating the tax under section 297D.08, an ounce a gram of marijuana or other controlled substance is measured by the weight of the substance in the dealer's possession. The weight of the marijuana or controlled substance includes all material, compound, mixture, or preparation that is added to the marijuana or controlled substance.

Sec. 37. Minnesota Statutes 1986, section 297D.09, is amended to read:

297D.09 [~~FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX PENALTIES; CRIMINAL PROVISIONS.~~]

Subdivision 1. [~~PENALTIES PENALTY.~~] Any dealer violating this chapter is subject to a penalty of 100 percent of the tax in addition to the tax imposed by section 297D.08. The penalty will be collected as part of the tax.

Subd. 1a. [~~CRIMINAL PENALTY; SALE WITHOUT AFFIXED STAMPS.~~] In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. [~~STATUTE OF LIMITATIONS.~~] Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed, or a complaint filed, upon any criminal offense specified in this section, in the proper court within six years after the commission of this offense.

Sec. 38. Minnesota Statutes 1986, section 297D.10, is amended to read:

297D.10 [STAMP PRICE.]

Official stamps, labels, or other indicia to be affixed to all marijuana or controlled substances shall be purchased from the department commissioner. The purchaser shall pay 100 percent of face value for each stamp, label, or other indicia at the time of the purchase. The department shall make the stamps, labels, or other indicia in denominations in multiples of ten dollars.

Sec. 39. Minnesota Statutes 1986, section 297D.12, subdivision 1, is amended to read:

Subdivision 1. [ASSESSMENT PROCEDURE.] An assessment for a dealer not possessing valid stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection, as provided in section 270.70. The commissioner shall assess a tax and applicable penalties based on personal knowledge or information available to the commissioner; mail the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax and penalty; demand its immediate payment; and, if payment is not immediately made, collect the tax

and penalty by any method prescribed in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. Section 270.70, subdivision 4, paragraph (a), does not apply to this chapter.

Sec. 40. Minnesota Statutes 1986, section 297D.13, is amended to read:

297D.13 [CONFIDENTIAL NATURE OF INFORMATION.]

Subdivision 1. [DISCLOSURE PROHIBITED.] Notwithstanding any law to the contrary, neither the commissioner nor a public employee may reveal facts contained in a report or return required by this chapter, or any information obtained from a dealer; nor can any information contained in such a report or return or obtained from a dealer be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under this chapter from the taxpayer dealer making the return.

Subd. 2. [PENALTY FOR DISCLOSURE.] Any person violating this section is guilty of a gross misdemeanor.

Subd. 3. [STATISTICS.] This section does not prohibit the commissioner from publishing statistics that do not disclose the identity of dealers or the contents of particular returns or reports.

Sec. 41. [INSTRUCTIONS TO REVISOR.]

The revisor of statutes shall renumber section 297A.151 of Minnesota Statutes as section 270.73. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

The revisor of statutes shall renumber section 290.53, subdivision 3, of Minnesota Statutes as section 290.53, subdivision 3a; and section 290.53, subdivision 3a, of Minnesota Statutes as section 290.53, subdivision 3. The revisor shall correct any internal references or cross references accordingly.

Sec. 42. [REPEALER.]

(a) Minnesota Statutes 1986, section 270.75, subdivision 8, is repealed.

(b) Minnesota Statutes 1986, section 297A.26, subdivision 3, is repealed.

Sec. 43. [EFFECTIVE DATE.]

Sections 1, 3, 5, 6, 7, 15, 16, 17, 20, 24, 25, 26, 33, 34, 35, 36, 39, 40, subdivision 1, and 41 are effective the day after final enactment. Section 2, subdivision 1, is effective the day after final enactment. Section 2, subdivision 2, is effective for all applications for, or assignment of, identification numbers after June 30, 1987. Section 4 is effective for returns or payments due after December 31, 1987. Section 8 is effective for returns filed after June 30, 1987. Section 9 is effective for notifications received after June 30, 1987. Sections 10, 13, and 14 are effective for taxable years beginning after December 31, 1986. Section 11 is effective for taxable years beginning after December 31, 1985. Section 12 is effective for taxable years beginning after December 31, 1986, except the language in the first and second paragraphs relating to penalties where the return is filed more than 60 days late is effective as follows: the stricken language in the first paragraph of section 12 relating to delinquent filed refund returns is effective the day following final enactment; and the stricken second paragraph of section 12 is effective for taxable years beginning after December 31, 1985. Section 18 is effective for returns and payments becoming due after December 31, 1987, except that clause (12) is effective the day after final enactment. Section 19 is effective for applications received after June 30, 1987. Sections 21, 22, and 23 are effective for estates of decedents dying after June 30, 1987. Sections 27 to 32 and 42, paragraph (b), are effective for taxes and returns becoming due after December 31, 1987. Sections 37, 38, and 42, paragraph (a), are effective July 1, 1987.

## ARTICLE 12

### BOND ALLOCATION

Section 1. Minnesota Statutes 1986, section 474A.02, subdivision 1, is amended to read:

Subdivision 1. [TERMS DEFINED.] For the purposes of sections 474A.01 1 to 474A.21 40, the terms defined in this section shall have the following meanings: given them.

Sec. 2. Minnesota Statutes 1986, section 474A.02, subdivision 2, is amended to read:

Subd. 2. [ANNUAL VOLUME CAP.] "Annual volume cap" means the aggregate dollar amount of obligations bearing interest excluded from gross income for purposes of federal income taxation which, under the provisions of existing federal tax law or a federal volume limitation act, may be issued in one year by issuers.

Sec. 3. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 2a. [BONDING AUTHORITY.] "Bonding authority" means all or a portion of the annual volume cap.



Sec. 4. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 2b. [CARRYFORWARD.] "Carryforward" means the ability to issue obligations in a year subsequent to the year in which an allocation of bonding authority was obtained under sections 1 to 40 as provided in section 146(f) of federal tax law.

Sec. 5. Minnesota Statutes 1986, section 474A.02, subdivision 3, is amended to read:

Subd. 3. [CERTIFICATE OF ALLOCATION.] "Certificate of allocation" means a certificate provided to an issuer by the department under section 474A.13, subdivision 1.

Sec. 6. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 5a. [COMMISSIONER.] "Commissioner" means the commissioner of energy and economic development.

Sec. 7. Minnesota Statutes 1986, section 474A.02, subdivision 6, is amended to read:

Subd. 6. [DEPARTMENT; DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT.] "Department" or "department of energy and economic development" means the department of energy and economic development or its successor agency or agencies with respect to the duties that the department is to perform under sections 474A.01 to 474A.21.

Sec. 8. Minnesota Statutes 1986, section 474A.02, subdivision 7, is amended to read:

Subd. 7. [ENTITLEMENT ISSUER.] "Entitlement issuer" means an issuer to which an allocation is made under section 474A.04, 474A.08, or 474A.09 section 23, subdivision 2a; and section 41, subdivision 1, clause (a), and subdivision 2.

Sec. 9. Minnesota Statutes 1986, section 474A.02, subdivision 8, is amended to read:

Subd. 8. [EXISTING FEDERAL TAX LAW.] "Existing Federal tax law" means those provisions of the Internal Revenue Code of 1954 1986, as amended through December 31, 1985, that limit the aggregate amount of obligations of a specified type or types which may be issued by an issuer during a calendar year whose interest is exempt from inclusion in excluded from gross income for purposes of federal income taxation.

Sec. 10. Minnesota Statutes 1986, section 474A.02, subdivision 12, is amended to read:

Subd. 12. [ISSUER.] "Issuer" means any entitlement issuer, state issuer, or other issuer.

Sec. 11. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 13a. [MANUFACTURING POOL.] "Manufacturing pool" means the amount of the annual volume cap allocated under section 27, that is available for the issuance of small issue bonds to finance manufacturing projects.

Sec. 12. Minnesota Statutes 1986, section 474A.02, subdivision 14, is amended to read:

Subd. 14. [MANUFACTURING PROJECT.] "Manufacturing project" means ~~properties, real or personal, used in connection with a revenue producing enterprise in connection with assembling, fabricating, manufacturing, mixing, or processing any products of agriculture, forestry, mining, or manufacture. Properties used for storing, warehousing, or distributing qualify under this definition (1) if they are used as part of or in connection with an assembly, fabricating, manufacturing, mixing, or processing facility, or (2) if they are used for the storing of agricultural products and are located outside of the metropolitan area, as defined in section 473.121, subdivision 2. Manufacturing project includes properties, real or personal, used in connection with research and development activity to develop or improve products, production processes, or materials. For purposes of this subdivision, "a product of manufacture" includes information and directions which dictate the functions to be performed by data processing equipment, commonly called computer software, regardless of whether they are embodied in or recorded on tangible personal property. A project qualifies as a manufacturing project only if 75 percent of the proceeds of the proposed obligations will be used for construction, acquisition, installation, or addition of properties described in this subdivision any facility which is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.~~

Sec. 13. Minnesota Statutes 1986, section 474A.02, subdivision 16, is amended to read:

Subd. 16. [MULTIFAMILY HOUSING PROJECT POOL.] "Multi-family housing project pool" means a development defined in section 462C.02, subdivision 5, for which the applicable housing plan and program approval requirements of chapter 462C have been met the amount of the annual volume cap allocated under section 27, which is available for the issuance of residential rental project bonds.

Sec. 14. Minnesota Statutes 1986, section 474A.02, subdivision 18, is amended to read:

Subd. 18. [NOTICE OF ENTITLEMENT ALLOCATION.] "Notice of entitlement allocation" means a notice provided to an entitlement issuer under section ~~474A.04, subdivision 5, or 474A.08~~ 474.04, subdivision 2 5.

Sec. 15. Minnesota Statutes 1986, section 474A.02, subdivision 19, is amended to read:

Subd. 19. [OTHER ISSUER.] "Other issuer" means ~~any an~~ an entity other than an entitlement issuer or state issuer which may issue obligations subject to an annual volume cap, including ~~but not limited to~~ the University of Minnesota, ~~any a~~ a city, ~~any town,~~ any federally recognized American Indian tribe or subdivision thereof located in Minnesota, ~~any~~ a housing and redevelopment authority referred to in chapter 462, or ~~any a~~ a body authorized to exercise the powers of a housing and redevelopment authority, ~~any a~~ a port authority referred to in chapter 458, or ~~any a~~ a body authorized to exercise the powers of a port authority, an economic development authority referred to in chapter 458C, an area or municipal redevelopment agency referred to in chapter 472, any a county, or ~~any other~~ any other municipal authority or agency established ~~pursuant to~~ under special law, or any an entity issuing on behalf of the foregoing.

Sec. 16. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 20a. [PERMANENTLY ISSUED.] Obligations are "permanently issued" if either (1) the obligations have been issued under terms and conditions such that the proceeds are available for the purpose for which they were issued, or (2) ten percent of the proceeds of the obligations, excluding costs of issuance, have been disbursed for the purpose for which they were issued.

Sec. 17. Minnesota Statutes 1986, section 474A.02, subdivision 21, is amended to read:

Subd. 21. [PRELIMINARY RESOLUTION.] "Preliminary resolution" means a resolution adopted by the governing body or board of the issuer, or in the case of the iron range resources and rehabilitation board by the commissioner. The resolution must express a preliminary intention of the issuer to issue obligations for a specific project ~~and must~~ identify the proposed project, and disclose the proposed amount of the obligations qualified bonds to be issued. Preliminary resolutions for mortgage bonds and student loan bonds need not identify a specific project.

Sec. 18. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 22a. [PUBLIC FACILITIES POOL.] "Public facilities pool" means the amount of the annual volume cap allocated under section 27, which is available for the issuance of public facility bonds or student loan bonds.

Sec. 19. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 23a. [QUALIFIED BONDS.] "Qualified bonds" means the specific type or types of obligations that are subject to the annual volume cap. Qualified bonds include the following types of obligations as defined in federal tax law:

(a) "public facility bonds" means "exempt facility bonds" as defined in federal tax law, except for residential rental project bonds, which are those obligations issued to finance airports, docks and wharves, mass commuting facilities, facilities for the furnishing of water, sewage facilities, solid waste disposal facilities, facilities for the local furnishing of electric energy or gas, local district heating or cooling facilities, and qualified hazardous waste facilities;

(b) "residential rental project bonds" which are those obligations issued to finance qualified residential rental projects;

(c) "mortgage bonds";

(d) "small issue bonds" issued to finance manufacturing projects;

(e) "student loan bonds";

(f) "redevelopment bonds"; and

(g) "governmental bonds" with a nonqualified amount in excess of \$15,000,000 as set forth in section 141(b)5 of federal tax law.

Sec. 20. Minnesota Statutes 1986, section 474A.02, subdivision 26, is amended to read:

Subd. 26. [STATE ISSUER.] "State issuer" means the state of Minnesota; the commissioner of iron range resources and rehabilitation board; or other agency, department, board, or commission of the state, which that is authorized to issue obligations and has statewide jurisdiction.

Sec. 21. Minnesota Statutes 1986, section 474A.02, is amended by adding a subdivision to read:

Subd. 26a. [UNIFIED POOL.] "Unified pool" means the amount of the annual volume cap allocated under section 29 that is available for the issuance of qualified bonds.

Sec. 22. Minnesota Statutes 1986, section 474A.03, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL VOLUME CAP UNDER EXISTING FEDERAL TAX LAW; POOL ALLOCATIONS.] At the beginning of each calendar year after December 31, 1987, the department commissioner shall determine the aggregate dollar amount of the annual volume cap under existing federal tax law for the calendar year, and of this amount the department commissioner shall determine make the following amounts allocation:

(1) the amount that is allocated to entitlement issuers under section 474A.04 \$74,000,000 to the manufacturing pool;

(2) the amount initially available for allocation through the pool under section 474A.05, which is the annual volume cap determined under this subdivision less the amount determined under clause (1) \$30,000,000 to the multifamily housing pool; and

(3) the amount available for issuance of qualified mortgage bonds under section 474A.07 \$21,000,000 to the public facilities pool; and

(4) amounts to be allocated as provided in section 23, subdivision 2a.

If the annual volume cap is greater or less than the amount of bonding authority allocated under clauses (1) to (4), the allocation must be adjusted so that each adjusted allocation is the same percentage of the annual volume cap as each original allocation is of the total bonding authority originally allocated.

Sec. 23. Minnesota Statutes 1986, section 474A.03, is amended by adding a subdivision to read:

Subd. 2a. [ENTITLEMENT ISSUER ALLOCATION.] (a) The commissioner shall make the following allocation to the Minnesota housing finance agency and the following cities:

(1) \$50,000,000 per year to the Minnesota housing finance agency, less any amount received in the previous year under section 29, subdivision 6;

(2) \$20,000,000 per year to the city of Minneapolis;

(3) \$15,000,000 per year to the city of Saint Paul; and

(4) \$3,000,000 to each of the cities of the first class located outside of the metropolitan area as defined in section 473.121, subdivision 2, or an amount equal to the amount of mortgage bonds or residential rental project bonds that each city permanently issued in the

previous calendar year, whichever amount is less. If a city is eligible to receive an entitlement allocation under this clause, the amount of the allocation is deducted from the allocations made under clauses (1), (2), and (3) in proportion to the total amount of allocations made in clauses (1), (2), and (3).

(b) Allocations provided under this subdivision must be used for mortgage bonds, mortgage credit certificates, or residential rental project bonds, except that entitlement cities may also use their allocations for public facility bonds.

Sec. 24. Minnesota Statutes 1986, section 474A.04, is amended by adding a subdivision to read:

Subd. 1a. [ENTITLEMENT RESERVATIONS; CARRYFORWARD; DEDUCTION.] An entitlement issuer may retain any unused portion of its entitlement allocation after the first Monday in September if it has submitted to the department before the first Monday in September a letter stating its intent to issue obligations pursuant to its entitlement allocation before the end of the calendar year or within the time permitted under federal tax law. Except as provided in section 41, subdivision 2, paragraph (a), any amount returned by an entitlement issuer before the last Monday in October shall be reallocated through the multifamily housing pool. Any amount returned on or after the last Monday in October shall be reallocated under section 29. Beginning with entitlement allocations received in 1987 under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraphs (2) and (3), there shall be deducted from an entitlement issuer's allocation for the subsequent year an amount equal to the entitlement allocation under which bonds are either not issued or carried forward under federal tax law. Except for the Minnesota housing finance agency, any amount of bonding authority that an entitlement issuer carries forward under federal tax law that is not permanently issued by the end of the succeeding calendar year shall be deducted from the entitlement allocation for that entitlement issuer for the next succeeding calendar year. Any amount deducted from an entitlement issuer's allocation under this subdivision shall be divided equally for allocation through the manufacturing pool and the multifamily housing pool.

Sec. 25. Minnesota Statutes 1986, section 474A.04, subdivision 5, is amended to read:

Subd. 5. [NOTICE OF ENTITLEMENT ALLOCATION.] As soon as possible in each calendar year, the department commissioner shall provide to each entitlement issuer a written notice of the amount of its entitlement allocation under this section.

Sec. 26. Minnesota Statutes 1986, section 474A.04, subdivision 6, is amended to read:

Subd. 6. [ENTITLEMENT TRANSFERS.] An entitlement issuer may enter into an agreement with another entitlement issuer whereby the recipient entitlement issuer issues obligations pursuant to issuance bonding authority allocated to the original entitlement issuer under this section.

Sec. 27. [474A.061] [ALLOCATION OF MANUFACTURING, MULTIFAMILY HOUSING, AND PUBLIC FACILITIES POOLS.]

Subdivision 1. [APPLICATION.] An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department, accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of one percent of the requested allocation before the last Monday in August, or in the amount of two percent of the requested allocation on or after the last Monday in August. An entitlement issuer may not apply for an allocation from the multifamily housing pool or from the public facilities pool unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount of bonding authority carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

Subd. 2. [ALLOCATION PROCEDURE.] From the beginning of the calendar year until the last Monday in October, the commissioner shall allocate available bonding authority under this section on Monday of each week to applications received on or before the Monday of the preceding week.

(a) If there are two or more applications for residential rental project bonds from the multifamily housing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 28, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(b) If there are two or more applications for manufacturing projects from the manufacturing pool and there is insufficient bonding authority to provide allocations for all projects in any one week after all eligible bonding authority has been transferred as provided in section 28, the available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

(c) If there are two or more applications for public facility bonds from the public facilities pool and there is insufficient bonding authority to provide allocations for all projects in any one week, the

available bonding authority shall be awarded by lot unless otherwise agreed to by the respective issuers.

If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by a certificate of allocation.

Subd. 3. [ADDITIONAL DEPOSIT.] An issuer which has received an allocation under this section may retain any unused portion of the allocation after the first Monday in September only if the issuer has submitted to the department before the first Monday in September a letter stating its intent to issue obligations pursuant to the allocation before the end of the calendar year or within the time period permitted by federal tax law and a deposit in addition to that provided under subdivision 1, equal to one percent of the amount of allocation to be retained.

Subd. 4. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year or within the time period permitted by federal tax law, the issuer must notify the department. If the issuer notifies the department prior to the last Monday in October, the amount of allocation returned must be reallocated through the pool from which it was originally allocated. If the issuer notifies the department on or after the last Monday in October, the amount of allocation returned must be reallocated through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section shall receive within 30 days a refund of its application deposit equal to:

(1) one-half of the amount on deposit for the amount of bonding authority returned before the first Monday in December;

(2) one-fourth of the amount on deposit for the amount of bonding authority returned on or after the first Monday in December and before the third Monday in December; and

(3) one-eighth of the amount on deposit for the amount of bonding authority returned on or after the third Monday in December and before the last Monday in December.

No refund shall be available for allocations returned on or after the last Monday in December.



Subd. 5. [HIGHER EDUCATION COORDINATING BOARD ALLOCATION.] The higher education coordinating board must receive an allocation of bonding authority at the beginning of the calendar year from the public facilities pool of an amount up to \$20,000,000 per year, less any amount carried forward from the previous year for the issuance of student loan bonds. The amount of any allocation received under this subdivision, when added to the allocation received under section 29, subdivision 6, in the previous year, must not exceed \$20,000,000. The higher education coordinating board shall be treated as an entitlement issuer under section 474A.04, subdivision 1a.

Subd. 6. [DEADLINE FOR ISSUANCE OF SMALL ISSUE BONDS.] If an issuer fails to notify the department before the last Monday in December of issuance of obligations pursuant to an allocation received for a manufacturing project, the allocation is canceled and the bonding authority is allocated to the department of finance for reallocation under section 29, subdivision 6.

Sec. 28. [474A.081] [POOL TRANSFERS.]

Subdivision 1. [AUTHORITY TO TRANSFER BONDING AUTHORITY.] If there is insufficient bonding authority in either the manufacturing pool or the multifamily housing pool to provide allocations for applications received in any one week, additional bonding authority for small issue bonds and residential rental project bonds may be obtained under this section.

Subd. 2. [TRANSFER LIMITS.] No transfer of bonding authority may be made from any pool for qualified bonds not eligible to receive allocations from that pool (i) prior to June 30, or (ii) if, on June 30, allocations of bonding authority have been made from that pool equal to or exceeding 50 percent of the annual volume cap originally allocated to that pool. For 1987, the amount considered originally allocated to each of the pools shall be \$80,000,000 for the manufacturing pool and \$60,000,000 for the multifamily housing pool.

Subd. 3. [TRANSFER FROM MINNESOTA HOUSING FINANCE AGENCY ALLOCATION.] If there is insufficient bonding authority to provide allocations for all applications for residential rental projects in any one week from the multifamily housing pool, up to \$15,000,000 per year must be transferred to the multifamily housing pool from the Minnesota housing finance agency's entitlement allocation. This deduction must be made prior to transferring bonding authority to the multifamily housing pool as provided in subdivision 4.

Subd. 4. [POOL TRANSFERS.] If there is insufficient bonding authority to provide allocations for all small issue bonds or residential rental project bonds in any one week, applications for small issue bonds may receive bonding authority from the multifamily

housing pool or applications for residential rental project bonds may receive bonding authority from the manufacturing pool, except as provided in subdivision 2. If bonding authority is transferred from one pool to the other pool, applications for small issue bonds must receive priority for allocations from the manufacturing pool, and applications for residential rental project bonds must receive priority for allocations from the multifamily housing pool.

Sec. 29. [474A.091] [ALLOCATION OF UNIFIED POOL.]

Subdivision 1. [UNIFIED POOL AMOUNT.] On the day after the last Monday in October any bonding authority remaining unallocated from the manufacturing pool, the multifamily housing pool, and the public facilities pool is transferred to the unified pool and must be reallocated as provided in this section.

Subd. 2. [APPLICATION.] An issuer may apply for an allocation under this section by submitting to the department an application on forms provided by the department accompanied by (1) a preliminary resolution, (2) a statement of bond counsel that the proposed issue of obligations requires an allocation under this chapter, (3) the type of qualified bonds to be issued, and (4) an application deposit in the amount of two percent of the requested allocation. An entitlement issuer may not apply for an allocation for public facility bonds, residential rental project bonds, or mortgage bonds under this section unless it has either permanently issued bonds equal to the amount of its entitlement allocation for the current year plus any amount carried forward from previous years or returned for reallocation all of its unused entitlement allocation. For purposes of this subdivision, its entitlement allocation includes an amount obtained under section 474A.04, subdivision 6.

Subd. 3. [ALLOCATION PROCEDURE.] The commissioner shall allocate available bonding authority under this section on the Monday of every other week beginning with the first Monday in November through and on the last Monday in December. Applications for allocations must be received by the department by the Monday preceding the Monday on which allocations are to be made. Allocations shall be awarded in the following order of priority:

- (1) applications for small issue bonds;
- (2) applications for residential rental project bonds;
- (3) applications for public facility bonds;
- (4) applications for redevelopment bonds;
- (5) applications for mortgage bonds; and

(6) applications for governmental bonds.

Allocations for mortgage bonds from the unified pool may not exceed:

(a) \$10,000,000 for any one city;

(b) \$20,000,000 for any number of cities in any one county; or

(c) 40 percent of the amount initially allocated to the unified pool.

An allocation for mortgage bonds may be used for mortgage credit certificates.

If there is insufficient bonding authority to fund all projects within any qualified bond category, allocations shall be awarded by lot unless otherwise agreed to by the respective issuers. If an application is rejected, the commissioner must notify the applicant and return the application deposit to the applicant within 30 days unless the applicant requests in writing that the application be resubmitted. The granting of an allocation of bonding authority under this section must be evidenced by issuance of a certificate of allocation.

Subd. 4. [MORTGAGE BOND SUNSET.] If federal tax law is not amended to permit the issuance of tax-exempt mortgage bonds after December 31, 1988, all remaining bonding authority available for allocation under this section on December 1, 1988, is allocated to the Minnesota housing finance agency, of which at least 50 percent must be reallocated to cities for the issuance of mortgage bonds. If an issuer that receives an allocation for mortgage bonds under this subdivision fails to notify the department of energy and economic development before the last Monday in December of issuance of obligations pursuant to all or a portion of the allocation, any remaining allocation pursuant to which obligations have not been issued is canceled and the bonding authority is allocated to the department of finance for reallocation under section 29, subdivision 6.

Subd. 5. [RETURN OF ALLOCATION; DEPOSIT REFUND.] (a) If an issuer that receives an allocation under this section determines that it will not issue obligations equal to all or a portion of the allocation received under this section by the end of the current year or within the time period permitted by federal tax law, the issuer must notify the department. If the issuer notifies the department prior to the last Monday in December, the amount of allocation returned must be reallocated through the unified pool.

(b) An issuer that returns for reallocation all or a portion of an allocation received under this section shall receive within 30 days a refund of its application deposit equal to:

(1) one-half of the amount on deposit for the amount of bonding authority returned before the first Monday in December;

(2) one-fourth of the amount on deposit for the amount of bonding authority returned on or after the first Monday in December and before the third Monday in December; and

(3) one-eighth of the amount on deposit for the amount of bonding authority returned on or after the third Monday in December and before the last Monday in December.

No refund of the application deposit shall be available for allocations returned on or after the last Monday in December.

Subd. 6. [FINAL ALLOCATION; CARRYFORWARD.] \$20,000,000 or any bonding authority remaining unallocated from the unified pool after the last Monday in December, whichever is less, is allocated to the higher education coordinating board. Any bonding authority remaining after the deduction for the higher education coordinating board allocation is allocated to the department of finance for reallocation for qualified bonds eligible to be carried forward under federal tax law.

Sec. 30. Minnesota Statutes 1986, section 474A.13, subdivision 1, is amended to read:

Subdivision 1. [ISSUANCE OF CERTIFICATE OF ALLOCATION.] The department shall issue a certificate of allocation for any allocation granted under section 474A.11 sections 27 and 29, except as provided in subdivision 4 section 31.

Sec. 31. Minnesota Statutes 1986, section 474A.13, subdivision 4, is amended to read:

Subd. 4. [LIMITATIONS ON THE ISSUANCE OF CERTIFICATES.] No certificate of allocation may be granted under a federal volume limitation act under any of the following circumstances:

(1) tax law for the amount of the allocation requested, when the amount requested added to (i) the aggregate amount of certificates of allocation issued and not expired; (ii) amounts remaining available to be allocated pursuant to section 474A.11; and (iii) entitlement authority allocated pursuant to section 474A.08 and not returned pursuant to section 474A.10, subdivision 3, for reallocation would cause the governmental annual volume cap to be exceeded. If two or more applications for a certificate of allocation are filed with

the department on the same day and there is insufficient issuance authority for the applications, certificates shall be issued first for applications made pursuant to subdivision 2 and thereafter for applications made pursuant to subdivision 1; or

(2) the principal amount of the proposed allocation exceeds \$25,000,000 unless the issuer is the Minnesota housing finance agency or the Minnesota higher education coordinating board, or unless the issue is a pooled or joint issue or any issue of a joint powers board, provided that for joint or pooled issues or issues of a joint powers board the aggregate amount of the issue cannot exceed \$100,000,000.

Sec. 32. Minnesota Statutes 1986, section 474A.13, subdivision 5, is amended to read:

Subd. 5. [CERTIFICATES ARE NOT TRANSFERABLE.] Certificates of allocation are not transferable. An issuer that receives an allocation of issuance bonding authority pursuant to sections 474A.01 1 to 474A.21 40 to finance a project within the boundaries of the issuer may allow another issuer to issue obligations pursuant to the issuance authority allocation received only if the boundaries of the other issuer are coterminous with the boundaries of the issuer that received the authority allocation.

Sec. 33. [474A.131] [NOTICE OF ISSUE AND NOTICE OF CARRYFORWARD.]

Subdivision 1. [NOTICE OF ISSUE.] Each issuer that issues bonds with an allocation received under this chapter shall provide a notice of issue to the department on forms provided by the department stating:

- (1) the date of issuance of the bonds;
- (2) the title of the issue;
- (3) the principal amount of the bonds;
- (4) the type of qualified bonds under federal tax law; and
- (5) the dollar amount of the bonds issued that were subject to the annual volume cap.

For obligations that are issued as a part of a series of obligations, a notice must be provided for each series. Any issue of obligations for which a notice of issue is not provided to the department within five days after issuance is deemed not to have received an allocation under this law or under federal tax law. Within 30 days after receipt of a notice of issue the department shall refund a portion of the

application deposit equal to one percent of the amount of the bonding authority actually issued if a one percent application deposit was made, or equal to two percent of the amount of the bonding authority actually issued if a two percent application deposit was made.

Subd. 2. [CARRYFORWARD NOTICE.] If an issuer intends to carry forward an allocation received under this chapter it must notify the department before the last Monday of December. If the notice of carryforward is not provided within the time required, one-quarter of the amount of the deposit eligible for refund upon filing of the notice of issue under this section is forfeited.

Sec. 34. Minnesota Statutes 1986, section 474A.14, is amended to read:

474A.14 [NOTICE OF AVAILABLE AUTHORITY.]

The department shall publish in the State Register at least twice monthly, a notice of the amount of issuance bonding authority, if any, available for allocation pursuant to sections 474A.05, 474A.11, 27 and 474A.12 29.

Sec. 35. Minnesota Statutes 1986, section 474A.15, is amended to read:

474A.15 [STATE HELD HARMLESS.]

The state is not liable in any manner to any issuer, holder of obligations, or other person for carrying out the duties imposed on it under sections 474A.01 1 to 474A.21 40.

Sec. 36. Minnesota Statutes 1986, section 474A.16, is amended to read:

474A.16 [EXCLUSIVE METHOD OF ALLOCATION.]

Sections 474A.01 1 to 474A.21 40 shall be the exclusive method for allocating authority to issue obligations for the purposes of complying with the volume limitation of a federal volume limitation act and existing federal tax law. An issuer of obligations may elect to obtain an allocation of authority under either existing federal tax law, a federal volume limitation act, or both.

Sec. 37. Minnesota Statutes 1986, section 474A.17, is amended to read:

474A.17 [ADMINISTRATIVE PROCEDURE ACT NOT APPLICABLE.]

Minnesota Statutes, chapter 14, shall not apply to actions taken by any state agency, or entity, or the governor under sections 474A.01 1 to 474A.21 40.

Sec. 38. Minnesota Statutes 1986, section 474A.18, is amended to read:

474A.18 [~~PROSPECTIVE OVERRIDE OF FEDERAL VOLUME LIMITATION ACT TAX LAW.~~]

Sections 474A.01 1 to 474A.21 prospectively 40 override and replace the method of allocating the authority to issue obligations among uses and among issuers as provided in a section 146 of federal volume limitation act tax law to the extent allowed by a federal volume limitation act tax law.

Sec. 39. Minnesota Statutes 1986, section 474A.20, is amended to read:

474A.20 [STATE CERTIFICATION.]

The commissioner of the department is designated as the state official to provide any preissuance or postissuance certification required by a federal volume limitation act tax law.

Sec. 40. Minnesota Statutes 1986, section 474A.21, is amended to read:

474A.21 [APPROPRIATION; RECEIPTS.]

Any fees collected by the department under sections 474A.01 1 to 474A.21 40 must be deposited in the general fund. The amount necessary to refund application deposits is appropriated to the department from the general fund for that purpose.

Sec. 41. [ALLOCATION FOR REMAINDER OF 1987.]

Subdivision 1. [MINNESOTA HOUSING FINANCE AGENCY AND POOL ALLOCATION.] For the purposes of this section, the terms defined in sections 1 to 21 have the meanings given them in sections 1 to 21. The commissioner shall allocate the annual volume cap for the remainder of 1987 on the day following final enactment as follows:

(a) \$60,000,000 is allocated to the Minnesota housing finance agency less any amount that was allocated to the Minnesota housing finance agency from the department of finance in 1987 under Minnesota Statutes 1986, section 474A.09. This amount is available only for the issuance of mortgage bonds or residential rental project bonds.

(b) \$80,000,000 is allocated to the manufacturing pool, less the sum of (1) the amount of allocations for small issue bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11, and (2) any amount that was allocated for small issue bonds by the department of finance in 1987 under Minnesota Statutes 1986, section 474A.09. Any allocations that were made for small issue bonds under Minnesota Statutes 1986, sections 474A.09 and 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the manufacturing pool.

(c) \$60,000,000 is allocated to the multifamily housing pool, less the amount of allocations for residential rental project bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11. Any allocations that were made for residential project bonds under Minnesota Statutes 1986, section 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the multifamily housing pool.

(d) \$31,190,380 is allocated to the public facilities pool, less the amount of allocations for public facility bonds made from and not returned to the pool established under Minnesota Statutes 1986, section 474A.11. Any allocations that were made for public facility bonds under Minnesota Statutes 1986, section 474A.11, returned on or subsequent to the date of enactment must be made available for reallocation through the public facilities pool. Applications from the Minnesota public facilities authority must receive priority for allocations from the public facilities pool in any given week.

If the amount of bonding authority allocated under subdivision 3 when added to the allocation for public facility bonds made from and not returned to the pool under Minnesota Statutes, section 474A.11 exceeds \$31,190,380, the excess must be deducted from the allocation under paragraph (c) and be allocated to the public facilities pool.

Subd. 2. [1987 ENTITLEMENT CITY ALLOCATIONS.] (a) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations shall be treated as entitlement allocations for the purpose of section 24 and any allocations returned must be reallocated through the manufacturing pool. If there is insufficient bonding authority in the manufacturing pool to provide allocations to all eligible projects on any Monday prior to the last Monday in October 1987, after all eligible bonding authority has been transferred to the manufacturing pool as provided in section 28, additional bonding authority must be transferred to the manufacturing pool for allocation on the subsequent Monday from the entitlement city allocations as provided in this subdivision. Each city must transfer bonding authority to the



manufacturing pool from its remaining bonding authority in an amount equal to the percentage of the allocation that the city received under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), in relation to the total amount of allocations made under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2), multiplied by the amount necessary to provide allocations to all manufacturing projects on the subsequent Monday. No city is required to transfer more bonding authority under this subdivision than the amount of the city's allocation under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (2). For any week that a city transfers bonding authority to the manufacturing pool, that city shall receive a priority for allocations from the manufacturing pool up to the amount of bonding authority transferred by that city.

(b) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (3), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations shall be treated as entitlement allocations for the purpose of section 24 and any allocation returned must be reallocated through the multifamily housing pool.

(c) Cities that received entitlement allocations under Minnesota Statutes 1986, section 474A.08, subdivision 1, paragraph (5), may retain those allocations for issuance of mortgage bonds, residential rental project bonds, or public facility bonds. These allocations must be treated as entitlement allocations for the purpose of section 24 and any allocations returned must be reallocated through the multifamily housing pool.

Subd. 3. [HIGHER EDUCATION COORDINATING BOARD ALLOCATION.] The higher education coordinating board shall receive an allocation from the public facilities pool of an amount up to \$20,000,000 less the sum of (1) the amount carried forward from 1986, and (2) any amount allocated to it under Minnesota Statutes 1986, section 474A.09. The higher education coordinating board shall be treated as an entitlement issuer under section 24.

Subd. 4. [APPLICATION OF OTHER LAW.] The provisions of sections 32, 35, 36, 37, 38 and 40 apply to the allocations made under this section.

#### Sec. 42. [ALLOCATION VALIDATION.]

All allocations made under Minnesota Statutes 1986, chapter 474A are validated and shall be governed by the provisions of sections 1 to 41.

#### Sec. 43. [REPEALER.]

Minnesota Statutes 1986, sections 474A.02, subdivisions 5, 9, 10, 11, 13, 15, 17, 20, 22, 23, 24, 25, 27, 28, and 29; 474A.03, subdivisions 2 and 3; 474A.04, subdivisions 1, 2, 3, and 4; 474A.05; 474A.06; 474A.07; 474A.08; 474A.09; 474A.10; 474A.11; 474A.12; 474A.13, subdivisions 2 and 3; and 474A.19 are repealed.

Laws 1981, chapter 222, section 6; and chapter 223, section 6, subdivision 3, are repealed.

Sec. 44. [EFFECTIVE DATE.]

Sections 1 to 43 are effective the day following final enactment.

## ARTICLE 13

### MISCELLANEOUS AND SPECIAL TAXES

Section 1. Minnesota Statutes 1986, section 239.10, is amended to read:

#### 239.10 [ANNUAL INSPECTION.]

The department shall charge a fee to the owner for the costs of the regular inspection of scales, weights, measures, and weighing or measuring devices. The cost of any other inspection must be paid by the owner if the inspection is performed at the owner's request or if the inspection is made at the request of some other person and the scale, weight, measure, or weighing or measuring device is found to be incorrect. The department may fix the fees and expenses for regular inspections and special services by rule pursuant to section 16A.128, except that no additional fee may be charged for retail petroleum pumps, petroleum vehicle meters, and petroleum bulk meters that dispense petroleum products for which the petroleum inspection fee required by section ~~296.13~~ 4 is collected. Money collected by the department for its regular inspections, special services, fees, and penalties must be paid into the state treasury and credited to the state general fund.

#### Sec. 2. [239.75] [INSPECTION OF PETROLEUM PRODUCTS.]

Subdivision 1. [INSPECTION TO BE MADE.] The department of public service shall make inspection of petroleum products wherever processed, held, stored, or offered for sale or used, and shall secure samples periodically from importations in their original containers to determine their specifications when tested by the methods of the American Society for Testing Materials. Upon the request of the department of public service, a person holding, storing, offering for sale, or using petroleum products shall permit the department of public service to take for testing free samples, not to exceed 32

ounces each, of the products when necessary for the purposes of this chapter. The department of public service shall test samples of petroleum products received and submitted by any licensed distributor and shall inform the distributor of the results of the tests.

Subd. 2. [WHEN NOT MEETING SPECIFICATIONS.] A record of the inspection shall be made. Any material not meeting the specifications under section 3 shall be sealed in the container from which the sample was secured or placed in separate storage under seal until a method of its disposition has been approved by the department of public service.

Subd. 3. [CALIBRATION OR GAUGE CHARTS.] A person holding petroleum products in storage tanks for sale or for use as special fuel shall maintain a calibration or gauge chart for each tank.

Subd. 4. [ENTRY UPON PREMISES.] The department of public service may enter into or upon the premises of a distributor, bulk purchaser, or dealer of petroleum products to inspect the receptacles in which the products are stored. A distributor, bulk purchaser, or dealer shall keep the receptacles free from impurities. If the receptacles are found to contain impurities, they must be sealed until a method of disposition of the material has been approved by the department of public service.

Sec. 3. [239.76] [SPECIFICATIONS OF PETROLEUM PRODUCTS.]

Subdivision 1. [GASOLINE.] No gasoline shall be sold for use in motor vehicles unless it is free from water, suspended matter, and impurities, and it conforms to the requirements in section 296.01, subdivision 3.

Subd. 2. [FUEL OIL; DIESEL FUEL; KEROSENE.] No fuel oil, diesel fuel, or kerosene shall be sold unless it conforms to section 296.01, subdivision 4, 4a, or 4b.

Subd. 3. [TESTS, HOW MADE.] Tests must be made by the weights and measures division of the department of public service in accordance with the methods outlined in the American Society for Testing Materials specifications numbered D-396, D-439, D-910, D-975, and D-3699.

Subd. 4. [RESULTS OF TEST SUPPLIED BY SHIPPER TO DISTRIBUTOR.] Upon request of a licensed distributor, the shipper shall, at the time of shipment, supply the licensed distributor with the results of tests of the petroleum product shipped to the distributor at destination in Minnesota.

Subd. 5. [AVIATION GASOLINE.] No aviation gasoline shall be received, sold, stored, or withdrawn from storage in this state unless it conforms to the specifications set forth in American Society for Testing Materials specification number D-910.

Subd. 6. [SALES OF CERTAIN PETROLEUM PRODUCTS ON GROSS VOLUME BASIS.] The sale of gasoline, number one and number two diesel oils, and number one and number two fuel oils and kerosene from a supplier's terminal rack through retail on any other basis than gross volume is prohibited.

Subd. 7. [ALCOHOL-BLENDED FUELS; DISCLOSURE.] A manufacturer, hauler, blender, agent, jobber, consignment agent, importer, or distributor who distributes gasoline containing alcohol shall state on an invoice, bill of lading, shipping paper, or other documentation used in normal and customary business practices, the percentages by volume and the types, if more than one percent, of alcohols contained in the gasoline; except if the gasoline is distributed to the ultimate consumer, such as a bulk delivery to a farmer, only the types of alcohol must be disclosed. In determining compliance with this subdivision, the weights and measures division of the department of public service shall allow a one percent tolerance above or below the percentage stated on the documentation.

#### Sec. 4. [239.78] [INSPECTION FEES.]

An inspection fee shall be charged on petroleum products when received by the distributor, and on petroleum products received and held for sale or use by any person when the petroleum products have not previously been received by a licensed distributor. The department shall adjust the inspection fee to recover the amount appropriated for petroleum product quality inspection expenses and the amount appropriated for the inspection and testing of petroleum product measuring devices as required by chapter 239. The department shall review and adjust the inspection fee as required by section 16A.128, except the review of the fee shall occur annually on or before January 1.

The commissioner of revenue shall credit the distributor for inspection fees previously paid in error or for any material exported or sold for export from the state upon filing of a report in a manner approved by the department. The commissioner of revenue is authorized to collect the inspection fees along with any taxes due under chapter 296.

#### Sec. 5. [239.79] [PETROLEUM PRODUCTS; REQUIREMENTS.]

Subdivision 1. [PRICES POSTED.] A gasoline pump in this state shall have the total sales price per gallon posted on the pump in a conspicuous manner.

Subd. 2. [GASOLINE-ALCOHOL BLENDS; IDENTIFICATION.] When gasoline blended with alcohol is sold, offered for sale, or dispensed for use in motor vehicles, the dispenser must be clearly marked to identify the type of alcohol, if more than one percent by volume, blended with the gasoline. The marking must consist of a white or yellow adhesive decal at least two inches by six inches with clearly printed black lettering at least one-half inch high and one-eighth inch in stroke. The marking must be conspicuously displayed on both sides of the dispenser and state that the gasoline "CONTAINS ETHANOL" or "CONTAINS METHANOL" or has been "ETHANOL ENRICHED." This subdivision does not prohibit the posting of other alcohol or additive information.

Sec. 6. [239.80] [VIOLATIONS; PENALTIES.]

Subdivision 1. [VIOLATIONS; ACTIONS OF DEPARTMENT.] The department, or any of its employees, shall condemn, seize, or destroy any petroleum products processed, held, stored, offered for sale, or used in violation of section 239.10, 239.76, 239.78, or 239.79. Storage tanks containing the petroleum products, and pumps attached to the storage tanks, must be marked in a manner to be prescribed by the department indicating a violation of this chapter. This marking must remain on the tank or pump and prevent sale or use of product contained in it until the petroleum product conforms with sections 239.10, 239.76, 239.78, and 239.79.

Subd. 2. [PENALTY.] Any person who fails to comply with any provision of section 239.10, 239.76, 239.78, or 239.79 is guilty of a misdemeanor.

Sec. 7. [270.058] [AUTHORITY TO PAY LOCAL TAXES; APPROPRIATION.]

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

Sec. 8. Minnesota Statutes 1986, section 270.074, subdivision 3, is amended to read:

Subd. 3. The flight property of every airline company shall be assessed at 33 $\frac{1}{3}$  70 percent of the value thereof apportioned to this state under subdivision 1, except that quiet aircraft shall be assessed at 40 percent of the value determined under subdivision 1. Quiet aircraft includes turbo-props and aircraft defined as stage III by the federal aeronautics administration. The commissioner may adopt rules qualifying other aircraft as quiet aircraft.

Sec. 9. Minnesota Statutes 1986, section 270.075, subdivision 1, is amended to read:

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 to generate revenues of \$6,719,000 from taxes levied in assessment year 1987 and payable in 1988 and revenues of \$7,122,000 from taxes levied in 1988 and payable in 1989. Thereafter the legislature shall annually establish the amount of revenue to be generated from a tax on~~ airflight property.

Sec. 10. Minnesota Statutes 1986, section 270.10, subdivision 4, is amended to read:

Subd. 4. [ORDERS ASSESSING PERSONAL LIABILITY.] The commissioner may, based upon information available to the commissioner and within the prescribed period of limitations for assessing the underlying tax, assess personal liability against any officer, director, or employee of a corporation, or a member or employee of a partnership, who as an officer, director, employee, or member, falls within the personal liability provisions of section 290.92, chapter 296, ~~or 297, 297A, 297C, or sections 349.212 and 349.2121~~, for taxes arising thereunder which are due and owing by that corporation or partnership. An order assessing personal liability under this subdivision shall be appealable to the tax court without payment of the tax, penalty, or interest in the manner provided by law, but an appeal shall not preclude the commissioner from exercising any collection action the commissioner deems necessary to preserve the interests of the state while the matter is pending.

Sec. 11. Minnesota Statutes 1986, section 287.05, subdivision 1, is amended to read:

Subdivision 1. A tax of ~~15~~ 20 cents is imposed upon each \$100, or fraction thereof, of the principal debt or obligation which is or may be secured by any mortgage of real property situated within the state executed, delivered, and recorded or registered; provided, however, that the tax shall be imposed but once upon any mortgage and extension thereof. If the mortgage describes real estate situated outside of this state, the tax shall be imposed upon that proportion of the whole debt secured thereby as the value of the real estate therein described situated in this state bears to the value of the whole of the real estate described therein. The tax imposed by this section shall not apply to a contract for the conveyance of real estate or any interest in real estate recorded or registered on or after January 1, 1984.

Sec. 12. Minnesota Statutes 1986, section 287.12, is amended to read:

287.12 [TAXES, HOW APPORTIONED.]

All taxes paid to the county treasurer under the provisions of sections 287.01 to 287.12 shall be credited to the county revenue fund.

On or before the tenth day of each month the county treasurer shall determine the receipts from the mortgage registration tax during the preceding month.

The treasurer shall report to the county welfare agency on or before the tenth day of each month ~~95~~ 85 percent of the receipts attributable to the statutory rate in section 287.05. That amount, in addition to ~~97~~ 85 percent of the amount determined under section 287.29, must be shown as a deduction from the report filed with the department of human services as required by section 256.82. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month.

Sec. 13. Minnesota Statutes 1986, section 287.21, subdivision 1, is amended to read:

Subdivision 1. There is hereby imposed on each deed, instrument, or writing by which any lands, tenements, or other realty in this state shall be granted, assigned, transferred or otherwise conveyed, a tax determined in the following manner. When transfers are made by instruments pursuant to mergers, consolidations, sales or transfers of substantially all of the assets of corporations pursuant to plans of reorganization or there is no consideration or when the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, is ~~\$1,000~~ \$500 or less, the tax shall be ~~\$2.20~~ \$1.55. When the consideration, exclusive of the value of any lien or encumbrance remaining thereon at the time of sale, exceeds ~~\$1,000~~ \$500, the tax shall be ~~\$2.20~~ \$1.55 plus ~~\$1.10~~ \$1.55 for each additional \$500 or fractional part of \$500 in excess of \$1,000 fraction of that amount.

The tax applies against the total consideration, including consideration for any personal property transferred as part of the total consideration, but excluding the value of any lien or encumbrance remaining on the property at the time of sale.

Sec. 14. Minnesota Statutes 1986, section 287.22, is amended to read:

287.22 [EXCEPTIONS.]

The tax imposed by section 287.21 shall not apply to:

A. Any executory contract for the sale of land under which the vendee is entitled to or does take possession thereof, or any assignment or cancellation thereof.

B. Any mortgage or any assignment, extension, partial release, or satisfaction thereof.

C. Any will.

D. Any plat.

E. Any lease.

F. Any deed, instrument, or writing in which the United States or any agency or instrumentality thereof or the state of Minnesota or any agency, instrumentality, or governmental or political subdivision thereof is the grantor, assignor, transferor, or conveyor; and any deed, instrument or writing in which any of such unit of government is the grantee, or assignee.

G. Deeds for cemetery lots.

H. Deeds of distribution by personal representatives.

I. Deeds to or from coowners partitioning undivided interests in the same piece of property.

Sec. 15. Minnesota Statutes 1986, section 287.25, is amended to read:

287.25 [PAYMENT OF TAX; STAMPS.]

The county board shall determine the method for collection of the tax imposed by section 287.21:

(1) The tax imposed by section 287.21 may be paid by the affixing of a documentary stamp or stamps in the amount of the tax to the document or instrument with respect to which the tax is paid, provided that the county board may permit the payment of the tax without the affixing of the documentary stamps and in such cases shall direct the treasurer to endorse a receipt for such tax upon the face of the document or instrument.

(2) ~~The tax imposed by section 287.21 may be paid in the manner prescribed by section 287.08 relating to payment of mortgage registration tax. The treasurer may endorse receipt on the deed. The receipt must be recorded with the deed. The receipt is conclusive proof that the tax has been paid and authorizes a county recorder to~~



record the deed. Its form, in substance, shall be "deed tax of ..... dollars paid." If the deeds are exempt from taxation, the endorsement shall be "exempt from deed tax," to be signed by the treasurer. If the treasurer cannot determine whether a claim of exemption should be allowed, the tax shall be paid to the court administrator of the district court of the county to abide the order of the court made upon motion of the county attorney, or of the claimant upon notice as required by the court. If the deed covers real property in more than one county in this state, the entire tax shall be paid to the treasurer of the county where the deed is first presented for record or registration, and the payment shall be receipted as provided in this section. The tax shall be divided and paid over by the county treasurer receiving it, on or before the tenth day of the month after its receipt, to the county or counties entitled to it in the ratio that the market value of the real property covered by the deed in each county bears to the market value of all the property described in the deed. In making the division and payment, the county treasurer shall send with it a statement giving the description of the property described in the deed and the market value of the part in each county. The treasurer of a county may require the treasurer of any other county to certify the market valuation of any tract of land in the deed.

Sec. 16. Minnesota Statutes 1986, section 287.29, subdivision 1, is amended to read:

Subdivision 1. On or before the tenth day of each month, the county treasurer shall determine and report to the county welfare agency the receipts attributable to the tax imposed during the preceding month. The report must accompany the report required in section 287.12. The receipts shall be deposited in the county treasury and credited to the county revenue fund. The treasurer shall report to the county welfare agency, on or before the tenth day of each month, 85 percent of the receipts attributable to statutory rate in section 287.21. The amount must be shown as a deduction from the report filed with the department of human services as required by section 256.82. The net receipts from the preceding month must be credited to the county welfare fund by the tenth day of each month. The treasurer shall report to the department of finance, on or before the tenth day of each month, the amount of receipts under this chapter for both the mortgage registry and deed taxes during the preceding month.

Sec. 17. [294.022] [PAYMENT OF TAX PENDING APPEAL.]

When a taxpayer appeals any liability assessed under this chapter to the tax court, and the amount in dispute is more than \$6,000, the entire amount of the tax, penalty, and interest assessed by the commissioner shall be paid when it is due unless permission to continue prosecution of the petition without payment is obtained as provided in this section. The petitioner, upon ten days notice to the

commissioner, may apply to the court for permission to continue prosecution of the petition without payment, and, if it is made to appear:

(1) that the proposed review is to be taken in good faith;

(2) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50 percent of the amount due; and

(3) that it would work a substantial hardship upon petitioner to pay the liability,  
the court may permit the petitioner to continue prosecution of the petition without payment or may fix a lesser amount to be paid as a condition of continuing the prosecution of the petition.

Failure to make payment of the amount required when due shall operate automatically to dismiss the petition and the proceedings under it unless the payment is waived by an order of the court permitting the petitioner to continue prosecution of the petition without payment.

Sec. 18. Minnesota Statutes 1986, section 295.01, subdivision 10, is amended to read:

Subd. 10. [TELEPHONE COMPANY.] The term "telephone company" as used in this chapter means any person, firm, association or corporation, excluding municipal telephone companies, owning or operating any telephone line or telephone exchange for hire wholly or partly within this state, including radio and other advancements in the art of telephony but excluding cellular radio, including sellers of telephone services but excluding resellers. "Resellers of telephone services" as used in this chapter means any person, firm, association, or corporation that:

(1) Resells telecommunications services purchased from telephone companies as defined in this chapter,

(2) Does not own, operate, manage, or control transmission facilities that have the technological capability to provide telecommunication services, and

(3) Incurs costs equal to at least 50 percent of its gross revenues for the telephone services purchased from telephone companies that own, operate, manage or control transmission facilities.

Sec. 19. Minnesota Statutes 1986, section 295.32, is amended to read:

295.32 [GROSS EARNINGS TAX; ANNUAL RETURN.]

Every telegraph company as defined in section 295.01, subdivision 9, shall file a return with the commissioner of revenue, in such form as the commissioner shall prescribe, containing a true and just report of its gross earnings derived from business within the state during the preceding calendar year, which return shall contain a computation of tax of six percent and make payment of the tax based upon the following percentages of such gross earnings:

for calendar years beginning before December 31, 1989, 6 percent,

for calendar year 1990, 4.5 percent,

for calendar year 1991, 3 percent,

for calendar year 1992, 1.5 percent, and

for calendar years beginning after December 31, 1992, exempt.

Such return and payment of the tax due therewith shall be submitted on or before March first of each year, and shall be in lieu of all ad valorem taxes upon the property of such company within the state for the year during which such gross earnings accrued. The provisions of chapter 294 and acts amendatory thereto, shall be applicable to such telegraph companies and to the returns and to the taxes submitted therewith by them.

Sec. 20. Minnesota Statutes 1986, section 295.34, subdivision 1, is amended to read:

Subdivision 1. Except as provided in subdivision 2 every telephone company shall file a return with the commissioner of revenue on or before April 15 of each year, and submit payment therewith, of the following percentages of its gross earnings, including long distance access charges, of the preceding calendar year derived from business within this state:

(a) for gross earnings from service to rural subscribers and from exchange business of all cities of the fourth class and statutory cities having a population of 10,000 or less

for calendar years beginning before December 31, ~~1986~~ 1989, 4 percent,

for calendar year ~~1987~~ 1990, 3 percent,

for calendar year ~~1988~~ 1991, 1.5 percent,

for calendar year ~~1989~~ 1992, 1 percent, and

for calendar years beginning after December 31, ~~1989~~ 1992, exempt; and

(b) for gross earnings derived from all other business

for calendar years beginning before December 31, ~~1986~~ 1989, 7 percent,

for calendar year ~~1987~~ 1990, 5.5 percent,

for calendar year ~~1988~~ 1991, 3 percent,

for calendar year ~~1989~~ 1992, 2.5 percent, and

for calendar years beginning after December 31, ~~1989~~ 1992, exempt.

Beginning January 1, 1986, A tax shall not be imposed on the gross earnings of a telephone company from business originating or terminating outside of Minnesota; except that the gross earnings tax shall be imposed on all long distance access charges allocable to interstate service received in payment from a telephone company before December 31, 1989.

The tax imposed is in lieu of all other taxes, except the taxes imposed by chapter 290, property taxes assessed beginning in ~~1987~~ 1990, payable in ~~1988~~ 1991, and sales and use taxes imposed as a result of ~~section 296.22, subdivision 13~~ chapter 297A. All money paid by a company for connecting fees and switching charges to any other company shall be reported as earnings by the company to which they are paid, ~~but shall not be deemed earnings of the collecting and paying company.~~ For the purposes of this section, the population of any statutory city shall be considered as that stated in the latest federal census.

Sec. 21. Minnesota Statutes 1986, section 295.39, is amended to read:

**295.39 [REPORTS FILED BY TRUST COMPANIES WITH COMMISSIONER OF REVENUE COUNTY TREASURER.]**

It shall be the duty of every trust company which is required to pay a tax of six percent of its gross earnings in lieu of taxes and assessments upon its capital stock and personal property pursuant to the provisions of section 295.37, on or before the first day of February, in each year, to make and file with the commissioner of revenue county treasurer of the county in which the trust has its principal place of business a report covering the preceding calendar year, verified by the oath of an officer of such company, setting forth correctly the full amount of the gross earnings of such company

during the preceding calendar year, and such other and further information as the ~~commissioner of revenue~~ county treasurer may require.

Sec. 22. Minnesota Statutes 1986, section 295.40, is amended to read:

295.40 [TAX DETERMINED.]

Upon receipt of such report the ~~commissioner of revenue~~ county treasurer shall determine therefrom and from such other information as the ~~commissioner~~ treasurer may possess or obtain the amount of tax due from such company; and, on or before the 15th day of February, the ~~commissioner of revenue~~ county treasurer shall certify the amount of the taxes found and determined to be due from such company to the treasurer of the county in which such trust company has its principal place of business.

Sec. 23. Minnesota Statutes 1986, section 295.41, is amended to read:

295.41 [FAILURE TO REPORT; PENALTY.]

If any company subject to sections 295.39 to 295.43 shall fail to make the report provided for in section 295.39, at the time and in the manner therein provided, there shall be added to the tax found and determined by the ~~commissioner of revenue~~ county treasurer to be due from such company a penalty equal to ten percent of the tax imposed, which shall be treated as a part thereof.

Sec. 24. Minnesota Statutes 1986, section 295.43, is amended to read:

295.43 [LIEN OF TAX.]

Gross earnings taxes imposed under and pursuant to the provisions of section 295.37, which become delinquent, shall be a lien upon all of the property of the company owning the same, and shall be collected at the same time and in the same manner that delinquent personal property taxes are collected.

Sec. 25. Minnesota Statutes 1986, section 296.02, subdivision 2, is amended to read:

Subd. 2. [GASOLINE TAX IMPOSED FOR AVIATION USE.] Subject to the provisions of section 296.18, subdivision 4, There is imposed an excise tax, at the rate of five cents one cent per gallon on all aviation gasoline received, sold, stored, or withdrawn from storage in this state. This tax is payable at the times, in the manner, and by persons specified in sections 296.01 to 296.27.

Sec. 26. Minnesota Statutes 1986, section 296.02, is amended by adding a subdivision to read:

Subd. 2a. [GASOLINE TAX IMPOSED FOR RAILROAD USE.] There is imposed an excise tax, at the rate of 17 cents per gallon on gasoline used in producing and generating power for propelling trains in this state. The tax imposed by this subdivision shall be credited to the general fund. The tax shall be computed by using the ratio of revenue ton miles of passengers, mail, express, and freight carried by the railroad within this state to the total number of revenue ton miles carried by the railroad within and without this state, times the total number of gallons of gasoline used both within and without this state during the filing period. The tax is payable at the times, in the manner, and by the persons specified in sections 296.01 to 296.27.

Sec. 27. Minnesota Statutes 1986, section 296.025, subdivision 2, is amended to read:

Subd. 2. [TAX IMPOSED FOR AVIATION USE.] There is hereby imposed an excise tax of the same rate one cent per gallon as the gasoline excise tax on all special fuel received, sold, stored or withdrawn from storage in this state, for use as substitutes for aviation gasoline and not otherwise taxed as gasoline.

Sec. 28. Minnesota Statutes 1986, section 296.025, is amended by adding a subdivision to read:

Subd. 2a. [TAX IMPOSED FOR RAILROAD USE.] There is imposed an excise tax of the same rate per gallon as the gasoline excise tax on special fuel used to propel trains in this state, and not otherwise taxed as gasoline. The tax shall be computed by using the same method as the gasoline excise tax and shall be payable at the times, in the manner, and by the persons specified in this chapter.

Sec. 29. Minnesota Statutes 1986, section 296.17, subdivision 3, is amended to read:

Subd. 3. [REFUNDS ON GASOLINE AND SPECIAL FUEL USED IN OTHER STATES.] Every person regularly or habitually operating motor vehicles upon the public highways of any other state or states and using in said motor vehicles gasoline or special fuel purchased or obtained in this state, shall be allowed a credit or refund equal to the tax on said gasoline or special fuel paid to this state on the gasoline or special fuel actually used in the other state or states. No credit or refund shall be allowed under this subdivision for taxes paid to any state which imposes a tax upon gasoline or special fuel purchased or obtained in this state and used on the highways of such other state, and which does not allow a similar credit or refund for the tax paid to this state on gasoline or special fuel purchased or acquired in such other state and used on the

highways of this state. Every person claiming a credit or refund under this subdivision shall file, ~~within 30 days after the tax to such other state, or states, is paid, a report in such form as may be prescribed by the commissioner, together with such proof of the payment of the tax, and of the fact that it was paid on gasoline or special fuel purchased or obtained within this state as the commissioner may require.~~ The claimant may file up to six months from the date the tax was paid to another state but any refund applied for after 30 days from date of payment shall be reduced by five percent for each 30-day period or portion thereof following the initial 30-day period a claim on a form prescribed by the commissioner or take the credit on a subsequent tax return within one year of the last day of the month following the end of the quarter when the overpayment occurred.

Sec. 30. Minnesota Statutes 1986, section 296.17, subdivision 7, is amended to read:

Subd. 7. [DEFINITIONS.] As used in subdivisions 7 to 22:

(a) "motor fuel" means a liquid, regardless of its composition or properties, used to propel a motor vehicle;

(b) "commercial motor vehicle" means a passenger vehicle that has seats for more than ~~nine~~ 20 passengers in addition to the driver, ~~a road tractor, a tractor truck, or a truck having more than two axles,~~ which is propelled by motor fuel, but does not include a motor vehicle while used in a ridesharing arrangement as defined in ~~section 169.01, subdivision 63~~ or a power unit that (1) has a gross weight in excess of 26,000 pounds, or (2) has three or more axles regardless of weight, or (3) when used in combination, the weight of the combination exceeds 26,000 pounds gross vehicle weight;

(c) "motor carrier" means a person who operates or causes to be operated a commercial motor vehicle on a highway in this state;

(d) "operation" means operation of commercial motor vehicles whether loaded or empty, whether for compensation or not for compensation, and whether owned by or leased to the motor carrier who operates them or causes them to be operated; and

(e) "highway" means the entire width between the boundary lines of every way publicly maintained when part of the highway is open for the public to travel on.

Sec. 31. Minnesota Statutes 1986, section 296.17, subdivision 11, is amended to read:

Subd. 11. [REPORTS.] Every motor carrier subject to the road tax shall, on or before the last day of April, July, October and January,

file with the commissioner such reports of operations during the previous three months as the commissioner may require and such other reports from time to time as the commissioner may deem necessary. The commissioner by rule may exempt from the quarterly reporting requirements of this section those motor carriers whose mileage is all or substantially all of and those motor carriers whose mileage is minimal within this state, or states with which Minnesota has reciprocity and require in such instances an annual affidavit attesting to the intrastate or substantially intrastate character of their operations, provided that the enforcement of subdivisions 7 to 22 is not adversely affected thereby and that the commissioner is satisfied that an equitable amount of motor fuel is purchased within this state by such carriers report reflecting the operations of the carrier during the previous year along with payment of any taxes due.

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

Sec. 32. Minnesota Statutes 1986, section 297.01, subdivision 2, is amended to read:

Subd. 2. "Cigarette" means any roll for smoking made wholly or in part of tobacco, ~~and encased in any~~ irrespective of size and shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco.

Sec. 33. Minnesota Statutes 1986, section 297.01, subdivision 4, is amended to read:

Subd. 4. "Person" means any individual, firm, trade association, company, partnership, joint stock company, joint adventure, corporation, trustee club, syndicate, agency, or receiver, or any legal representative of any of the foregoing engaged in the sale of cigarettes.

Sec. 34. Minnesota Statutes 1986, section 297.01, subdivision 7, is amended to read:

Subd. 7. "Distributor" means any and each of the following:

(1) Any person engaged in the business of selling cigarettes in this state who brings, or causes to be brought, into this state from without the state any packages of cigarettes for sale;

(2) Any person who makes, manufactures, or fabricates cigarettes in this state for sale in this state;



(3) Any person engaged in the business without this state who ships or transports cigarettes to retailers in this state, to be sold by those retailers;

(4) Any person who engages in this state in the business of selling packages of other states' stamped cigarettes which the person purchases unstamped into other states that were purchased from a licensee under sections 297.01 to 297.13.

Sec. 35. Minnesota Statutes 1986, section 297.01, subdivision 10, is amended to read:

Subd. 10. "Retailer" means any person engaged in this state in the business of selling cigarettes to ultimate consumers, or offering to sell, cigarettes at retail.

Sec. 36. Minnesota Statutes 1986, section 297.02, subdivision 1, is amended to read:

Subdivision 1. [RATES.] A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, ~~19.5 19 mills minus the tax, not more than eight mills, imposed by United States Code, title 26, section 5701, as amended,~~ on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, ~~39.8 38 mills minus the tax, not more than 16.8 mills, imposed by United States Code, title 26, section 5701, as amended,~~ on each such cigarette.

Sec. 37. Minnesota Statutes 1986, section 297.02, subdivision 6, is amended to read:

Subd. 6. [SALES BY STATE.] The state of Minnesota or any of its agencies, instrumentalities, or governmental subdivisions ~~except institutions under the control and management of the commissioner of corrections~~ shall be subject to the tax imposed by this chapter on all cigarettes sold, in the same manner as distributors, if such unit is engaged in the purchase and sale of cigarettes.

Sec. 38. Minnesota Statutes 1986, section 297.03, subdivision 1, is amended to read:

Subdivision 1. [STAMP PUT ON BY DISTRIBUTOR; ~~EXCEPTION.~~] Except as otherwise provided in this section payment of the

tax imposed by section 297.02 shall be evidenced by stamps affixed to each package. Before delivering, or causing to be delivered, any package to any person in this state, ~~other than a licensed distributor;~~ every distributor shall firmly affix to each package of cigarettes stamps in amounts equal to the tax on those cigarettes as provided for in section 297.02.

Sec. 39. Minnesota Statutes 1986, section 297.03, subdivision 5, is amended to read:

Subd. 5. [SALE OF STAMPS.] ~~(a) Except as provided in paragraph (b),~~ The commissioner shall sell stamps to any person licensed as a distributor at a discount of ~~two~~ 1.25 percent from the face amount of the stamps for the first ~~\$1,000,000~~ \$1,500,000 of such stamps purchased in any fiscal year; and at a discount of ~~1.25~~ .75 percent on the remainder of such stamps purchased in any fiscal year. The commissioner shall not sell stamps to any other person.

~~(b) If the tax exceeds 12.5 mills a cigarette, the discount is 1.5 percent from the face amount of the stamps for the first \$1,000,000 of the stamps purchased in a fiscal year and one percent for additional stamps purchased during the fiscal year.~~

The commissioner may prescribe the method of shipment of the stamps to the distributor as well as the quantities of stamps purchased.

Sec. 40. Minnesota Statutes 1986, section 297.03, subdivision 6, is amended to read:

Subd. 6. [TAX METER MACHINES.] (1) Before January 1, 1989 1990, the commissioner may authorize any person licensed as a distributor to stamp packages with a tax meter machine, approved by the commissioner, which shall be provided by the distributor. The commissioner may provide for the use of such a machine by the distributor, supervise and check its operation, provide for the payment of the tax on any package so stamped, subject to the discount provided in subdivision 5, and in that connection require the furnishing of a corporate surety bond, check guarantee bond, or certified check in a suitable amount to guarantee the payment of the tax.

(2) Before January 1, 1989 1990, the commissioner may authorize, and after December 31, 1988 1989, the commissioner shall require any person licensed as a distributor to stamp packages with a heat-applied tax stamping machine, approved by the commissioner, which shall be provided by the distributor. The commissioner shall supervise and check the operation of the machines and shall provide for the payment of the tax on any package so stamped, subject to the discount provided in subdivision 5. The commissioner may sell heat-applied stamps on a credit basis under conditions prescribed by

the commissioner, and in that connection require the furnishing of a corporate surety bond, check guarantee bond, or certified check in an amount suitable to guarantee payment of the tax stamps so purchased by a distributor. The stamps shall be sold by the commissioner at a price which includes the tax after giving effect to the discount provided in subdivision 5. The commissioner shall recover the actual costs of the stamps from the distributor.

(3) If the commissioner finds that a stamping machine is not printing or affixing a legible stamp on the package, the commissioner may order the distributor to immediately cease the stamping process until the machine is functioning properly.

Sec. 41. Minnesota Statutes 1986, section 297.04, subdivision 4, is amended to read:

Subd. 4. [DISTRIBUTOR'S APPLICATION; FEE, BOND; CERTIFIED CHECK; SUBJOBBER'S LICENSE.] (a) Except as otherwise provided in ~~clause~~ paragraph (b), each application for a distributor's license shall be accompanied by a fee of \$150 and a corporate surety bond issued by a surety licensed to do business in this state in the sum of \$1,000, conditioned upon the true and faithful compliance by the licensee with all of the provisions of this act. This bond, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license. A separate application for license shall be made for each place of business at which a distributor proposes to engage in business as such under sections 297.01 to 297.13, provided that a separate application for a subjobber's license may be made by a licensed distributor for each place of business (other than that licensed in the distributor's license) to which the distributor delivers and from which the distributor sells or distributes stamped cigarettes.

Each application for a subjobber's license shall be accompanied by a fee of \$12.

A distributor or subjobber applying for a license between July 1 and December 31 of any year shall be required to pay only one-half of the license fee provided for herein.

(b) Each application for a distributor's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$75 and the corporate surety bond prescribed by clause (a). Each application for a subjobber's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$6. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. In lieu of the bond required in paragraph (a), a certified check made payable to the commissioner may be filed with the commissioner. The department of revenue shall not pay interest on funds encumbered by the check.

Sec. 42. Minnesota Statutes 1986, section 297.04, subdivision 6, is amended to read:

Subd. 6. [EXPIRATION.] Each license issued for any period subsequent to June 30, 1971, shall expire on December 31 following its date of issue unless sooner revoked by the commissioner or unless the business with respect to which the license was issued is transferred. In either case the holder of the license shall immediately surrender it to the commissioner.

Sec. 43. Minnesota Statutes 1986, section 297.04, subdivision 9, is amended to read:

Subd. 9. [REVOCATION.] The commissioner may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of sections 297.01 to 297.13, or any other act applicable to the sale of cigarettes, or any rule promulgated by the commissioner, and may also revoke any such license or licenses of any distributor or subjobber for the violation of sections 297.31 to 297.39, or any other act applicable to the sale of tobacco products, or any rule promulgated by the commissioner in furtherance of sections 297.31 to 297.39. The commissioner may revoke, cancel, or suspend the license or licenses of any distributor or subjobber for violation of sections 325D.31 to 325D.42.

No license shall be revoked, canceled, or suspended except after notice and a hearing by the commissioner as provided in section 297.09.

Sec. 44. Minnesota Statutes 1986, section 297.07, subdivision 1, is amended to read:

Subdivision 1. [MONTHLY RETURN FILED WITH COMMISSIONER.] On or before the 25<sup>th</sup> 15<sup>th</sup> day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity of cigarettes manufactured or brought in from without the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. Every licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 45. Minnesota Statutes 1986, section 297.07, subdivision 3, is amended to read:

Subd. 3. [DEALER MAY PROTEST; HEARING.] If, within ~~20~~ 30 days after mailing of notice of the ~~proposed~~ assessment, the distributor or a legal representative shall file a protest to said ~~proposed~~ assessment and request a hearing thereon, the commissioner shall give notice to that distributor or legal representative of the time and place fixed for the hearing, shall hold a hearing in conformity with the provisions of sections 297.01 to 297.13, and pursuant thereto shall issue a final assessment to the distributor or legal representative for the amount found to be due as a result of the hearing. This hearing shall be held within 45 days after filing of the protest. If a protest is not filed within the time herein prescribed, the commissioner shall issue a final assessment to the distributor or legal representative, as such. Any tax due and owing after a final assessment order has been issued to the distributor or legal representative of such distributor shall be paid within 60 days. The tax due must be paid within 60 days after the mailing date of the assessment notice.

Sec. 46. Minnesota Statutes 1986, section 297.07, subdivision 4, is amended to read:

Subd. 4. [MONTHLY ACCELERATED TAX PAYMENTS PAYMENT; PENALTY FOR NONPAYMENT.] (a) Except as provided in paragraph (b), all taxes shall be due and payable not later than the twenty-fifth day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate specified in section 270.75. The commissioner in issuing the final assessment pursuant to subdivision 3 shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, on finding that the distributor has made a false and fraudulent return with intent to evade the tax imposed by sections 297.01 to 297.13, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If any such tax is not paid within the time herein specified for the payment thereof or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay such tax within the time provided for such payment be less than \$10. The commissioner is authorized to extend the time for paying such tax without penalty for good cause shown.

(b) Every distributor having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25, 1987, or June 25 of each subsequent year, the distributor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before ~~August 25~~ July 15, 1987, or ~~August 25~~ July 15 of each subsequent year, the distributor shall submit a return showing the

actual June liability and paying any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 47. Minnesota Statutes 1986, section 297.07, subdivision 5, is amended to read:

Subd. 5. ~~[RECOVERY BY COMMISSIONER OFFSET.] The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of such a tax, interest, or penalty shall not be a bar to any prosecution under sections 297.01 to 297.13. Upon audit, if a distributor's return reflects an overpayment, the overpayment may only be offset against an additional tax liability for the month immediately preceding or immediately after the month of overpayment.~~

Sec. 48. Minnesota Statutes 1986, section 297.11, subdivision 3, is amended to read:

Subd. 3. ~~[PACKAGES STAMPED, EXCEPTION.] No distributor shall sell a package of cigarettes not stamped in accordance with the provisions of sections 297.01 to 297.13, except when the sale is made by the distributor to another distributor licensed under sections 297.01 to 297.13 or when the sale is made under such circumstances that the tax imposed by sections 297.01 to 297.13 may not legally be levied because of the constitution or laws of the United States.~~

Sec. 49. Minnesota Statutes 1986, section 297.11, subdivision 5, is amended to read:

Subd. 5. ~~[TRANSPORTING UNSTAMPED PACKAGES.] No person shall transport into, or receive, carry, or move from place to place in this state, any packages of cigarettes not stamped in accordance with the provisions of this act except in the course of interstate commerce, unless the cigarettes are moving from a public warehouse to a distributor upon orders from the manufacturer or distributor or from one distributor to another. This subdivision shall not apply to a person carrying for personal use not more than 200 cigarettes when those cigarettes have had the individual packages or seals thereof broken and are intended for personal use by that person and not to be sold or offered for sale.~~

Common carriers transporting cigarettes into this state shall file with the commissioner reports of all such shipments other than those which are delivered to public warehouses of first destination in this state which are licensed under the provisions of chapter 231. Such reports shall be filed monthly on or before the 10th day of each

month and shall show with respect to deliveries made in the preceding month: the date, point of origin, point of delivery, name of consignee, the quantity of cigarettes delivered and such other information as the commissioner may require.

All common carriers transporting cigarettes into Minnesota shall permit examination by the commissioner of their records relating to the shipment of cigarettes.

Any person who fails or refuses to transmit to the commissioner the required reports or whoever refuses to permit the examination of the records by the commissioner shall be guilty of a misdemeanor.

Sec. 50. Minnesota Statutes 1986, section 297.23, subdivision 1, is amended to read:

Subdivision 1. On or before the ~~25th~~ 15th day of each calendar month, every consumer who during the preceding calendar month has acquired title to or possession of cigarettes for use or storage in this state, upon which cigarettes the tax imposed by sections 297.01 to 297.13 has not been paid, shall file a return with the commissioner showing the quantity of cigarettes so acquired. The return shall be made upon a form furnished and prescribed by the commissioner, and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 51. Minnesota Statutes 1986, section 297.31, subdivision 2, is amended to read:

Subd. 2. (a) "Tobacco products" means cigars; little cigars as defined herein; cheroots; stogies; periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff; snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking; but shall not include cigarettes as defined in section 297.01, subdivision 2.

(b) "Little cigar" means any roll for smoking, made wholly or in part of tobacco, which has a factory list price not exceeding \$12 per thousand, irrespective of size or shape and irrespective of whether the tobacco is flavored, adulterated or mixed with any other ingredient, where such roll has a wrapper or cover made wholly or in part of tobacco, and where such roll weighs not more than three pounds per thousand.

Sec. 52. Minnesota Statutes 1986, section 297.31, subdivision 3, is amended to read:

Subd. 3. "Person" means any individual, firm, trade association, company, partnership, joint stock company, joint adventure, corporation, trustee, club, syndicate, agency, or receiver, or any legal representative of any of the foregoing engaged in the sale of tobacco.

Sec. 53. Minnesota Statutes 1986, section 297.31, subdivision 7, is amended to read:

Subd. 7. "Retailer" means any person engaged in this state in the business of selling tobacco products to ultimate consumers, or offering to sell, tobacco at retail.

Sec. 54. Minnesota Statutes 1986, section 297.32, subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of 25 35 percent of the wholesale sales price of such tobacco products except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes weighing not more than three pounds per thousand subject to the discount provided in section 297.35, subdivision 1. Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco products for sale; (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Sec. 55. Minnesota Statutes 1986, section 297.32, subdivision 2, is amended to read:

Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of 25 35 percent of the cost of such tobacco products, except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes weighing not more than three pounds per thousand.

The tax imposed by this subdivision shall not apply if the tax imposed by subdivision 1 on such tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

1. not more than 50 cigars;
2. not more than ten oz. snuff or snuff powder;



3. not more than one lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 56. Minnesota Statutes 1986, section 297.32, subdivision 8, is amended to read:

Subd. 8. The state of Minnesota or any of its agencies, instrumentalities, or governmental subdivisions ~~except institutions under the control and management of the commissioner of corrections~~ shall be subject to the tax imposed by sections 297.32 to 297.39 in the same manner as distributors, if such unit is engaged in the purchase and sale of tobacco products.

Sec. 57. Minnesota Statutes 1986, section 297.33, subdivision 4, is amended to read:

Subd. 4. (a) Except as otherwise provided in ~~clause~~ paragraph (b), each application for a distributor's license shall be accompanied by a fee of \$37.50. The application shall also be accompanied by a corporate surety bond issued by a surety licensed to do business in this state, in the sum of \$1,000, conditioned upon the true and faithful compliance by the distributor with all the provisions of sections 297.31 to 297.39 and the payment when due of all taxes, penalties and accrued interest arising in the ordinary course of business or by reason of any delinquent money which may be due the state of Minnesota. This bond shall be in a form to be fixed by the commissioner and approved by the attorney general. Whenever it is the opinion of the commissioner that the bond given by a licensee is inadequate in amount to fully protect the state, the commissioner shall require either an increase in the amount of said bond or additional bond, in such amount as the commissioner deems sufficient. Any bond required by this subdivision, or a reissue thereof, or a substitute therefor, shall be kept in full force and effect during the entire period covered by the license.

A separate application for license shall be made for each place of business at which a distributor proposes to engage in business as such under sections 297.31 to 297.39. A separate application for a subjobber's license may be made by a licensed distributor for each place of business, other than that licensed in the distributor's license, to which the distributor sells or distributes tobacco products upon which the tax imposed by this chapter has been imposed to other than the ultimate consumer.

(b) ~~Each application for a distributor's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$18.75 and the corporate surety bond prescribed by clause (a) of this subdivision. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. In lieu of the bond required in paragraph (a), a certified check may be filed with the commissioner.~~

The check must be made payable to the commissioner and in an amount to be established by the commissioner or the commissioner's designee but not less than twice the average monthly liability of the taxpayer. The department of revenue shall pay no interest on funds encumbered by the check.

Sec. 58. Minnesota Statutes 1986, section 297.33, subdivision 5, is amended to read:

Subd. 5. (a) ~~Except as otherwise provided in clause (b),~~ Each application for a subjobber's license shall be accompanied by a fee of \$10.

(b) ~~Each application for a subjobber's license for the period beginning July 1, 1971 shall be accompanied by a fee of \$5. Each license issued for the period beginning July 1, 1971 shall expire on December 31, 1971. All licenses expire on December 31 of the year they were issued.~~

Sec. 59. Minnesota Statutes 1986, section 297.35, subdivision 1, is amended to read:

Subdivision 1. On or before the ~~twenty-fifth~~ 15th day of each calendar month every distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product (1) brought, or caused to be brought, into this state for sale; and (2) made, manufactured or fabricated in this state for sale in this state, during the preceding calendar month. Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns shall be made upon forms furnished and prescribed by the commissioner and shall contain such other information as the commissioner may require. Each return shall be accompanied by a remittance for the full tax liability shown therein, less two percent of such liability as compensation to reimburse the distributor for expenses incurred in the administration of sections 297.31 to 297.39.

Sec. 60. Minnesota Statutes 1986, section 297.35, subdivision 3, is amended to read:

Subd. 3. If, within 20 30 days after mailing of notice of the ~~proposed~~ assessment, the taxpayer or a legal representative shall file a protest to said ~~proposed~~ assessment and request a hearing thereon, the commissioner shall give notice to that taxpayer or legal representative of the time and place fixed for the hearing, shall hold a hearing on such protest, ~~and shall issue a final assessment to the taxpayer or legal representative for the amount found to be due as a result of the hearing.~~ This hearing shall be held within 45 days after

filing of the protest. If a protest is not filed within the time herein prescribed, the commissioner shall issue a final assessment to the taxpayer or legal representative, as such. Any tax due and owing after a final an assessment order has been issued to the distributor or legal representative of such distributor shall be paid within 60 days. Any such assessment made by the commissioner shall be prima facie correct and valid, and the taxpayer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

Sec. 61. Minnesota Statutes 1986, section 297.35, subdivision 5, is amended to read:

Subd. 5. (a) Except as provided in paragraph (b), all taxes shall be due and payable not later than the 25th day of the month following the calendar month in which they were incurred, and thereafter shall bear interest at the rate specified in section 270.75. If any tax required to be paid under the provisions of this section is not paid within the time herein specified, a penalty of five percent of the unpaid tax remaining each month up to a maximum of 25 percent is herein imposed but in no event shall the penalty for failing to pay such tax within the time so provided be less than \$10. The commissioner of revenue is authorized to extend the time for paying such tax without penalty for good cause shown.

Where, under the provisions of subdivisions 2 and 3, the amount of tax due for a given period is assessed without allocating it to any particular month or months, the interest shall commence to run from the date of such assessment.

The commissioner shall have power to reduce or abate the penalty or interest when in the commissioner's opinion the facts warrant such reduction or abatement. The exercise of this power shall be subject to the provisions of chapter 270 if the reduction or abatement exceeds \$500.

(b) Every distributor having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25, 1987, or June 25 of each subsequent year, the distributor shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before ~~August 25~~ July 15, 1987, or ~~August 25~~ July 15 of each subsequent year, the distributor shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty is not imposed if the amount

remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 62. Minnesota Statutes 1986, section 297.35, subdivision 8, is amended to read:

Subd. 8. On or before the ~~twenty-fifth~~ 15th day of each calendar month, every consumer who, during the preceding calendar month, has acquired title to or possession of tobacco products for use or storage in this state, upon which tobacco products the tax imposed by section 297.32 has not been paid, shall file a return with the commissioner showing the quantity of tobacco products so acquired. The return shall be made upon a form furnished and prescribed by the commissioner, and shall contain such other information as the commissioner may require. The return shall be accompanied by a remittance for the full unpaid tax liability shown by it.

Sec. 63. Minnesota Statutes 1986, section 297.36, is amended to read:

#### 297.36 [REFUNDS, CREDITS.]

Where tobacco products upon which the tax imposed by sections 297.31 to 297.39 has been reported and paid, are shipped or transported by the distributor to consumers, to be consumed without the state, or to retailers or subjobbers without the state, to be sold by those retailers, or subjobbers without the state, or are returned to the manufacturer by the distributor or destroyed by the distributor, refund of such tax or credit may be made to the distributor in accordance with rules prescribed by the commissioner. Any overpayment of the tax imposed under section 297.32 may be made to the taxpayer in accordance with rules prescribed by the commissioner. The commissioner of finance shall cause any such refund of tax to be paid out of the general fund, and so much of said fund as may be necessary is hereby appropriated for that purpose. Any claims for refund must be filed within three years from the due date of the return for which the refund is claimed.

#### Sec. 64. [297.41] [PERSONAL DEBT; LIEN.]

The tax imposed by sections 297.01 to 297.40, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

## Sec. 65. [297.42] [FAILURE TO FILE RETURN.]

If a person required by chapter 297 to file a return fails to do so within the time prescribed, or makes, willfully or otherwise, an incorrect, false, or fraudulent return, the person shall, upon written notice and demand, immediately file the return, or corrected return, and at the same time pay any tax due on the basis of it. If the person fails to file the return or corrected return, the commissioner shall make a return, or corrected return, for the person from the commissioner's own knowledge and from information that the commissioner can obtain through testimony, or otherwise, and assess a tax on the basis of it. The tax (less any payments previously made on account of the tax for the taxable period covered by such return) must be paid immediately upon written notice and demand. A return or assessment made by the commissioner is prima facie correct and valid, and the person shall have the burden of establishing its incorrectness or invalidity in an action or proceeding in respect to it.

## Sec. 66. [297.43] [PENALTIES.]

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by chapter 297, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 33, there shall be added to the tax a specific penalty equal to ten percent of the amount remaining unpaid.

Subd. 2. [PENALTY FOR FAILURE TO FILE.] If a person fails to make and file a return within the time required under sections 297.07, 297.23, and 297.35, there shall be added to the tax in lieu of the ten percent specific penalty under subdivision 1, a penalty, as follows: ten percent, if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during which the failure continues, not exceeding 25 percent in the aggregate. If the penalty does not exceed \$10, a minimum penalty of \$10 shall be assessed. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax. If the tax has been paid before the discovery of the negligence, the amount added shall be collected in the same manner as the tax.

Subd. 3. [WILLFUL FAILURE; FRAUD.] If a person willfully fails to file a return or make a payment required by chapter 297, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of the false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the

tax, and is in addition to any other penalties, civil and criminal, provided by this section.

Subd. 4. [ORDER PAYMENTS CREDITED.] All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 5. [INTEREST.] The amount of tax not timely paid, together with any penalty imposed in this section, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.

Subd. 6. [EXTENSION OF TIME.] The commissioner may extend the time for filing returns and remittance of tax, deficiencies, and penalties for not more than 60 days. The commissioner may require that a tentative return be filed at the time fixed for filing the regularly required return and that payment of the tax be made with it on the basis of the tentative return.

When an extension of time for payment has been granted under this section, interest shall be payable at the rate provided in section 270.75 from the date when the payment should have been made, if no extension had been granted, until the tax is paid.

Subd. 7. [CIVIL ACTION.] The commissioner may recover the amount of any tax due and unpaid, interest, and any penalty in a civil action. The collection of the tax, interest, or penalty is not a bar to any prosecution under chapter 297.

Subd. 8. [NEGLIGENCE; INTENTIONAL DISREGARD OF LAW OR RULES.] If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of the tax together with this amount shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

#### Sec. 67. [297.44] [PAYMENT OF TAX PENDING APPEAL.]

When a taxpayer appeals a liability assessed under this chapter to the tax court, and the amount in dispute is more than \$6,000, the entire amount of the tax, penalty, and interest assessed by the commissioner must be paid at the time it is due, unless permission to continue prosecution of the appeal without payment is obtained under this section. The appellant, upon ten days' notice to the commissioner, may apply to the court for permission to continue

prosecution of the appeal without payment; and if it is made to appear:

- (1) that the proposed review is to be taken in good faith;
- (2) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50 percent of the amount due; and
- (3) that it would work a substantial hardship upon appellant to pay the liability,  
the court may permit the appellant to continue prosecution of the appeal without payment, or may fix a lesser amount to be paid as a condition of continuing the prosecution of the appeal.

Failure to make payment of the amount required when due shall operate automatically to dismiss the appeal and all proceedings under the appeal, unless the payment is waived by an order of the court permitting the appellant to continue prosecution of the appeal without payment.

Sec. 68. Minnesota Statutes 1986, section 297C.03, subdivision 1, is amended to read:

Subdivision 1. [MANNER AND TIME OF PAYMENT; PENALTIES; DEPOSIT OF TAX PROCEEDS.] The tax on wines and distilled spirits on which the excise tax has not been previously paid must be paid to the commissioner by persons having on file with the commissioner a sufficient bond as provided in subdivision 4 on or before the 25th 15th day of the month following the month in which the first sale is made in this state by a licensed manufacturer or wholesaler. Every person liable for the tax on wines or distilled spirits imposed by section 297C.02 must file with the commissioner on or before the 25th 15th day of the month following first sale in this state by a licensed manufacturer or wholesaler a return in the form prescribed by ~~rule~~ of the commissioner, and must keep records and render reports required by ~~rule~~ of the commissioner. A person liable for any tax on wines or distilled spirits not having on file a sufficient bond must pay the tax within 24 hours after first sale in this state. The commissioner may certify to the commissioner of public safety any failure to pay taxes when due as a violation of a statute relating to the sale of intoxicating liquor for possible revocation or suspension of license.

If a person fails to pay the tax within the time specified or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there is added a penalty equal to ten percent of the remaining unpaid amount. The penalty must be collected as part of the tax. The amount of tax not timely paid, together with the penalty, must bear interest at the rate specified in section 270.75 from the time the tax should have been paid until it is paid.

Sec. 69. Minnesota Statutes 1986, section 297C.03, is amended by adding a subdivision to read:

Subd. 4a. [CERTIFIED CHECK.] In lieu of the bond required in subdivision 4, a certified check may be filed with the commissioner. The check must be payable to the commissioner in an amount to be established by the commissioner or the commissioner's designee but not to exceed twice the average monthly liability of the taxpayer. The department of revenue shall not pay interest on funds encumbered by the check.

Sec. 70. Minnesota Statutes 1986, section 297C.04, is amended to read:

#### 297C.04 [PAYMENT OF TAX; MALT LIQUOR.]

The commissioner ~~shall~~ may by rule provide a reporting method for paying and collecting the excise tax on fermented malt beverages. The rules must require reports to be filed with and the excise tax to be paid to the commissioner on or before the ~~25th~~ 15th day of the month following the month in which the importation into or the first sale is made in this state, whichever first occurs. The rules must also require payments in June of 1987 and subsequent years according to the provisions of section 297C.05, subdivision 2, paragraph (b). If the excise tax is not paid when due, the amount due is increased by a penalty of ten percent thereof, and interest on the tax and penalty at an annual rate of 20 percent, adjusted as provided in section 270.75, from the date the tax became due until paid.

Sec. 71. Minnesota Statutes 1986, section 297C.05, subdivision 2, is amended to read:

Subd. 2. [MONTHLY ACCELERATED TAX PAYMENTS; PENALTY FOR NONPAYMENT PAYMENT.] (a) Subject to paragraph (b), all taxes shall be due and payable as directed in this chapter, and taxes not paid shall bear interest at the rate specified in section 270.75. The commissioner in issuing a final assessment shall add to the amount of tax found due and unpaid a penalty of ten percent thereof, except that, if the commissioner finds that the taxpayer has made a false and fraudulent return with intent to evade the tax imposed by this chapter, the penalty shall be 25 percent of the entire tax as shown by the corrected return. If the tax is not paid within the time herein specified for the payment thereof or within 30 days after final determination of an appeal to the Minnesota tax court relating thereto, there shall be added thereto a specific penalty equal to ten percent of the amount so remaining unpaid, but in no event shall the penalty for failure to pay the tax within the time provided for payment be less than \$10. The commissioner may extend the time for paying the tax without penalty for good cause shown.



(b) Every person liable for tax under this chapter having a liability of \$1,500 or more in May 1987 or in May of each subsequent year, shall remit the June liability in the manner required by this section.

On or before June 25, 1987, or June 25 of each subsequent year, the taxpayer shall remit the actual May liability and one-half of the estimated June liability to the commissioner and file the return on a form prescribed by the commissioner.

On or before August 25 15, 1987, or August 25 15 of each subsequent year, the taxpayer shall submit a return showing the actual June liability and paying any additional amount of tax not remitted in June. A penalty is hereby imposed equal to ten percent of the amount of June liability required to be paid in June less the amount remitted in June. However, the penalty shall not be imposed if the amount remitted in June equals the lesser of (a) 45 percent of the actual June liability, or (b) 50 percent of the preceding May's liability.

Sec. 72. Minnesota Statutes 1986, section 297C.06, is amended to read:

#### 297C.06 [REFUNDS.]

The commissioner may refund to a taxpayer the amount of tax paid under this chapter on intoxicating liquor or malt liquor which becomes unfit for human consumption and is destroyed under an order by a federal, state, or local agency while being held for sale by a licensed retailer. Refunds shall be made only if satisfactory proof is presented to the commissioner by the taxpayer and the licensed retailer that the retailer was not indemnified by insurance for the tax. The commissioner may prescribe the method of proof required for obtaining the refund. Any destruction must meet the requirements of the environmental laws of this state.

The commissioner may refund to a taxpayer the amount of tax paid under this chapter for the breakage of inventory not subject to reimbursement from any insurance proceeds. The method of proof for obtaining the refund will be prescribed by the commissioner.

The commissioner may refund any overpayment of tax imposed under section 297C.02 provided that the claim for refund is filed within three years from the due date of the return for which the refund is claimed. The refund of tax shall be paid out of the general fund and amounts necessary to pay the refunds are appropriated out of the general fund.

The commissioner may credit the amount determined under this section against taxes otherwise payable under this chapter by the taxpayer.

Claims for refund must be filed with the commissioner within one year from the date of the breakage or the destruction order. There is appropriated annually from the general fund to the commissioner the sums necessary to make the refunds provided by this section.

Sec. 73. Minnesota Statutes 1986, section 297C.09, is amended to read:

297C.09 [IMPORTATION BY INDIVIDUALS.]

A person, other than a person under the age of 19 21 years, entering Minnesota from another state may have in possession one liter of intoxicating liquor or 288 ounces of malt liquor and a person entering Minnesota from a foreign country may have in possession four liters of intoxicating liquor or ten quarts (320 ounces) of malt liquor without the required payment of the Minnesota excise tax. A collector of commemorative bottles, other than a person under the age of 19 21 years, entering Minnesota from another state may have in possession 12 or fewer commemorative bottles without the required payment of the Minnesota excise tax. A person who imports or has in possession untaxed intoxicating liquor or malt liquor in excess of the quantities provided for in this section is guilty of a misdemeanor. This section does not apply to the consignments of alcoholic beverages shipped into this state by holders of Minnesota import licenses or Minnesota manufacturers and wholesalers when licensed by the commissioner of public safety or to common carriers with licenses to sell intoxicating liquor in more than one state. A peace officer, the commissioner, or their authorized agents, may seize untaxed liquor.

Sec. 74. [297C.14] [PENALTIES.]

Subdivision 1. [PENALTY ON UNPAID TAX.] If a tax imposed by this chapter, or any part of it, is not paid within the time required for the payment, or an extension of time, or within 30 days after final determination of an appeal to the tax court relating to it if the taxpayer is not required to pay the amount in dispute pending appeal under section 8, there shall be added to the tax a specific penalty equal to ten percent of the amount remaining unpaid.

Subd. 2. [PENALTY FOR FAILURE TO FILE.] If a person fails to make and file a return within the time required by this chapter or an extension of time, there shall be added to the tax in lieu of the ten percent specific penalty under subdivision 1, a penalty as follows: ten percent, if the failure is for not more than 30 days, with an additional five percent for each additional 30 days or fraction thereof during which such failure continues, not exceeding 25 percent in the aggregate. If the penalty does not exceed \$10, a minimum penalty of \$10 shall be assessed. The amount added to the tax shall be collected at the same time and in the same manner and as a part of the tax. If the tax has been paid before the discovery of the negligence, then

the amount so added shall be collected in the same manner as the tax.

Subd. 3. [WILLFUL FAILURE; FRAUD.] If a person willfully fails to file a return or make a payment required by this chapter, or willfully files a false or fraudulent return, or willfully attempts in any manner to evade or defeat the tax or payment of it, there shall also be imposed a penalty in an amount equal to 50 percent of the tax (less any amounts paid on the basis of such false or fraudulent return) found due for the period to which the return related. The penalty imposed by this subdivision shall be collected as part of the tax and is in addition to any other penalties, civil and criminal, provided by this section.

Subd. 4. [ORDER PAYMENTS CREDITED.] All payments received may, in the discretion of the commissioner of revenue, be credited first to the oldest liability not secured by a judgment or lien, but in all cases shall be credited first to penalties, next to interest, and then to the tax due.

Subd. 5. [INTEREST.] The amount of tax not timely paid, together with any penalty imposed by this chapter, shall bear interest at the rate specified in section 270.75 from the time such tax should have been paid until paid. Any interest and penalty shall be added to the tax and collected as a part of it.

Subd. 6. [NEGLIGENCE; INTENTIONAL DISREGARD OF LAW OR RULES.] If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of tax together with this penalty shall bear interest at the rate specified in section 270.75 from the time the tax should have been paid until paid.

Subd. 7. [FAILURE TO FILE INFORMATIONAL RETURNS.] Any person required to file informational returns or reports that fails to do so by the time period established by law, will be assessed a \$25 penalty for each month the return remains unfiled.

Sec. 75. [297C.15] [PAYMENT OF TAX PENDING APPEAL.]

When a taxpayer appeals a liability assessed under this chapter to the tax court, and the amount in dispute is more than \$6,000, the entire amount of the tax, penalty, and interest assessed by the commissioner shall be paid at the time it is due unless permission to continue prosecution of the appeal without payment is obtained under this section. The appellant, upon ten days' notice to the commissioner, may apply to the court for permission to continue prosecution of the appeal without payment; and, if it is made to appear:

(1) that the proposed review is to be taken in good faith;

(2) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50 percent of the amount due; and

(3) that it would work a substantial hardship upon appellant to pay the liability,

the court may permit the appellant to continue prosecution of the appeal without payment, or may fix a lesser amount to be paid as a condition of continuing the prosecution of the appeal.

Failure to make payment of the amount required when due shall operate automatically to dismiss the appeal and all proceedings under it unless the payment is waived by an order of the court permitting the appellant to continue prosecution of the appeal without payment.

Sec. 76. [297C.16] [PERSONAL DEBT; LIEN.]

The tax imposed by this chapter, and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only, unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties. Then the person shall be personally liable for the deficiency.

Sec. 77. [297C.18] [TRANSPORTING FERMENTED MALT BEVERAGES INTO THE STATE.]

Common carriers transporting fermented malt beverages into this state shall file with the commissioner reports of all shipments delivered to licensed distributors in this state. The reports must be filed monthly on or before the 25th day of each month. They must show with respect to deliveries made in the preceding month: the date, point of origin, point of delivery, name of consignee, the quantity delivered, and other information required by the commissioner.

Common carriers transporting fermented malt beverages into Minnesota shall permit examination by the commissioner of their records relating to the shipment of fermented malt beverages.

A person who fails or refuses to transmit to the commissioner the required reports or whoever refuses to permit the examination of the records by the commissioner shall be guilty of a misdemeanor.

Sec. 78. Minnesota Statutes 1986, section 325D.30, is amended to read:

**325D.30 [MINNESOTA UNFAIR CIGARETTE SALES ACT; FINDINGS AND POLICY.]**

The legislature finds that unfair, dishonest and fraudulent business practices exist in transactions involving the sale of, or offer to sell, cigarettes in the wholesale and retail trades in this state and are demoralizing and disorganizing the said trades.

Offering for sale, or sale of cigarettes below cost in the wholesale and retail trade is declared by the legislature to have the intent or effect of injuring a competitor, destroying or lessening competition, and is deemed an unfair and deceptive business practice and an unfair method of competition.

Such practices affect collection of taxes and license fees imposed on ~~distributors, wholesalers, retailers, and persons engaged in the~~ sale of cigarettes.

It is hereby declared to be the policy of the state of Minnesota and the purposes of sections 325D.30 to 325D.42 to protect the public by prohibiting such sales.

Sec. 79. Minnesota Statutes 1986, section 325D.32, subdivision 4, is amended to read:

Subd. 4. "Wholesaler" means and includes any person who acquires cigarettes for the purpose of sale to retailers or to other persons for resale, and who maintains an established place of business when any part of the business is the sale of cigarettes at wholesale to persons licensed to sell cigarettes by the state or any municipality, and where at all times a stock of cigarettes is available to retailers for resale, or any cigarette manufacturer or manufacturer's representative who sells to retailers or to other persons for resale, and any person defined as a "distributor" under section 297.01, subdivision 7. The term "wholesaler" shall also include a "subjobber" as defined by section 297.01, subdivision 14. This subdivision does not prohibit any person from engaging in business as a retailer as defined in subdivision 5.

Sec. 80. Minnesota Statutes 1986, section 325D.32, subdivision 10, is amended to read:

Subd. 10. (1) "Cost to wholesaler" means the basic cost of the cigarettes, before deducting manufacturer's timely payment and stamping discounts and any other discounts or rebates, plus the cost of doing business by the wholesaler, as defined in sections 325D.30 to 325D.42.

(2) The cost of doing business by the wholesaler is presumed to be four percentum of the basic cost of said cigarettes, plus cartage to the retail outlet, if furnished or paid for by the wholesaler, in the absence of proof of a lesser or higher cost, except that the cost of doing business by the wholesaler is two percent of the basic cost of said cigarettes, when such cigarettes are sold to a wholesaler, in the absence of proof of a lesser or a higher cost. Such cartage cost is presumed to be one-half of one percent of the basic cost of the cigarettes in the absence of proof of a lesser or higher cost.

(3) Wholesalers may substitute actual cost of doing business for presumed cost of doing business if a statement of proof of actual cost of doing business is submitted to the commissioner before any offer of sale of cigarettes at prices based on actual cost of doing business. The statement must be based on current financial records, as used for income tax purposes, and is subject to review and rejection by the commissioner.

Sec. 81. Minnesota Statutes 1986, section 325D.32, subdivision 11, is amended to read:

Subd. 11. (1) "Cost of the retailer" means the basic cost of the cigarettes involved to the retailer plus the cost of doing business by the retailer as defined in sections 325D.30 to 325D.42.

(2) The cost of doing business by the said retailer is presumed to be eight percentum of the basic cost of cigarettes in the absence of proof of a lesser or a higher cost.

(3) If any retailer in connection with the purchase of any cigarettes shall receive the discounts ordinarily allowed upon purchases by a retailer and in whole or in part discounts ordinarily allowed upon purchases by a wholesaler, the cost of doing business by the retailer with respect to the said cigarettes shall be, in the absence of a lesser or a higher cost of doing business, the sum of the cost of doing business by the retailer and; to the extent that the retailer shall have received the full discounts allowed to a wholesaler, the cost of doing business by a wholesaler as defined in subdivision 10, clause (2) Retailers may substitute actual cost of doing business for presumed cost of doing business if a statement of proof of actual cost of doing business is submitted to the commissioner before any offer of sale of cigarettes at prices based on actual cost of doing business. The statement must be based on current financial records, as used for income tax purposes, and is subject to review and rejection by the commissioner.

(4) If a retailer qualifies for the purchase of cigarettes as manufacturer's price to wholesaler and ultimately sells the cigarettes at retail, the cost of doing business by the retailer with respect to the cigarettes shall be, in the absence of showing of a lesser or higher cost of doing business, the sum of the cost of doing business by the wholesaler, as defined in subdivision 10, paragraph (2), and the cost of doing business by the retailer, as defined in paragraph (2) of this subdivision.

Sec. 82. Minnesota Statutes 1986, section 325D.32, subdivision 12, is amended to read:

Subd. 12. "Subjobber" means any person who buys stamped cigarettes and normally sells them to persons other than ultimate consumers, and any licensed distributor who delivers to and sells or distributes stamped cigarettes from a place of business other than that for which the distributor has obtained a distributor's license; who does not use a distributor's license for any plan or scheme to circumvent the Minnesota unfair cigarette sales act or any other law relating to the sale of cigarettes, who does not use such subjobber's license for the principal purpose of selling cigarettes to retail cigarette licensees in which such subjobber has an ownership interest, and who sells at least 75 percent of total cigarette volume to retail outlets in which the subjobber has no more than a ten percent ownership interest, directly or indirectly, and who sells to at least 25 retail customers. Notwithstanding the foregoing, "subjobber" shall also mean any person who is a vending machine operator. A vending machine operator is any person whose principal business is operating, or owning and leasing to operators, machines for the vending of merchandise or service.

Sec. 83. Minnesota Statutes 1986, section 325D.33, subdivision 1, is amended to read:

Subdivision 1. It shall be unlawful for any wholesaler, ~~subjobber~~ or retailer to offer to sell, or sell, at wholesale or retail, cigarettes at less than cost to such wholesaler, ~~subjobber~~ or retailer, as the case may be, as defined in sections 325D.30 to 325D.42 for the purpose or with the effect of injuring a competitor or destroying competition, or for a retailer to induce or to attempt to induce a wholesaler or ~~subjobber~~ to violate the provisions of the Minnesota unfair cigarette sales act. Any wholesaler, ~~subjobber~~ or retailer who violates the provisions of this section shall be guilty of a misdemeanor.

Sec. 84. Minnesota Statutes 1986, section 325D.33, subdivision 2, is amended to read:

Subd. 2. Evidence of advertisement, offering to sell or sale of cigarettes by any wholesaler, ~~subjobber~~ or retailer at less than cost as defined by sections 325D.30 to 325D.42 shall be prima facie evidence of a violation of sections 325D.30 to 325D.42 in civil cases.

Sec. 85. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 3. [REBATES OR CONCESSIONS.] It is unlawful for a wholesaler to offer a rebate in price, to give a rebate in price, to offer a concession of any kind, or to give a concession of any kind in connection with the sale of cigarettes. For purposes of this chapter, the term discount is included in the definition of a rebate.

Sec. 86. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 4. [WHOLESALE TO PRESERVE COPIES OF INVOICES.] Every person who sells cigarettes to persons other than the ultimate consumer shall prepare for each sale itemized invoices showing the seller's name and address, the purchaser's name and address, the date of sale, and all prices and shall keep legible copies of them for one year from the date of sale.

Sec. 87. Minnesota Statutes 1986, section 325D.33, is amended by adding a subdivision to read:

Subd. 5. [COMMISSIONER'S REFUSAL TO LICENSE.] The commissioner may refuse to grant a cigarette distributor or subjobber license to any person who violates the provisions of sections 325D.30 to 325D.42, or any other law applicable to the sale of cigarettes, or any rule adopted by the commissioner for the enforcement or regulation of the sale of cigarettes.

Sec. 88. Minnesota Statutes 1986, section 325D.38, subdivision 1, is amended to read:

Subdivision 1. [COST TO WHOLESALERS AND RETAILERS.] In determining cost to the wholesaler and cost to the retailer the court shall receive and consider as bearing on the bona fides of such cost, evidence that any person complained against under any of the provisions of sections 325D.30 to 325D.42 purchased or sold the cigarettes involved in the complaint before the court, at a fictitious price, or upon terms, or in such a manner, or under such invoices, as to conceal the true cost, discounts, or terms of purchase, and shall also receive and consider as bearing on the bona fides of such cost, evidence of the normal, customary and prevailing terms and discounts in connection with other sales of a similar nature in the trade area or state or sale.

Sec. 89. Minnesota Statutes 1986, section 325D.40, subdivision 1, is amended to read:

Subdivision 1. Any corporation, partnership, trade association, or any person or persons who would suffer injury from any threatened



violation of sections 325D.30 to 325D.42 may maintain an action to enjoin such actual or threatened violation and proof of actual damages need not be alleged or proved in cases of threatened violation. If a violation or threatened violation of the Minnesota unfair cigarette sales act shall be established, the court shall enjoin such violator or threatened violator, and, in addition thereto, the court shall assess in favor of the plaintiff and against defendant the injuries of the suit including reasonable attorneys fees. Where alleged and proved, the plaintiff, in addition to such injunctive relief and cost of suit including reasonable attorneys fees, shall be entitled to recover from defendant the actual damages sustained.

Sec. 90. Minnesota Statutes 1986, section 349.12, subdivision 11, is amended to read:

Subd. 11. "Lawful purpose" means one or more of the following: (a) benefiting persons by enhancing their opportunity for religious or educational advancement, by relieving or protecting them from disease, suffering or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded; (b) initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; (c) lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to the people; or (d) the improving, expanding, maintaining or repairing real property owned or leased by an organization; or (e) payment of taxes imposed by this chapter, and imposed by the United States on receipts from lawful gambling.

"Lawful purpose" does not include the erection or acquisition of any real property, unless the board specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this clause.

Sec. 91. Minnesota Statutes 1986, section 349.12, subdivision 13, is amended to read:

Subd. 13. "Profit" means the gross receipts collected from lawful gambling, less reasonable sums necessarily and actually expended for prizes and taxes imposed by this chapter.

Sec. 92. Minnesota Statutes 1986, section 349.212, subdivision 1, is amended to read:

Subdivision 1. [RATE.] There is hereby imposed a tax on all lawful gambling, other than pull-tabs purchased and placed into inventory after January 1, 1987, conducted by organizations licensed by the board at the rate specified in this subdivision. The tax imposed by this subdivision is in lieu of the tax imposed by section 297A.02 and

all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

On all lawful gambling, other than pull-tabs purchased and placed into inventory after January 1, 1987, the tax is ten percent of the gross receipts of a licensed organization from lawful gambling less prizes actually paid out, payable by the organization.

Sec. 93. Minnesota Statutes 1986, section 349.212, subdivision 4, is amended to read:

Subd. 4. [PULL-TAB TAX.] (a) There is imposed a tax on the sale of each deal of pull-tabs sold by a licensed distributor to a licensed organization, or to an organization holding an exemption identification number. The rate of the tax is ten percent of the face resale value of all the pull-tabs in each deal less the total prizes which may be paid out on all the pull-tabs in that deal. The tax is payable to the commissioner of revenue in the manner prescribed in section 349.2121 and the rules of the commissioner. The commissioner shall pay the proceeds of the tax to the state treasurer for deposit in the general fund. The sales tax imposed by chapter 297A on the sale of the pull-tabs by the licensed distributor to an organization is imposed on the retail sales price less the tax imposed by this subdivision. The retail sale of pull-tabs by the organization is exempt from taxes imposed by chapter 297A if the tax imposed by this subdivision has been paid and is exempt from all local taxes and license fees except a fee authorized under section 349.16, subdivision 4.

(b) The liability for the tax imposed by this section is incurred when the pull-tabs are delivered by the distributor to the licensed or exempt organization, to a common or contract carrier for delivery to the organization, or when received by the organization's authorized representative at the distributor's place of business, regardless of the distributor's method of accounting or the terms of the sale.

If a licensed organization or any organization holding an exemption number receives pull-tabs directly from the manufacturer and the manufacturer is not a licensed distributor, the distributor from whom the pull-tabs were purchased is liable for tax when the manufacturer delivers the pull-tabs to the organization, or to a contract or common carrier for delivery to the organization, or when the pull-tabs are received by the organization's authorized representative at the manufacturer's place of business, regardless of the manufacturer's or the distributor's method of accounting or the terms of the sale.

(c) The exemptions contained in section 349.214, subdivision 2, paragraph (b) do not apply to the tax imposed in this subdivision.

Sec. 94. Minnesota Statutes 1986, section 349.2121, subdivision 4, is amended to read:

Subd. 4. [COLLECTION.] The tax imposed by section 349.212, subdivision 4, for each taxable sale is due and payable to the commissioner monthly on or before the 25th day of the month succeeding the month in which the taxable sale was made. The tax must be reported on a form prescribed by the commissioner.

Sec. 95. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 4a. [REFUND.] If any deal of pull-tabs registered with the board and upon which the tax imposed by section 349.212, subdivision 4, has been paid is returned unplayed to the distributor, the commissioner of revenue shall allow a refund of the tax paid.

In the case of a defective deal registered with the board and upon which the taxes have been paid is returned to the manufacturer, the distributor shall submit to the commissioner of revenue certification from the manufacturer that the deal was returned and in what respect it was defective. The certification must be in a form prescribed by the commissioner and must contain additional information the commissioner requires.

The commissioner may require that no refund under this subdivision be made unless the returned pull-tabs have been set aside for inspection by the commissioner's employee.

Reductions in previously paid taxes authorized by this subdivision shall be made at the time and in the manner prescribed by the commissioner.

Sec. 96. Minnesota Statutes 1986, section 349.2121, subdivision 6, is amended to read:

Subd. 6. [COLLECTIONS; CIVIL PENALTIES.] (1) The provisions of chapter 297A relating to the commissioner's authority to audit, assess, and collect the tax imposed by that chapter apply to the tax, penalties and interest imposed by section 349.212, subdivision 4. The commissioner shall impose civil penalties for violation of this section as provided in ~~chapter 297A~~ section 297A.39, and the additional tax and penalties are subject to interest at the rate provided in section 270.75.

(2) If any part of any additional assessment is due to negligence or intentional disregard of the provisions of this chapter or rules of the commissioner of revenue (but without intent to defraud), there shall be added to the tax an amount equal to ten percent of the additional assessment. The amount of the tax together with this amount shall

bear interest at the rate stated in section 270.75 from the time the tax should have been paid until paid.

Sec. 97. Minnesota Statutes 1986, section 349.2121, subdivision 7, is amended to read:

Subd. 7. [RULES.] The commissioner ~~shall~~ may adopt rules, including emergency rules, for the administration and enforcement of this section and section 349.212, subdivision 4.

Sec. 98. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 8. [PAYMENT OF TAX PENDING APPEAL.] When a taxpayer appeals any liability assessed under this chapter to the tax court, and the amount in dispute is more than \$6,000, the entire amount of the tax, penalty, and interest assessed by the commissioner shall be paid at the time it is due unless permission to continue prosecution of the petition without payment is obtained as provided in this subdivision. The petitioner, upon ten days notice to the commissioner, may apply to the court for permission to continue prosecution of the petition without payment, and, if it is made to appear:

(1) that the proposed review is to be taken in good faith;

(2) that there is probable cause to believe that the taxpayer may be held exempt from payment of the liability or that the liability may be determined to be less than 50 percent of the amount due; and

(3) that it would work a substantial hardship upon petitioner to pay the liability,  
the court may permit the petitioner to continue prosecution of the petition without payment, or may fix a lesser amount to be paid as a condition of continuing the prosecution of the petition.

Failure to make payment of the amount required when due shall operate automatically to dismiss the petition and the proceedings under it unless the payment is waived by an order of the court permitting the petitioner to continue prosecution of the petition without payment.

Sec. 99. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 9. [PERSONAL DEBT; LIEN.] The tax imposed by section 349.212 and interest and penalties imposed with respect to it, shall be a personal debt of the person required to file a return from the time the liability for it arises, irrespective of when the time for payment of the liability occurs. The debt shall, in the case of the

executor or administrator of the estate of a decedent and in the case of any fiduciary, be that of the person in the person's official or fiduciary capacity only unless the person has voluntarily distributed the assets held in that capacity without reserving sufficient assets to pay the tax, interest, and penalties, in which event the person shall be personally liable for any deficiency.

Sec. 100. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 10. [REFUNDS.] A person who has, under this chapter, paid to the commissioner an amount of tax for any period in excess of the amount legally due for that period, may file with the commissioner of revenue a claim for a refund of the excess.

Sec. 101. Minnesota Statutes 1986, section 349.2121, is amended by adding a subdivision to read:

Subd. 11. [UNTAXED PULL-TABS.] It is a gross misdemeanor for any person to possess pull-tabs for resale in this state that have not been registered with the board, for which a registration stamp has not been affixed to the flare, and upon which the taxes imposed by section 349.212, subdivision 4, or chapter 297A have not been paid. The executive secretary of the charitable gambling control board or the commissioner of revenue or their designated inspectors and employees may seize in the name of the state of Minnesota any unregistered or untaxed pull-tabs.

Sec. 102. [349.2122] [MANUFACTURERS; REPORTS TO THE COMMISSIONER; PENALTY.]

A manufacturer registered with the board who sells pull-tabs to a distributor licensed by the board must file with the commissioner of revenue, on a form prescribed by the commissioner, a report of pull-tabs sold to licensed distributors. The report must be filed monthly on or before the 25th day of the month succeeding the month in which the sale was made. Any person violating this section shall be guilty of a misdemeanor.

Sec. 103. [349.2123] [CERTIFIED PHYSICAL INVENTORY.]

The commissioner of revenue may, upon request, require a pull-tab distributor to furnish a certified physical inventory of the pull-tabs in stock. The inventory must contain the information required by the commissioner.

Sec. 104. [349.2124] [SALES TO INDIAN TRIBES.]

A distributor may set aside that part of the distributor's stock necessary for the conduct of business in making sales to the

established governing body of any Indian tribe recognized by the United States Department of Interior. A distributor shall, when shipping or delivering any stock to an Indian tribal organization, make a true duplicate invoice showing the complete details of the sale or delivery and shall keep the duplicate.

Sec. 105. Minnesota Statutes 1986, section 360.531, subdivision 2, is amended to read:

Subd. 2. [RATE.] The tax shall be at the rate of one percent of value; provided that the minimum tax on an aircraft subject to the provisions of sections 360.511 to 360.67 shall not be less than 25 percent of the tax on said aircraft computed on its base price or \$10 \$50 whichever is the higher.

Sec. 106. Minnesota Statutes 1986, section 477A.018, subdivision 1, is amended to read:

Subdivision 1. [AUTHORIZATION.] Notwithstanding section 477A.016 or any other law, a statutory or home rule charter city may by ordinance, a county may by resolution, and a town may by vote at its annual meeting, impose a tax of up to three percent on the gross receipts from the furnishing for consideration of lodging at a hotel, motel, rooming house, tourist court, or resort, other than the renting or leasing of it for a continuous period of 30 days or more. A statutory or home rule charter city may by ordinance impose the tax authorized under this subdivision on the camping site receipts of a municipal campground. The tax authorized by this subdivision applies to transient lodging at colleges and universities.

Sec. 107. Minnesota Statutes 1986, section 477A.018, subdivision 2, is amended to read:

Subd. 2. [EXISTING TAXES.] No statutory or home rule charter city, county, or town may impose a tax under this section upon transient lodging that, when combined with any tax authorized by special law or enacted prior to 1972, exceeds a rate of three percent.

Sec. 108. Minnesota Statutes 1986, section 477A.018, subdivision 3, is amended to read:

Subd. 3. [DISPOSITION OF PROCEEDS.] Ninety-five percent of the gross proceeds from any tax imposed under subdivision 1 shall be used by the statutory or home rule charter city, county, or town to fund a local convention or tourism bureau for the purpose of marketing and promoting the city, county, or town as a tourist or convention center. This subdivision shall not apply to any statutory or home rule charter city, county, or town that has a lodging tax authorized by special law or enacted prior to 1972 at the time of enactment of this section.

Sec. 109. Minnesota Statutes 1986, section 477A.018, is amended by adding a subdivision to read:

Subd. 4a. [COUNTIES.] A county board may impose a county lodging tax by resolution in the manner prescribed by subdivision 4 relating to unorganized territories. The tax may apply on a countywide basis except that it shall not apply to any statutory or home rule charter city or town that has imposed a tax under subdivision 1 or subdivision 4 or that subsequently imposes a tax under subdivision 1 or subdivision 4, after the county has imposed a lodging tax.

Sec. 110. Minnesota Statutes 1986, section 477A.018, subdivision 6, is amended to read:

Subd. 6. [JOINT POWERS AGREEMENTS.] Any statutory or home rule charter city, town, or county when the county board is acting as either a town board with respect to an unorganized territory, or as a county board, may enter into a joint exercise of powers agreement pursuant to section 471.59 for the purpose of imposing the tax and disposing of its proceeds pursuant to this section.

Sec. 111. Laws 1985, First Special Session chapter 14, article 3, section 18, is amended to read:

**Sec. 18. [EFFECTIVE DATE.]**

Section 3 and section 4, paragraph (d), are effective beginning with taxes assessed in 1987 1990 and payable in 1988 1991 and thereafter. Sections 2, 4, paragraph (c), 5 to 12, and 14 are effective beginning with taxes assessed in 1985 and payable in 1986 and thereafter. Sections 15 and 16 are effective the day after final enactment. The change in the classification ratio for employment property in section 9 does not modify the required amount of local contribution for enterprise zones, approved prior to enactment of this act, that provide local contributions in lieu of the employment classification for projects already approved.

**Sec. 112. [FLOOR STOCKS TAX.]**

Subdivision 1. [CIGARETTES.] A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of cigarettes on cigarettes in the person's possession or under the person's control at 12:01 a.m. on July 1, 1987, at the following rates, subject to the discount provided in Minnesota Statutes, section 297.03:

(1) on cigarettes weighing not more than three pounds a thousand, 7½ mills on each cigarette;

(2) on cigarettes weighing more than three pounds a thousand, 15 mills on each cigarette.

Each distributor, by July 20, 1987, shall file a report with the commissioner, in the form the commissioner prescribes, showing the cigarettes on hand at 12:01 a.m. on July 1, 1987, and the amount of tax due on them. The tax imposed by this section less the discount provided in Minnesota Statutes, section 297.03, subdivision 5, is due and payable by August 20, 1987, and thereafter bears interest at the rate of one percent a month.

Subd. 2. [TOBACCO PRODUCTS.] A floor stocks tax is imposed upon every person engaged in business in this state as a distributor of tobacco products, at the rate of ten percent of the wholesale sales price of each tobacco product in the person's possession or under the person's control at 12:01 a.m. on July 1, 1987. Each distributor, by July 20, 1987, shall file a report with the commissioner, in the form the commissioner prescribes, showing the tobacco products on hand at 12:01 a.m. on July 1, 1987, and the amount of tax due on them. The tax imposed by this section less the discount provided in Minnesota Statutes, section 297.35, subdivision 1, is due and payable by August 20, 1987, and thereafter bears interest at the rate of one percent a month.

#### Sec. 113. [APPROPRIATIONS.]

The following funds appropriated in this section are in recognition of reduced general fund spending for the biennium ending June 30, 1989, pursuant to the provisions of sections 12 and 17:

(1) \$4,000,000 is appropriated to the commissioner of revenue from the general fund for the biennium ending June 30, 1989. This amount is to be used by the commissioner to provide grants and other assistance to counties for the purpose of developing, upgrading, and maintaining county property tax administrative data collection and processing systems.

(2) \$10,000,000 must be used for the purpose of funding the appropriation under section 477A.03 to pay local government aids for the biennium ending June 30, 1989.

(3) \$600,000 is appropriated for the biennium ending June 30, 1989, from the general fund to the tax study commission.

#### Sec. 114. [REPEALER.]

(a) Minnesota Statutes 1986, sections 296.04, subdivisions 1, 2, 3, and 4; 296.05; 296.07; 296.13; 296.17, subdivision 12; 296.18, subdivisions 4, 5, 6, and 7; 296.22; 296.28; 297.07, subdivision 6;



297.23, subdivision 5; 297.35, subdivisions 4, 6, and 7; 297C.03, subdivisions 2 and 3; and 297C.05, subdivision 4, are repealed.

(b) Minnesota Statutes 1986, section 325D.41, is repealed.

(c) Laws 1985, First Special Session chapter 14, article 14, section 3, is repealed.

(d) Minnesota Statutes 1986, sections 295.32, 295.33, 295.34, 295.36, 295.365, and 295.366, are repealed.

Sec. 115. [EFFECTIVE DATE.]

Sections 1 to 6, 10, 17, 25 to 77, 93, 95 to 110, and 114, paragraph (a), are effective July 1, 1987. Sections 7, 92, and 94, are effective January 1, 1987. Sections 18 to 24, 111, and 114, paragraph (c), are effective for tax years after December 31, 1986. Sections 8 and 9 are effective for taxes levied in 1987, payable in 1988, and thereafter. Sections 11 to 16 are effective for instruments recorded after June 30, 1987. Sections 78 to 89 and 114, paragraph (b), are effective the day following final enactment. Section 112 is effective for cigarettes and tobacco products in the possession of distributors, as defined in Minnesota Statutes, section 297.01, subdivision 7, on July 1, 1987. Section 114, paragraph (d), is effective beginning calendar year 1993."

Delete the title and insert:

"A bill for an act relating to the financing of government in Minnesota; changing tax rates and bases; modifying the methods of administering, collecting, and enforcing taxes; changing the computation, administration, and payment of aids, credits, and refunds; imposing taxes; limiting taxing powers; transferring governmental powers and duties; allocating bonding authority; making entitlement allocations to the cities of Minneapolis and St. Paul; making technical corrections and clarifications; imposing and increasing fees, interest, and penalties; appropriating money; amending Minnesota Statutes 1986, sections 16A.15, subdivisions 1 and 6; 16A.1541; 16A.26; 16A.275; 60A.13, subdivision 1a; 60A.15, subdivision 1; 60A.199, subdivisions 1, 2, 3, 5, 7, 8, 9, 10, and 11; 60A.209, subdivisions 1 and 3; 60A.24; 60C.06, by adding a subdivision; 64B.39, subdivision 4; 67A.11, subdivision 3; 69.011, subdivisions 1 and 2; 69.021, subdivisions 1, 2, and 3; 69.54; 69.55; 79.34, subdivision 1, and by adding a subdivision; 88.49, by adding a subdivision; 121.904, subdivisions 11a and 11b; 124.195, subdivision 2; 124.2131, subdivisions 1, 2, 3, 5, 6, 7, 8, and 11; 124.38, subdivision 8; 124A.02, subdivisions 3a and 8; 124A.035, subdivision 5; 124A.08, subdivision 5; 134.33, subdivision 1; 134.34, subdivisions 1 and 2; 176.129, by adding a subdivision; 176A.08; 239.10; 270.066; 270.074, subdivision 3; 270.075, subdivision 1; 270.10, subdivisions 1 and 4; 270.11, subdivisions 1 and 2; 270.12, subdivisions 2 and 3; 270.13;

270.72, subdivisions 1 and 2; 270.77; 270.80, subdivision 2; 270.87; 270A.07, subdivision 1; 271.21, subdivision 2; 272.01, subdivisions 2 and 3; 272.02, subdivision 1, and by adding a subdivision; 272.115, subdivision 2; 273.061, subdivisions 1 and 8; 273.065; 273.11, by adding a subdivision; 273.1102; 273.1103; 273.12; 273.13, subdivision 22; 273.1312, subdivision 4; 273.1313, subdivisions 1, 2, and by adding a subdivision; 273.1314, subdivisions 8, 9, 10, and by adding a subdivision; 273.1392; 273.1393; 273.19, subdivisions 1, 3, 4, and by adding a subdivision; 273.33, subdivision 2; 273.37, subdivision 2; 274.01, subdivision 1; 274.14; 274.16; 275.07, subdivision 1; 275.125, subdivisions 9, 9b, and 15; 275.51, subdivision 3h; 276.04; 276.11; 277.01; 278.05, subdivision 4; 279.01, subdivision 1; 282.014; 282.02; 282.33, subdivision 1; 287.05, subdivision 1; 287.09; 287.12; 287.21, subdivision 1; 287.22; 287.25; 287.29, subdivision 1; 290.01, subdivisions 4, 5, 7, 19, 20, 22, and by adding subdivisions; 290.02; 290.03; 290.032, subdivisions 1 and 2; 290.05, subdivisions 1, 2, and 3; 290.06, subdivisions 1, 2c, 2d, and by adding a subdivision; 290.068, subdivisions 1, 2, 3, 4, and 5; 290.069, subdivisions 2a and 4b; 290.077, subdivision 1; 290.081; 290.091, subdivisions 1, 2, and 3; 290.095, subdivisions 1, 2, 3, 4, 7, 9, and 11; 290.12, subdivision 2; 290.131, subdivision 1; 290.132, subdivision 1; 290.133, subdivision 1; 290.134, subdivision 1; 290.135, subdivision 1; 290.136, subdivision 1; 290.138, subdivision 3; 290.14; 290.17; 290.171; 290.20, subdivision 1, and by adding a subdivision; 290.21, subdivisions 3 and 4; 290.23, subdivisions 3 and 5; 290.31, subdivisions 2, 3, 5, and by adding a subdivision; 290.34, subdivision 2; 290.35; 290.36; 290.37, subdivisions 1 and 3; 290.38; 290.39, subdivision 3; 290.41, subdivisions 2 and 3; 290.42; 290.45, subdivisions 1 and 2; 290.46; 290.48, subdivision 10; 290.491; 290.50, subdivision 1; 290.53, subdivisions 1, 2, 3a, 4, and by adding subdivisions; 290.56, subdivisions 2, 3, and 4; 290.92, subdivisions 2a, 4a, 5, 5a, 6, 7, 9, 11, 12, 13, 14, 15, 18, 24, and 25; 290.93, subdivision 10; 290.934, subdivision 2; 290.9725; 290.9726, subdivisions 1, 2, and 4; 290.974; 290A.03, subdivisions 3, 8, and by adding a subdivision; 290A.04, subdivision 2; 290A.06; 290A.011, subdivision 2; 290A.18; 290A.19; 291.131, subdivisions 1, 2, 4, and by adding a subdivision; 295.01, subdivision 10; 295.32; 295.34, subdivision 1; 295.39; 295.40; 295.41; 295.43; 296.02, subdivision 2, and by adding a subdivision; 296.025, subdivision 2, and by adding a subdivision; 296.17, subdivisions 3, 7, and 11; 296.18, subdivision 7; 297.01, subdivisions 2, 4, 7, and 10; 297.02, subdivisions 1 and 6; 297.03, subdivisions 1, 5, and 6; 297.04, subdivisions 4, 6, and 9; 297.07, subdivisions 1, 3, 4, and 5; 297.11, subdivisions 3 and 5; 297.23, subdivision 1; 297.31, subdivisions 2, 3, and 7; 297.32, subdivisions 1, 2, and 8; 297.33, subdivisions 4 and 5; 297.35, subdivisions 1, 3, 5, and 8; 297.36; 297A.01, subdivisions 3, 4, 8, and 15; 297A.14; 297A.151; 297A.18; 297A.211, subdivision 2; 297A.25, subdivisions 7, 11, 12, and by adding subdivisions; 297A.256; 297A.26, subdivision 1; 297A.27, subdivision 1; 297A.275; 297A.39, subdivisions 1, 2, 4, and by adding a subdivision; 297A.43; 297B.01, subdivision 8; 297B.10; 297C.03, subdivision 1, and by adding a subdivision; 297C.04; 297C.05, subdivision 2; 297C.06; 297C.09; 297D.02; 297D.07; 297D.09; 297D.10; 297D.12,

subdivision 1; 297D.13; 298.01, subdivision 1, and by adding subdivisions; 298.026; 298.027; 298.028, subdivision 1; 298.03, subdivision 1; 298.031, subdivision 2; 298.08; 298.09, subdivision 1; 298.25; 298.28, subdivision 4; 299F.21, subdivisions 1, 2, and by adding subdivisions; 325D.30; 325D.32, subdivisions 4, 10, 11, and 12; 325D.33, subdivisions 1, 2, and by adding subdivisions; 325D.38, subdivision 1; 325D.40, subdivision 1; 349.12, subdivisions 11 and 13; 349.212, subdivisions 1 and 4; 349.2121, subdivisions 4, 6, 7, and by adding subdivisions; 360.531, subdivision 2; 462C.11, subdivisions 2 and 3; 473.556, subdivision 4; 473F.02, subdivision 12; 474A.02, subdivisions 1, 2, 3, 6, 7, 8, 12, 14, 16, 18, 19, 21, 26, and by adding subdivisions; 474A.03, subdivision 1, and by adding a subdivision; 474A.04, subdivisions 5, 6, and by adding a subdivision; 474A.13, subdivisions 1, 4, and 5; 474A.14; 474A.15; 474A.16; 474A.17; 474A.18; 474A.20; 474A.21; 475.53, subdivision 4; 477A.012, subdivision 1; 477A.013; 477A.018, subdivisions 1, 2, 3, 6, and by adding a subdivision; Laws 1985, First Special Session chapter 14, article 3, section 18; proposing coding for new law in Minnesota Statutes, chapters 3; 239; 270; 272; 273; 276; 290; 290A; 294; 297; 297A; 297C; 298; 349; 429, and 474A; repealing Minnesota Statutes 1986, sections 60A.15, subdivision 2; 61A.49; 62E.13, subdivision 9; 64B.24; 69.021, subdivision 3a; 124.38, subdivision 10; 270.75, subdivision 8; 270.89; 282.021; 290.01, subdivisions 20a, 20b, 20d, 20f, 21, and 24; 290.013; 290.06, subdivisions 3f, 3g, and 11; 290.068, subdivision 6; 290.069, subdivisions 1, 2, 3, 5, 6, and 7; 290.07, subdivision 5; 290.071; 290.073; 290.075; 290.077, subdivision 3; 290.079; 290.08; 290.082; 290.085; 290.088; 290.089; 290.09; 290.095, subdivisions 8 and 10; 290.12, subdivision 4; 290.13; 290.139; 290.15; 290.16; 290.165; 290.175; 290.18; 290.19; 290.21, subdivisions 5, 6, and 8; 290.26, subdivision 2; 290.361; 290.9726, subdivisions 3, 5, and 6; 290A.04, subdivisions 2e and 2g; 294.21; 294.22; 294.23; 294.24; 294.25; 294.26; 295.32; 295.33; 295.34; 295.36; 295.365; 295.366; 296.04, subdivisions 1, 2, 3, and 4; 296.05; 296.07; 296.13; 296.17, subdivision 12; 296.18, subdivision 4, 5, 6, and 7; 296.22; 296.28; 297.07, subdivision 6; 297.23, subdivision 5; 297.35, subdivisions 4, 6, and 7; 297A.25, subdivisions 13, and 19; 297A.26, subdivision 3; 297C.03, subdivisions 2 and 3; 297C.05, subdivision 4; 298.01, subdivision 1; 298.02; 298.026; 298.027; 298.028; 298.03; 298.031; 298.04; 298.28, subdivision 14; 298.40; 298.51; 298.52; 298.53; 298.54; 298.55; 298.61; 298.62; 298.63; 298.64; 298.65; 298.66; 298.67; 299.01; 299.012; 299.013; 299.02; 299.03; 299.04; 299.05; 299.06; 299.07; 299.08; 299.09; 299.10; 299.11; 299.12; 299.13; 299.14; 325D.41; 360.654; 474A.02, subdivisions 5, 9, 10, 11, 13, 15, 17, 20, 22, 23, 24, 25, 27, 28, and 29; 474A.03, subdivisions 2 and 3; 474A.04, subdivisions 1, 2, 3, and 4; 474A.05; 474A.06; 474A.07; 474A.08; 474A.09; 474A.10; 474A.11; 474A.12; 474A.13, subdivisions 2 and 3; and 474A.19; Laws 1981, chapters 222, section 6; 223, section 6, subdivision 3; Laws 1985, First Special Session chapter 14, article 14, section 3; Laws 1986, First Special Session chapter 1, article 5, section 8."

With the recommendation that when so amended the bill pass.

Schreiber moved that the report from the Committee on Taxes on H. F. No. 529 be rejected and that the bill be returned to committee.

A roll call was requested and properly seconded.

The question was taken on the Schreiber motion and the roll was called. There were 48 yeas and 79 nays as follows:

Those who voted in the affirmative were:

Bennett	Frederick	Marsh	Pauly	Sviggum
Bishop	Frerichs	McDonald	Poppenhagen	Swenson
Blatz	Gruenes	McKasy	Quist	Thiede
Boo	Gutknecht	McPherson	Redalen	Tjornhom
Burger	Hartle	Miller	Richter	Tompkins
Carlson, D.	Haukoos	Morrison	Rose	Uphus
Clausnitzer	Heap	Olsen, S.	Schafer	Valento
Dempsey	Himle	Omann	Schreiber	Waltman
Dille	Hugoson	Onnen	Seaberg	
Forsythe	Johnson, V.	Ozment	Stanius	

Those who voted in the negative were:

Anderson, G.	Jaros	Lasley	Orenstein	Segal
Battaglia	Jefferson	Lieder	Osthoff	Simoneau
Bauerly	Jennings	Long	Otis	Skoglund
Beard	Jensen	McEachern	Pappas	Solberg
Begich	Johnson, A.	McLaughlin	Pelowski	Sparby
Bertram	Johnson, R.	Milbert	Peterson	Steensma
Brown	Kahn	Minne	Price	Trimble
Carlson, L.	Kalis	Munger	Reding	Tunheim
Carruthers	Kelly	Murphy	Rest	Vanasek
Clark	Kelso	Nelson, C.	Rice	Voss
Cooper	Kinkel	Nelson, D.	Riveness	Wagenius
Dauner	Kludt	Nelson, K.	Rodosovich	Welle
DeBlicck	Knuth	Neuenschwander	Rukavina	Wenzel
Dorn	Kostohryz	Ogren	Sarna	Wynia
Greenfield	Krueger	Olson, E.	Scheid	Spk. Norton
Jacobs	Larsen	Olson, K.	Schoenfeld	

The motion did not prevail.

The question recurred on the adoption of the Committee Report from the Committee on Taxes relating to H. F. No. 529. The Committee Report on H. F. No. 529 was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 549, A bill for an act relating to retirement; increasing survivor benefits payable by the Hibbing police and firefighters relief associations and service pensions for certain retired firefighters; amending Laws 1967, chapter 678, section 2, as amended; Laws 1977, chapter 169, section 1, subdivision 1a, as amended; and Laws 1971, chapter 614, section 1, subdivision 2, as amended.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 569, A bill for an act relating to natural resources; authorizing additions to and deletions from certain state parks and waysides; abolishing Old Crossing Treaty State Wayside and Rice Lake State Wayside; amending Minnesota Statutes 1986, section 85.012, subdivision 57; repealing Minnesota Statutes 1986, sections 85.013, subdivisions 19 and 21a; and 138.55, subdivision 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 43A.38, subdivision 2, is amended to read:

Subd. 2. [ACCEPTANCE OF GIFTS; FAVORS.] Employees in the executive branch in the course of or in relation to their official duties shall not directly or indirectly receive or agree to receive any payment of expense, compensation, gift, reward, gratuity, favor, service or promise of future employment or other future benefit from any source, except the state for any activity related to the duties of the employee unless otherwise provided by law. However, the acceptance of any of the following shall not be a violation of this subdivision:

(a) Gifts of nominal value or gifts or textbooks which may be accepted pursuant to section 15.43.

(b) Plaques or similar mementos recognizing individual services in a field of specialty or to a charitable cause.

(c) Payment of reimbursement expenses for travel or meals, not to exceed actual expenses incurred, which are not reimbursed by the state and which have been approved in advance by the appointing authority as part of the work assignment.

(d) Honoraria or expenses paid for papers, talks, demonstrations or appearances made by employees on their own time for which they are not compensated by the state.

(e) Tips received by employees engaged in food service and room cleaning at restaurant and lodging facilities in Itasca state park.

Sec. 2. [NATURAL RESOURCES; ADDITIONS TO CERTAIN STATE PARKS.]

Subdivision 1. The lands described in this section are, as specified in this section, added to or deleted from the boundaries of the state parks designated in this section. The commissioner of natural resources is authorized to acquire by gift, purchase, or, if authorized by law, by condemnation proceedings the lands as described which are added. Any land which now is or hereafter becomes tax-forfeited land and is located within the described park boundaries is withdrawn from sale and is transferred from the custody, control, and supervision of the county board of the county to the commissioner of natural resources, free from any trust in favor of the interested taxing districts. The commissioner shall execute a certificate of acceptance of the lands on behalf of the state for these purposes and transmit it to the county auditor of the county for record as provided by law in the case of tax-forfeited land transferred to the commissioner by resolution of the county board for conservation purposes. Any land within the herein described boundaries which may be owned by the United States and managed by any of its agents may be acquired by land exchange, direct transfer, or purchase as federal laws may prescribe. The lands acquired pursuant to this section shall be administered in the same manner as provided for other state parks and shall be perpetually dedicated for this use.

Subd. 2. [85.012] [Subd. 23] [GLACIAL LAKES STATE PARK, POPE COUNTY.] The following area is added to Glacial Lakes State Park: The Southeast Quarter, the East Half of the Southwest Quarter, the Southwest Quarter of the Southwest Quarter, and the Northeast Quarter of the Southwest Quarter, the Northwest Quarter, the Northwest Quarter of the Northeast Quarter of Section 19; that part of the Southwest Quarter of Section 20 lying westerly of County State Aid Highway 13; the East Half and the Northwest Quarter of Section 30; all in Township 124 North, Range 38 West.

The East 8.0 chains of the Northwest Quarter of the Northwest Quarter, the Northeast Quarter of the Northwest Quarter, and the Southeast Quarter of the Northwest Quarter excepting the South 250 feet thereof of Section 25, Township 124 North, Range 39 West.

Subd. 3. [85.012] [Subd. 52] [SCENIC STATE PARK, ITASCA COUNTY.] The following area is added to Scenic State Park: Lots 1 and 2 of AUDITOR'S SUBDIVISION NO. 25, the Northeast Quarter of the Southeast Quarter, the Southeast Quarter of the Southeast Quarter, and Government Lot 8, Section 7, Township 60 North, Range 25 West of the 4th Principal Meridian.

Sec. 3. Minnesota Statutes 1986, section 85.012, subdivision 57, is amended to read:

Subd. 57. Tower Soudan Underground Mine state park, St. Louis county.

Sec. 4. [85.013] [Subd. 19] [OLD CROSSING TREATY STATE WAYSIDE; TRANSFER OF LANDS; ABOLISHMENT.] The commissioner of natural resources, in the name of the state, may quitclaim and convey the following described state lands included in Old Crossing Treaty State Wayside to the entities named below on the conditions specified:

(a) To Red Lake county, on the conditions that the county agrees (1) to operate and maintain the same as a public park, (2) to designate the same as an historic site, and (3) to continue to maintain and operate nonmotorized trails existing on the lands at the time of transfer; That part of Government Lot 1 of Section 28 lying westerly of the Black River except that part used for public highways and also except that part described as follows: Commencing at the northwest corner of the tract described in Book 42 of Deeds, page 238, running thence South along the westerly line of said tract 174 feet; thence East and parallel with the north line of said tract 121 feet; thence North and parallel with the west line of said tract 174 feet to the north line; thence West on said north line 121 feet to place of beginning; that part of Government Lot 2 of Section 28 which lies southeasterly of the county road running across said government subdivision and southwesterly of the southwesterly line of Auditor's Lot "B" in said government lot; all of Government Lot 1 of Section 33; all in Township 151 North, Range 45 West. From money appropriated for park development, improvement, or betterment, the commissioner may grant up to \$10,000 to Red Lake county for development, improvement, or betterment of the lands so transferred to the county for park purposes.

(b) To the Board of Regents of the University of Minnesota, on the conditions that the regents agree (1) to operate and maintain the lands under the management of the Crookston campus for school forest and related purposes, and (2) to continue to maintain and operate nonmotorized trails existing on the lands at the time of transfer; Government Lot 3 of Section 28, Township 151 North, Range 45 West.

The lands shall be conveyed in the form that the attorney general shall prescribe and the conveyance shall contain a provision that the lands shall revert to the state in the event the county or the regents fail to maintain and operate the same for the purposes for which the lands were transferred. Notwithstanding this limitation, the county may convey not to exceed 7.0 acres to adjacent landowners for the purpose of resolving any boundary disputes that may exist on the effective date of this act.

Upon completion of the conveyances authorized by this section, the balance of the land remaining in the state wayside shall be designated, operated, and maintained as a state wildlife management area by the commissioner of natural resources. The commissioner shall allow nonmotorized trails on the lands designated as a wildlife management area in conjunction with trails on adjoining county land. Effective upon designation of the balance of the land as a wildlife management area by the commissioner, Old Crossing Treaty State Wayside is abolished, and sections 85.013, subdivision 19, and 138.55, subdivision 6, are repealed.

Sec. 5. [85.013] [Subd. 21a] [RICE LAKE STATE WAYSIDE, SCOTT COUNTY; EXCHANGE OF LAND; ABOLISHMENT.] The commissioner of natural resources may exchange state lands within Rice Lake State Wayside for land of the United States located within Glacial Lakes State Park for inclusion in Glacial Lakes State Park. Upon completion of the exchange, Rice Lake State Wayside is abolished, and Minnesota Statutes 1986, section 85.013, subdivision 21a, is repealed.

Sec. 6. [85.0505] [SALE OF WINE AT DOUGLAS LODGE IN ITASCA STATE PARK.]

Wine may be sold and consumed by the drink at the restaurant in Douglas Lodge in Itasca state park, subject to other laws relating to the sale of intoxicating liquor.

Sec. 7. [INSTRUCTIONS TO THE REVISOR.]

The revisor of statutes shall change the name of Tower Soudan state park to Soudan Underground Mine state park wherever it appears in Minnesota Statutes and renumber subdivision 57 of section 85.012 to the appropriate alphabetical location. Effective upon the repeal of sections 85.013, subdivision 19, and 138.55, subdivision 6, the revisor of statutes shall insert the following in section 138.56: "Subd. .... Old Crossing Treaty Site, owned by Red Lake county, located in Section 33, Township 151 North, Range 45 West."

Sec. 8. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; authorizing acceptance of tips by food service and room cleaning employees at Itasca state park; authorizing additions to and deletions from certain state parks and waysides; abolishing Old Crossing Treaty State Wayside and Rice Lake State Wayside; authorizing sale and



consumption of wine by the drink at Douglas Lodge in Itasca state park; amending Minnesota Statutes 1986, sections 43A.38, subdivision 2; and 85.012, subdivision 57; proposing coding for new law in Minnesota Statutes, chapter 85; repealing Minnesota Statutes 1986, sections 85.013, subdivisions 19 and 21a; and 138.55, subdivision 6."

With the recommendation that when so amended the bill pass.

The report was adopted.

Otis from the Committee on Economic Development and Housing to which was referred:

H. F. No. 574, A bill for an act relating to manufactured homes; defining terms; prohibiting certain unilateral permanent physical improvements; clarifying the termination of a park lease for substantial annoyance to other residents; regulating park closings; requiring an impact report; providing for a public hearing; creating a right of first refusal; providing for a right to redeem possession for failing to comply with a rule; clarifying remedies; amending Minnesota Statutes 1986, sections 327C.01, by adding subdivisions; 327C.03, subdivision 3; 327C.05, subdivision 2; 327C.09, subdivisions 1 and 5, and by adding a subdivision; 327C.11, subdivision 2, and by adding a subdivision; and 327C.15; proposing coding for new law in Minnesota Statutes, chapter 327C; repealing Minnesota Statutes 1986, section 327C.09, subdivision 9.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 327C.01, is amended by adding a subdivision to read:

Subd. 1a. [CLOSURE STATEMENT.] "Closure statement" means a statement prepared by the park owner clearly stating that the park is closing, addressing the availability, location, and potential costs of adequate replacement housing within a 25-mile radius of the park that is closing and the probable relocation costs of the manufactured homes located in the park.

Sec. 2. Minnesota Statutes 1986, section 327C.01, is amended by adding a subdivision to read:

Subd. 1b. [DISPLACED RESIDENT.] "Displaced resident" means a resident of an owner-occupied manufactured home who rents a lot in a manufactured home park, including the members of the resident's household, as of the date the park owner submits a closure statement to the local planning agency.

Sec. 3. Minnesota Statutes 1986, section 327C.01, is amended by adding a subdivision to read:

Subd. 7a. [PLANNING AGENCY.] "Planning agency" means the planning commission or the planning department of a municipality as defined in section 462.352, the planning and zoning commission of a town as defined in section 366.17, or the planning commission of a county, as defined in section 394.30, or if the municipality does not have a planning agency, the governing board of the municipality.

Sec. 4. Minnesota Statutes 1986, section 327C.01, is amended by adding a subdivision to read:

Subd. 8a. [RELOCATION COSTS.] "Relocation costs" means reasonable relocation cost for a displaced resident of a manufactured home park.

Sec. 5. Minnesota Statutes 1986, section 327C.02, is amended by adding a subdivision to read:

Subd. 2a. In an action to recover possession of land for violation of a new or amended rule, if the court finds that the rule is reasonable or is not a substantial modification, the court shall issue an order in favor of the plaintiff for costs. The court shall order the defendant to comply with the rule within ten days. If the resident fails to comply with the rule at any time after the time period provided by the court, the park owner may, upon a showing to the court that three days' written notice was given to the resident, move the court for writ of restitution to recover possession of the lot.

Sec. 6. Minnesota Statutes 1986, section 327C.02, subdivision 5, is amended to read:

Subd. 5. [WRITTEN NOTICE REQUIRED.] A prospective resident, before being asked to sign a rental agreement, must be given the following notice printed verbatim in boldface type of a minimum size of ten points. The notice and the safety feature disclosure form required under section 327C.07, subdivision 3a, must be posted in a conspicuous and public location in the park:

#### **"IMPORTANT NOTICE**

State law provides special rules for the owners and residents of manufactured home parks.

You may keep your home in the park as long as the park is in operation and you meet your financial obligations, obey state and local laws which apply to the park, obey reasonable park rules, do not substantially annoy or endanger the other residents or substan-

tially endanger park personnel and do not substantially damage the park premises. You may not be evicted or have your rent increased or your services cut for complaining to the park owner or to a governmental official.

If you receive an eviction notice and do not leave the park, the park owner may take you to court. If you lose in court a sheriff may remove you and your home from the park within seven days. Or, the court may require you to leave the park within seven days but give you 60 days to sell the home within the park.

If you receive an eviction notice for a new or amended rule and the court finds the rule to be reasonable and not a substantial modification of your original agreement, the court will not order you to leave but will order you to comply with the rule within ten days. If you do not comply within the time given or if you violate the rule at a later time, you will be subject to eviction.

All park rules and policies must be reasonable. Your rent may not be increased more than twice a year. Changes made in park rules after you become a park resident will not apply to you if they substantially change your original agreement.

The park may not charge you an entrance fee.

The park may require a security deposit, but the deposit must not amount to more than two months rent.

You have a right to sell the home in the park. But the sale is not final until the park owner approves the buyer as a new resident, and you must advise in writing anyone who wants to buy your home that the sale is subject to final approval by the park owner. You must also disclose in writing certain safety information about your home to anyone who wants to buy it in the park. You must give this information to the buyer before the sale, in writing, on the form that is attached to this notice. You must completely and accurately fill out the form and you and the buyer should each keep a copy.

Your rental agreement and the park rules contain important information about your rights and duties. Read them carefully and keep a copy.

For further information concerning your rights, consult a private attorney. The state law governing the rental of lots in manufactured home parks may also be enforced by the Minnesota Attorney General."

In addition, the safety feature disclosure form required under section 327C.07, subdivision 3a, must be attached to the notice.

Sec. 7. Minnesota Statutes 1986, section 327C.09, subdivision 1, is amended to read:

Subdivision 1. [CAUSE REQUIRED.] A park owner may recover possession of land upon which a manufactured home is situated only for a reason specified in this section or section 11.

Sec. 8. Minnesota Statutes 1986, section 327C.09, subdivision 4, is amended to read:

Subd. 4. [RULE VIOLATIONS.] The resident fails to comply with a rule within 30 days after receiving written notice of the alleged noncompliance, except the 30 day notice requirement does not apply to nonpayment of rent. Loud noises created by the residents or their equipment or guests shall be considered rule violations unless repeated more than twice after written notice and then shall be considered a violation under subdivision 5.

Sec. 9. Minnesota Statutes 1986, section 327C.09, subdivision 5, is amended to read:

Subd. 5. [ENDANGERMENT; SUBSTANTIAL ANNOYANCE AND DAMAGE.] The resident acts in the park in a manner which endangers other residents or park personnel, causes substantial damage to the park premises or substantially annoys other residents, and has received 30 days written notice to vacate, except the park owner may require the resident to vacate immediately if the resident violates this subdivision a second or subsequent time after receipt of the notice. To be effective, the notice must specify the time, date, and nature of the alleged annoyance, damage, or endangerment. A park owner seeking to evict pursuant to this subdivision need not produce evidence of a criminal conviction, even if the alleged misconduct constitutes a criminal offense.

Sec. 10. Minnesota Statutes 1986, section 327C.11, subdivision 2, is amended to read:

Subd. 2. [WAIVER BY ACCEPTING RENT.] A park owner who gives a resident a notice as provided in section 327C.09, subdivisions 3, 4, 4a, 6, or 8 or 9, or section 327C.095, does not waive the notice by afterwards accepting rent. Acceptance of rent for a period after the expiration of a final notice to quit waives that notice unless the parties agree in writing after service of the notice that the notice continues in effect.

Sec. 11. [327C.095] [PARK CLOSINGS.]

Subdivision 1. [CONVERSION OF USE; MINIMUM NOTICE.] At least nine months before the conversion of all or a portion of a manufactured home park to another use, or before closure of a

manufactured home park or cessation of use of the land as a manufactured home park, the park owner must prepare a closure statement and provide a copy to the local planning agency and a copy to a resident of each manufactured home. A resident may not be required to vacate until 60 days after the ruling on the closure statement by the local planning agency. If a lot is available in another section of the park that will continue to be operated as a park, the park owner must allow the resident to relocate the home to that lot unless the home, because of its size or local ordinance, is not compatible with that lot.

**Subd. 2. [NOTICE OF HEARING; PROPOSED CHANGE IN LAND USE.]** If the planned conversion or cessation of operation requires a variance or zoning change, the municipality must mail a notice at least ten days before the hearing to a resident of each manufactured home in the park stating the time, place, and purpose of the public hearing. The park owner shall provide the municipality with a list of the names and addresses of at least one resident of each manufactured home in the park at the time application is made for a variance or zoning change.

**Subd. 3. [CLOSURE STATEMENT.]** Upon receipt of the closure statement from the park owner, the local planning agency shall prepare an evaluation of the closure statement and request the governing body of the municipality to schedule a public hearing. The municipality must mail a notice at least ten days before the hearing to a resident of each manufactured home in the park stating the time, place, and purpose of the public hearing. The park owner shall provide the municipality with a list of the names and addresses of at least one resident of each manufactured home in the park at the time the closure statement is submitted to the local planning agency.

**Subd. 4. [PUBLIC HEARING; RELOCATION COSTS.]** The governing body of the municipality shall hold a public hearing to review the closure statement. Before any change in use or cessation of operation and as a condition of the change, the governing body may require a payment by the park owner to be made to the displaced resident for reasonable relocation costs. If a resident cannot relocate the home to another manufactured home park within a 25-mile radius of the park that is being closed, the resident is entitled to relocation costs based upon an average of relocation costs awarded to other residents.

The governing board of the municipality may also require that other parties including the municipality involved in the park closing provide additional compensation to residents to mitigate the adverse financial impact of the park closing upon the residents.

**Subd. 5. [PARK CONVERSIONS.]** If the planned cessation of operation is for the purpose of converting the part of the park

occupied by the resident to a condominium pursuant to chapter 515A, the provisions of section 515A.4-110, except paragraph (a), shall apply. The nine-month notice required by this section shall state that the cessation is for the purpose of conversion and shall set forth the rights conferred by this subdivision and section 515A.4-110, paragraph (b). Not less than 120 days before the end of the nine months, the park owner shall serve upon the resident a form of purchase agreement setting forth the terms of sale contemplated by section 515A.4-110, paragraph (b). Service of that form shall operate as the notice described by section 515A.4-110, paragraph (a).

Sec. 12. [STUDY REQUIRED.]

The metropolitan council shall conduct a study to determine the feasibility of establishing a "metropolitan manufactured home park development fund." The purpose of this fund would be to provide low interest development loans to persons interested in constructing manufactured home parks within the seven-county metropolitan area. The results of this study shall be forwarded to the legislature by January 1, 1988.

Sec. 13. [REPEALER.]

Minnesota Statutes 1986, section 327C.09, subdivision 9, is repealed."

Delete the title and insert:

"A bill for an act relating to manufactured homes; defining terms; clarifying the termination of a park lease for substantial annoyance to other residents; allowing certain new or amended rule violations to be cured; regulating park closings; requiring an impact report; providing for a public hearing; creating a right of first refusal; clarifying remedies; amending Minnesota Statutes 1986, sections 327C.01, by adding subdivisions; 327C.02, subdivision 5, and by adding a subdivision; 327C.09, subdivisions 1, 4, and 5; and 327C.11, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 327C; repealing Minnesota Statutes 1986, section 327C.09, subdivision 9."

With the recommendation that when so amended the bill pass.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 647, A bill for an act relating to human services; providing for the establishment of a mental illness information

management system; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 245.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [245.721] [MENTAL ILLNESS INFORMATION MANAGEMENT SYSTEM.]

By January 1, 1990, the commissioner of human services shall establish an information management system for collecting data about individuals who suffer from severe and persistent mental illness and who receive publicly funded services for mental illness."

Delete the title and insert:

"A bill for an act relating to human services; providing for the establishment of a mental illness information management system; proposing coding for new law in Minnesota Statutes, chapter 245."

With the recommendation that when so amended the bill pass.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 781, A bill for an act relating to human services; establishing a system of state-operated, community-based residential programs for persons with mental retardation; prohibiting layoffs of employees in regional treatment centers and state nursing homes; stating the policy of the state relating to services to persons with mental retardation or related conditions; creating an exception to the intermediate care facility for persons with mental retardation or related conditions moratorium; establishing requirements for determining waived service rates; appropriating money; amending Minnesota Statutes 1986, sections 16B.08, subdivision 7; 246.023, subdivision 1; 252.291, subdivision 2; and 256B.501, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 179A and 252; repealing Minnesota Statutes 1986, section 246.023, subdivisions 2 to 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 16B.08, subdivision 7, is amended to read:

Subd. 7. [SPECIFIC PURCHASES.] (a) The following may be purchased without regard to the competitive bidding requirements of this chapter:

(1) fiber used in the manufacture of binder twine, ply twines, and rope at the state correctional facilities;

(2) merchandise for resale at state park refectories or facility operations;

(3) farm and garden products, which may be sold at the prevailing market price on the date of the sale;

(4) meat for other state institutions from the vocational school maintained at Pipestone by independent school district No. 583; and

(5) furniture from the Minnesota correctional facility-St. Cloud.

(b) The following may be purchased or rented without regard to the competitive bidding requirements of this chapter: supplies, materials, equipment, and utility services for use by a community-based residential facility operated by the commissioner of human services.

(c) Supplies, materials, or equipment to be used in the operation of a hospital licensed under sections 144.50 to 144.56 that are purchased under a shared service purchasing arrangement whereby more than one hospital purchases supplies, materials, or equipment with one or more other hospitals, either through one of the hospitals or through another entity, may be purchased without regard to the competitive bidding requirements of this chapter if the following conditions are met:

(1) the hospital's governing authority authorizes the arrangement;

(2) the shared services purchasing program purchases items available from more than one source on the basis of competitive bids or competitive quotations of prices; and

(3) the arrangement authorizes the hospital's governing authority or its representatives to review the purchasing procedures to determine compliance with these requirements.

Sec. 2. [179A.30] [REGIONAL TREATMENT CENTER, NURSING HOME, AND COMMUNITY-BASED FACILITY EMPLOYEES.]

Subdivision 1. [EXCLUSIVE REPRESENTATIVE.] The exclusive representative of employees may meet and negotiate with the



commissioner of employee relations, in consultation with the commissioner of human services, concerning possible changes in hours or work schedules that could produce cost reductions in the biennium in the regional treatment centers.

Subd. 2. [COMMISSIONER OF EMPLOYEE RELATIONS.] The commissioner of employee relations shall meet and negotiate in accordance with chapter 179A with the appropriate exclusive representative of the regional treatment center employees concerning the terms and conditions of employment that result from state-operated, community-based residential programs established under section 4.

Subd. 3. [STAFF REDUCTIONS.] Provided there is no conflict with a collective bargaining agreement, regional treatment center or state nursing home position reductions may be accomplished through attrition, transfers, and retirements. No employee otherwise subject to layoff shall be laid off unless first offered a position for which the employee has been trained and is qualified, with no loss in pay.

Sec. 3. Minnesota Statutes 1986, section 246.023, subdivision 1, is amended to read:

Subdivision 1. [LEGISLATIVE POLICY.] It is recognized that closure and consolidation of state hospitals regional treatment centers have negative economic effects upon public employees and communities. It is the policy of the state that deinstitutionalization policies shall be carried out in a manner that ensures fair and equitable arrangements to protect the interests of employees and communities affected by deinstitutionalization of state hospitals. To the extent possible, employees affected by position reductions in the regional treatment centers must be afforded options that assure continued employment of displaced employees.

Sec. 4. [252.035] [STATE-OPERATED, COMMUNITY-BASED RESIDENTIAL PROGRAMS.]

Subdivision 1. [RESIDENTIAL PROGRAMS ESTABLISHED.] The commissioner may establish a system of noninstitutional, state-operated, community-based residential services for persons with mental retardation or related conditions. For purposes of this section, "state-operated, community-based residential facility" means a residential program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with mental retardation or related conditions. Employees of the facilities must be state employees under chapters 43A and 179A. The establishment of state-operated, community-based residential facilities must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a

comprehensive system of services for persons with mental retardation and related conditions. Services may include, but are not limited to, community group homes, foster care, supportive living arrangements, and respite care arrangements. The commissioner shall operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and may, within the limits of available appropriations, establish additional state-operated, community-based services for regional treatment center residents who are persons with mental retardation. Day program services for clients living in state-operated, community-based residential facilities must not be provided by a regional treatment center or a state-operated, community-based program.

Subd. 2. [AUTHORIZATION TO BUILD OR PURCHASE.] Within the limits of available appropriations, the commissioner may build, purchase or lease suitable buildings for state-operated, community-based residential facilities. Facilities must be homelike and adaptable to the needs of persons with mental retardation or related conditions.

Subd. 3. [ALTERNATIVE FUNDING MECHANISMS.] To the extent possible, the commissioner may amend the medical assistance home and community-based waiver and, as appropriate, develop special waiver procedures for targeting services to persons currently in state regional centers.

Subd. 4. [COUNTIES.] State-operated, community-based residential facilities may be developed in conjunction with existing county responsibilities and authorities for persons with mental retardation. Assessment, placement, screening, case management responsibilities, and determination of need procedures must be consistent with county responsibilities established under law and rule. Counties may enter into shared service agreements with state-operated programs.

Sec. 5. [252.045] [REGIONAL CENTER AND COMMUNITY-BASED FACILITY EMPLOYEES.]

In accordance with section 43A.21, the commissioner shall develop procedures to assure that:

(1) there are workers employed at state regional centers and nursing homes who are skilled in the treatment of persons with severe and profound mental retardation or related conditions, behavioral problems, and medical needs, to facilitate adjustment to community living;

(2) suitable training programs exist for regional treatment center and state-operated, community-based residential facility staff; and

(3) state employees under the jurisdiction of the commissioner who are affected by a position reduction plan have the option of transferring to a community-based program; to a similar, comparable classification in another regional center setting; or to a position in another state agency.

Sec. 6. Minnesota Statutes 1986, section 252.28, is amended by adding a subdivision to read:

Subd. 5. [TRAINING PROGRAM.] The commissioner of human services, in consultation with the commissioner of employee relations and the mental retardation and related conditions advisory task force, shall develop a plan to establish a comprehensive training program for public and private employees who provide services to persons with mental retardation and related conditions.

Sec. 7. Minnesota Statutes 1986, section 252.291, subdivision 2, is amended to read:

Subd. 2. [EXCEPTIONS.] The commissioner of human services in coordination with the commissioner of health may approve a new state-operated or private community-based intermediate care facility for persons with mental retardation or related conditions only in the following circumstances and only if the size of the facility is less than seven beds:

(a) when the facility is developed in accordance with a request for proposal system established pursuant to subdivision 3, clause (b); or

(b) when the facility is necessary to serve the needs of identifiable persons with mental retardation or related conditions who are seriously behaviorally disordered or who are physically or sensorily impaired; or

(c) to license beds in new facilities where need was determined by the commissioner prior to June 10, 1983.

Sec. 8. [WAGE PARITY STUDY.]

The state planning director shall conduct a study of the differences between the wages and benefits paid to employees of public and private community-based providers of care to persons with mental retardation and related conditions, and shall report the findings to the legislature by April 1, 1988.

Sec. 9. [APPROPRIATION.]

Subdivision 1. [HUMAN SERVICES.] \$..... is appropriated from the general fund to the commissioner of human services to establish state-operated, community-based residential facilities.

Subd. 2. [STATE PLANNING AGENCY.] \$..... is appropriated from the general fund to the director of the state planning agency to conduct a wage parity study.

Sec. 10. [REPEALER.]

Minnesota Statutes, section 246.023, subdivisions 2, 3, 4, and 5, are repealed.

Sec. 11. [EFFECTIVE DATE.]

Section 8 and section 9, subdivision 2, are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to human services; establishing a system of state-operated, community-based residential programs for persons with mental retardation; requiring that employees of regional treatment centers and state nursing homes be offered other positions prior to layoff; requiring a study; appropriating money; amending Minnesota Statutes 1986, sections 16B.08, subdivision 7; 246.023, subdivision 1; 252.28, by adding a subdivision; and 252.291, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 179A and 252; repealing Minnesota Statutes 1986, section 246.023, subdivisions 2 to 5."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 825, A bill for an act relating to human services; providing a grant program for on-site employer child care services; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 245.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [245.829] [EMPLOYER DAY CARE GRANTS.]

Subdivision 1. [GRANT AMOUNTS; COVERED EXPENSES.] The commissioner of human services shall administer a program to provide grants to employers who want to provide child day care

services for the benefit of their employees at the site of employment or within close proximity to the site of employment and who meet applicable state licensure laws for day care services and the priorities listed in subdivision 2. The grant shall be equal to 50 percent of total expenditures paid or incurred by the employer during the first two years for planning, site preparation, construction, renovation, or acquisition of facilities to establish a child care facility for use by the children of the employer's employees, including equipment installed for permanent use and kitchen appliances for use in delivering meals to the children. No employer may receive a grant in excess of \$40,000 in either of the first two years of the day care services operation.

If two or more employers share in the cost of establishing or operating a facility for the children of their employees, the commissioner shall apportion the grant between the employers in relation to the respective share paid by the employer to the total expenditures for the services during the year. If the grant is apportioned, the total amount of the grant apportioned may not exceed \$40,000.

Subd. 2. [GRANT PRIORITIES.] In reviewing grant proposals for funding, the commissioner will give priority to employers who will:

(1) provide day care services at the site of employment or within reasonable working distance of the employment site;

(2) provide day care services for infants and toddlers;

(3) allow employees with children using the day care services provided under this section flexibility in work schedules to enable visiting time; and

(4) agree to pay child care workers at least 125 percent of the county average for child care workers.

The employer may not receive any profit from the provision of the day care services or rent from the child care site. In addition, an employer receiving a grant under this section must continue to provide the day care services program for four years after state funding under this section has ended. If the employer does not continue the program, the state's attorney general shall seek to recover the full amount of the grant from the employer.

Subd. 3. [RULES.] The commissioner may adopt rules under chapter 14 necessary to administer and implement the grant program established under this section.

Sec. 2. [APPROPRIATION.]

\$500,000 is appropriated from the general fund to the commissioner of human services for the purpose of administering the grant program and allocating grants under the provisions of section 1. The appropriation is available until expended. The amount of the appropriation available to the commissioner for administrative expenses must not exceed three percent."

Amend the title as follows:

Page 1, line 3, delete "on-site"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Skoglund from the Committee on Financial Institutions and Insurance to which was referred:

H. F. No. 884, A bill for an act relating to financial institutions; savings and loan associations; authorizing the deposit of trust funds received by real estate brokers or salespersons in savings and loan associations; amending Minnesota Statutes 1986, sections 51A.23, subdivision 1; 82.24, subdivisions 1, 2, and 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 51A.23, subdivision 1, is amended to read:

Subdivision 1. [OWNERSHIP.] Savings accounts may be opened and held solely and absolutely by, or in trust or other fiduciary capacity for, any person, including an adult or minor individual, male or female, single or married, partnership, association, fiduciary, or corporation. Trust funds received by a real estate broker or the broker's salespersons in trust may be deposited in a savings and loan association. Savings accounts shall be represented only by the account of each savings account holder on the books of the association, and such accounts or any interest therein shall be transferable only on the books of the association and upon proper written application by the transferee and upon acceptance by the association of the transferee as a member upon terms approved by the board of directors. The association may treat the holder of record of a savings account as the owner thereof for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing notice of a pledge of such savings account.

An association may issue savings accounts to or in the name of a minor, which shall be held for the exclusive right and benefit of the minor, free from the control or lien of all other persons, except creditors, and, together with dividends thereon, shall be paid to the minor, and receipt or acquittance in any form, shall be sufficient release and discharge of the association for withdrawal, until a guardian appointed in this state for the minor shall have delivered a certificate of appointment.

Sec. 2. Minnesota Statutes 1986, section 52.04, is amended to read:

52.04 [POWERS.]

Subdivision 1. A credit union has the following powers:

(1) to offer its members and other credit unions various classes of shares, share certificates, deposits, or deposit certificates;

(2) to receive the savings of its members either as payment on shares or as deposits, including the right to conduct Christmas clubs, vacation clubs, and other thrift organizations within its membership. Trust funds received by a real estate broker or the broker's salespersons in trust may be deposited in a credit union;

(3) to make loans to members for provident or productive purposes as provided in section 52.16;

(4) to make loans to a cooperative society or other organization having membership in the credit union;

(5) to deposit in state and national banks and trust companies authorized to receive deposits;

(6) to invest in any investment legal for savings banks or for trust funds in the state and, notwithstanding clause (3), to invest in and make loans of unsecured days funds (federal funds or similar unsecured loans) to financial institutions insured by an agency of the federal government and a member of the Federal Reserve System or required to maintain reserves at the Federal Reserve;

(7) to borrow money as hereinafter indicated;

(8) to adopt and use a common seal and alter the same at pleasure;

(9) to make payments on shares of and deposit with any other credit union chartered by this or any other state or operating under the provisions of the federal Credit Union Act, in amounts not exceeding in the aggregate 25 percent of its unimpaired assets. However, payments on shares of and deposit with credit unions

chartered by other states are restricted to credit unions insured by the National Credit Union Administration. The restrictions imposed by this clause do not apply to share accounts and deposit accounts of the Minnesota corporate credit union in United States central credit union or to share accounts and deposit accounts of credit unions in the Minnesota corporate credit union;

(10) to contract with any licensed insurance company or society to insure the lives of members to the extent of their share accounts, in whole or in part, and to pay all or a portion of the premium therefor;

(11) to indemnify each director, officer, or committee member, or former director, officer, or committee member against all expenses, including attorney's fees but excluding amounts paid pursuant to a judgment or settlement agreement, reasonably incurred in connection with or arising out of any action, suit, or proceeding to which that person is a party by reason of being or having been a director, officer, or committee member of the credit union, except with respect to matters as to which that person is finally adjudged in the action, suit, or proceeding to be liable for negligence or misconduct in the performance of duties. The indemnification is not exclusive of any other rights to which that person may be entitled under any bylaw, agreement, vote of members, or otherwise;

(12) upon written authorization from a member, retained at the credit union, to make payments to third parties by withdrawals from the member's share or deposit accounts or through proceeds of loans made to such member, or by permitting the credit union to make those payments from the member's funds prior to deposit; to permit draft withdrawals from member accounts, but a credit union proposing to permit draft withdrawals shall notify the commissioner of commerce, in the form prescribed, of its intent not less than 90 days prior to authorizing draft withdrawals. The board of directors of a credit union may restrict one class of shares to the extent that it may not be redeemed, withdrawn, or transferred except upon termination of membership in the credit union;

(13) to inform its members as to the availability of various group purchasing plans which are related to the promotion of thrift or the borrowing of money for provident and productive purposes by means of informational materials placed in the credit union's office, through its publications, or by direct mailings to members by the credit union;

(14) to facilitate its members' voluntary purchase of types of insurance incidental to promotion of thrift or the borrowing of money for provident and productive purposes including, but not limited to the following types of group or individual insurance: Fire, theft, automobile, life and temporary disability; to be the policy holder of a group insurance plan or a subgroup under a master policy plan and to disseminate information to its members concern-



ing the insurance provided thereunder; to remit premiums to an insurer or the holder of a master policy on behalf of a credit union member, if the credit union obtains written authorization from the member for remittance by share or deposit withdrawals or through proceeds of loans made by the members, or by permitting the credit union to make the payments from the member's funds prior to deposit; and to accept from the insurer reimbursement for expenses incurred or in the case of credit life and accident and health insurance within the meaning of chapter 62B commissions for the handling of the insurance. The amount reimbursed or the commissions received may constitute the general income of the credit union. The directors, officers, committee members and employees of a credit union shall not profit on any insurance sale facilitated through the credit unions;

(15) to contract with another credit union to furnish services which either could otherwise perform. Contracted services under this clause are subject to regulation and examination by the commissioner of commerce like other services;

(16) in furtherance of the twofold purpose of promoting thrift among its members and creating a source of credit for them at legitimate rates of interest for provident purposes, and not in limitation of the specific powers hereinbefore conferred, to have all the powers enumerated, authorized, and permitted by this chapter, and such other rights, privileges and powers incidental to, or necessary for, the accomplishment of the objectives and purposes of the credit union;

(17) to rent safe deposit boxes to its members if the credit union obtains adequate insurance or bonding coverage for losses which might result from the rental of safe deposit boxes;

(18) notwithstanding the provisions of section 52.05, to accept deposits of public funds in an amount secured by insurance or other means pursuant to chapter 118;

(19) to accept and maintain treasury tax and loan accounts of the United States and to pledge collateral to secure the treasury tax or loan accounts, in accordance with the regulations of the Department of Treasury of the United States;

(20) to accept deposits pursuant to section 149.12, notwithstanding the provisions of section 52.05, if the deposits represent funding of prepaid funeral plans of members;

(21) to sell, in whole or in part, real estate secured loans provided that:

(a) the loan is secured by a first lien;

(b) the board of directors approves the sale;

(c) if the sale is partial, the agreement to sell a partial interest shall, at a minimum:

(i) identify the loan or loans covered by the agreement;

(ii) provide for the collection, processing, remittance of payments of principal and interest, taxes and insurance premiums and other charges or escrows, if any;

(iii) define the responsibilities of each party in the event the loan becomes subject to collection, loss or foreclosure;

(iv) provide that in the event of loss, each owner shall share in the loss in proportion to its interest in the loan or loans;

(v) provide for the distribution of payments of principal to each owner proportionate to its interest in the loan or loans;

(vi) provide for loan status reports;

(vii) state the terms and conditions under which the agreement may be terminated or modified; and

(d) the sale is without recourse or repurchase unless the agreement:

(i) requires repurchase of a loan because of any breach of warranty or misrepresentation;

(ii) allows the seller to repurchase at its discretion; or

(iii) allows substitution of one loan for another;

(22) in addition to the sale of loans secured by a first lien on real estate, to sell, pledge, discount, or otherwise dispose of, in whole or in part, to any source, a loan or group of loans, other than a self-replenishing line of credit; provided, that within a calendar year beginning January 1 the total dollar value of loans sold, other than loans secured by real estate or insured by a state or federal agency, shall not exceed 25 percent of the dollar amount of all loans and participating interests in loans held by the credit union at the beginning of the calendar year, unless otherwise authorized in writing by the commissioner;

(23) to designate the par value of the shares of the credit union by board resolution;

(24) to exercise by resolution the powers set forth in United States Code, title 12, section 1757, as amended through August 1, 1985. Before exercising each power, the board must submit a plan to the commissioner of commerce detailing implementation of the power to be used;

(25) To offer self-directed individual retirement accounts and Keough accounts and act as custodian and trustee of these accounts if:

(1) all contributions of funds are initially made to a deposit, share or share certificate account in the credit union;

(2) any subsequent transfer of funds to other assets is solely at the direction of the member and the credit union exercises no investment discretion and provides no investment advice with respect to plan assets; and

(3) the member is clearly notified of the fact that National Credit Union Share Insurance Fund coverage is limited to funds held in deposit, share or share certificate accounts of National Credit Union Share Insurance Fund-insured credit unions.

Sec. 3. Minnesota Statutes 1986, section 82.17, subdivision 6, is amended to read:

Subd. 6. "Trust account" means, for purposes of this chapter, a savings account, negotiable order of withdrawal account, demand deposit or checking account maintained for the purpose of segregating trust funds from other funds. A trust account shall not be an interest bearing account except by agreement of the parties and subject to rules of the commissioner, and shall not allow the financial institution a right of set off against moneys owed it by the licensee.

Sec. 4. Minnesota Statutes 1986, section 82.24, subdivision 1, is amended to read:

Subdivision 1. [GENERALLY.] All trust funds received by a broker or the broker's salespeople shall be deposited forthwith upon receipt in a trust account, maintained by the broker for such purpose in a bank, savings and loan association, credit union, or an industrial loan and thrift company with deposit liabilities designated by the broker, except as such moneys may be paid to one of the parties pursuant to express written agreement between the parties to a transaction. The depository bank shall be a Minnesota bank or trust company or any foreign bank and shall authorize the commissioner to examine its records of such deposits upon demand by the commissioner. The industrial loan and thrift company shall be organized under chapter 53. The savings and loan association or credit union shall be organized under the laws of any state or the United States.

Sec. 5. Minnesota Statutes 1986, section 82.24, subdivision 2, is amended to read:

Subd. 2. [LICENSEE ACTING AS PRINCIPAL.] Any licensed real estate broker or salesperson acting in the capacity of principal in the sale or rental of interests in real estate owned or rented by the licensee shall deposit in a Minnesota bank or trust company, any foreign bank which authorizes the commissioner to examine its records of the deposits, a savings and loan association, credit union, or an industrial loan and thrift company organized under chapter 53 with deposit liabilities, in a trust account, those parts of all payments received on contracts that are necessary to meet any amounts concurrently due and payable on any existing mortgages, contracts for deed or other conveyancing instruments, and reserve for taxes and insurance or any other encumbrance on the receipts. The deposits must be maintained until disbursement is made under the terms of the encumbrance and proper accounting on the property made to the parties entitled to an accounting. The provisions of this subdivision relating to rental of interests in real estate apply only to single-family residential property.

Sec. 6. Minnesota Statutes 1986, section 82.24, subdivision 6, is amended to read:

Subd. 6. [NOTICE OF TRUST ACCOUNT STATUS.] The names of the banks, savings and loan associations, credit unions, and industrial loan and thrift companies and the trust account numbers used by a broker shall be provided to the commissioner at the time of application for the broker's license. The broker shall immediately report to the commissioner any change of trust account status including changes in banks, savings and loan associations, credit unions, and industrial loan and thrift companies, account numbers, or additional accounts in the same or other banks, savings and loan associations, credit unions, and industrial loan and thrift companies. A broker shall not close an existing trust account without giving ten days written notice to the commissioner.

Delete the title and insert:

"A bill for an act relating to financial institutions; authorizing the deposit of trust funds received by real estate brokers or salespersons in savings and loan associations and credit unions; amending Minnesota Statutes 1986, sections 51A.23, subdivision 1; 52.04; 82.17, subdivision 6; and 82.24, subdivisions 1, 2, and 6."

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 940, A bill for an act relating to retirement; various public employee pension plans; specifying that exemptions from legal process do not include marital property divisions; requiring the provision of certain public pension plan information in marriage dissolution actions; providing for court appointed actuaries in marriage dissolution actions; amending Minnesota Statutes 1986, sections 69.51; 352.15, subdivision 1; 352B.071; 353.15; 354.10; 354A.11; 422A.24; 423.39; 423.61; 423.813; 424.27; 518.54, subdivision 5, and by adding subdivisions; and 518.58; proposing coding for new law in Minnesota Statutes, chapters 356 and 518.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 69.51, is amended to read:

**69.51 [PAYMENTS EXEMPT FROM PROCESS.]**

All payments made, or to be made, by any relief association under any of the provisions of sections 69.25 to 69.53 shall be totally exempt from garnishment, execution, or other legal process and, except as provided in section 518.58, section 18, or 518.611. No persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment or to pay any sum on account thereof; and Any attempt to transfer any such right or claim, or any part thereof, shall be void.

Sec. 2. Minnesota Statutes 1986, section 352.15, subdivision 1, is amended to read:

Subdivision 1. **[EXEMPTION; EXCEPTIONS.]** None of the monies, annuities, or other benefits mentioned herein shall be assignable either in law or in equity or be subject to any state estate tax, or to execution, levy, attachment, garnishment, or other legal process, except as provided in subdivision 1a or section 518.58, section 18, or 518.611. Provided, however,

Subd. 1a. [AUTOMATIC DEPOSITS.] The executive director may pay an annuity, benefit or refund to a banking institution, qualified under chapter 48, that is trustee for a person eligible to receive such annuity, benefit or refund. Upon the request of a retired, disabled or former employee, the executive director may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such employee's account or joint

account with a spouse. The board of directors may prescribe the conditions under which such payments will be made.

Sec. 3. Minnesota Statutes 1986, section 352.96, is amended by adding a subdivision to read:

Subd. 6. [EXEMPTION FROM PROCESS.] As money to which legal title is vested in the state of Minnesota, no amount of deferred compensation is assignable or subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, section 18, or 518.611.

Sec. 4. Minnesota Statutes 1986, section 352B.071, is amended to read:

#### 352B.071 [EXEMPTION FROM PROCESS.]

None of the money, annuities, or other benefits provided for in this chapter shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, section 18, or 518.611.

Sec. 5. Minnesota Statutes 1986, section 353.15, is amended to read:

#### 353.15 [NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS.]

Subdivision 1. [EXEMPTION; EXCEPTIONS.] No money, annuity, or benefit provided for in this chapter is assignable or subject to any state estate tax, or to execution, levy, attachment, garnishment, or legal process, except as provided in subdivision 2 or section 518.58, section 18, or 518.611. Provided, however,

Subd. 2. [AUTOMATIC DEPOSITS.] The association may pay an annuity, benefit or refund to a trust company, qualified under chapter 48, that is trustee for a person eligible to receive such annuity, benefit or refund. Upon the request of a retired, disabled or former member, the association may mail the annuity, benefit or refund check to a banking institution, savings association or credit union for deposit to such person's account or joint account with a spouse. The association may prescribe the conditions under which such payment will be made.

Subd. 3. [PAYMENT TO PUBLIC BODIES.] If in the judgment of the executive director conditions so warrant, payment may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe.

Sec. 6. Minnesota Statutes 1986, section 354.10, is amended to read:

**354.10 [FUND NOT SUBJECT TO ASSIGNMENT OR PROCESS; BENEFICIARIES.]**

**Subdivision 1. [EXEMPTION; EXCEPTIONS.]** The right of a teacher to take advantage of the benefits provided by this chapter, is a personal right only and shall not be assignable. All money to the credit of a teacher's account in the fund or any money payable to the teacher from the fund shall belong to the state of Minnesota until actually paid to the teacher or a beneficiary pursuant to the provisions of this chapter. Any power of attorney, assignment or attempted assignment of a teacher's interest in the fund, or of the beneficiary's interest therein, by a teacher or a beneficiary, shall be null and void and the same shall be exempt from taxation under chapter 291 and from garnishment or levy under attachment or execution, except as provided in subdivision 2 or section 518.58, section 18, or 518.611. ~~Provided however,~~

**Subd. 2. [AUTOMATIC DEPOSITS.]** The board may pay an annuity or benefit to a banking institution, qualified under chapter 48, that is a trustee for a person eligible to receive such annuity or benefit. Upon completion of the proper forms as provided by the board, the annuity or benefit check may be mailed to a banking institution, savings association or credit union for deposit to the recipient's individual account or joint account with a spouse. The board shall prescribe the conditions which shall govern these procedures.

**Subd. 3. [PAYMENT TO PUBLIC BODIES.]** If in the judgment of the executive director conditions so warrant, payment may be made to a public body in behalf of an annuitant, disabilitant, or survivor upon such terms as the executive director may prescribe.

**Subd. 4. [CHANGES IN BENEFICIARIES.]** Any beneficiary designated by a teacher under the terms of this chapter, may be changed or revoked by the teacher at pleasure, in such manner as the board may prescribe. In case a designated beneficiary dies before the teacher designating the beneficiary dies, and a new beneficiary is not designated, the teacher's estate shall be the beneficiary.

Sec. 7. Minnesota Statutes 1986, section 354A.11, is amended to read:

**354A.11 [CERTAIN MONEYS AND CREDITS OF TEACHERS EXEMPT.]**

All moneys deposited by a teacher or member or deposited by any other person or corporation, municipal or private, to the credit of a teacher or member of a teachers retirement fund association orga-

nized pursuant to this chapter, and all moneys, rights, and interests or annuities due or to become due to a teacher, member, or annuitant, or their beneficiaries, from any association shall not be assignable, shall be exempt from garnishment, attachment, and execution or sale on any final process issued from a court and other legal process, except as provided in section 518.58, section 18, or 518.611, and shall not be subject to the estate tax provisions of this state. ~~This section does not make the moneys nonmarital property.~~

Sec. 8. [356.80] [PROVISION OF INFORMATION IN THE EVENT OF MARRIAGE DISSOLUTION.]

Subdivision 1. [INFORMATION FOR A PENDING MARRIAGE DISSOLUTION.] (a) Upon written request by a person with access to the data under subdivision 3, a public or private pension plan must provide the court and the parties to a marriage dissolution action involving a plan member or former plan member with information regarding pension benefits or rights of the plan member or former plan member. The pension plan shall provide this information upon request of the court or a party to the action without requiring a signed authorization from the plan member or former plan member.

(b) The information must include the pension benefits or rights of the plan member or former plan member as of the first day of the month following the date of the request, as of the first day of the seventh month following the date of the request if the action involves an active plan member, and as of the date of valuation of marital assets under section 518.58, if the person requesting the information specifies that date. The information must also include the accrued service credit of the person, the credited salary of the person for the most current five-year period, a summary of the benefit plan, and any other information relevant to the calculation of the present value of the benefits or rights.

Subd. 2. [INFORMATION FOR AN EXISTING DISSOLUTION DECREE.] If a marriage dissolution decree rendered by a court of competent jurisdiction prior to the effective date of this section provided a procedure for dividing pension benefits or rights in the form of future pension plan payments, upon request the applicable pension plan shall provide on a timely basis to the court and the parties to the action the required information to implement that procedure.

Subd. 3. [ACCESS TO DATA.] Notwithstanding any provision of chapter 13 to the contrary, a responsible authority may release private or confidential data on individuals to the court, the parties to a marriage dissolution, their attorneys, and an actuary appointed under section 19, to the extent necessary to comply with this section.

Sec. 9. Minnesota Statutes 1986, section 422A.24, is amended to read:



**422A.24 [ALLOWANCES NOT ASSIGNABLE OR SUBJECT TO PROCESS.]**

No moneys payable pursuant to this chapter shall be assignable either in law or equity or be subject to execution, levy, attachment, garnishment, or other legal process, except as provided in section 518.58, section 18, or 518.611, nor shall any of the proceeds of payments due pursuant to this chapter be subject to the inheritance tax provisions of this state upon transfer to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

Sec. 10. Minnesota Statutes 1986, section 423.39, is amended to read:

**423.39 [FUNDS EXEMPT FROM EXECUTION.]**

All payments made or to be made by any such police officers' relief association under any of the provisions of Laws 1947, Chapter 625, shall be totally exempt from garnishment, execution, or other legal process, except as provided in section 518.58, section 18, or 518.611; and. No persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum on account thereof; and. Any attempt to transfer any such right or claim, or any part thereof, shall be absolutely void.

Sec. 11. Minnesota Statutes 1986, section 423.61, is amended to read:

**423.61 [PENSION EXEMPT FROM LEGAL PROCESS.]**

All payments made or to be made by any such police officers' relief association under any of the provisions of sections 423.41 to 423.62 shall be totally exempt from garnishment, execution, or other legal process, except as provided in section 518.58, section 18, or 518.611; and. No persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum on account thereof; and. Any attempt to transfer any such right or claim, or any part thereof, shall be absolutely void.

Sec. 12. Minnesota Statutes 1986, section 423.813, is amended to read:

**423.813 [PAYMENTS EXEMPT FROM PROCESS, ASSIGNMENT FORBIDDEN.]**

Any payment made by the association under any provision of sections 423.801 to 423.814 is exempt from any legal process, except as provided in section 518.58, section 18, or 518.611. No person

entitled to any such payment may assign the same. The association may not recognize any assignment or pay any sum on account thereof.

Sec. 13. Minnesota Statutes 1986, section 424.27, is amended to read:

**424.27 [PAYMENTS EXEMPT FROM LEGAL PROCESS.]**

All payments made or to be made by any relief associations under any of the provisions of sections 424.01 to 424.29 shall be totally exempt from garnishment, execution, or other legal process, except as provided in section 518.58, section 18, or 518.611, ~~and~~. No persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum on account thereof; ~~and~~. Any attempt to transfer any such right or claim or any part thereof shall be void.

Sec. 14. Minnesota Statutes 1986, section 518.54, subdivision 5, is amended to read:

Subd. 5. [MARITAL PROPERTY; EXCEPTIONS.] "Marital property" means property, real or personal, including vested public or private pension plan benefits or rights, acquired by the parties, or either of them, to a dissolution, legal separation, or annulment proceeding at any time during the existence of the marriage relation between them, or at any time during which the parties were living together as husband and wife under a purported marriage relationship which is annulled in an annulment proceeding. All property acquired by either spouse subsequent to the marriage and before a decree of legal separation is presumed to be marital property regardless of whether title is held individually or by the spouses in a form of coownership such as joint tenancy, tenancy in common, tenancy by the entirety, or community property. Each spouse shall be deemed to have a common ownership in marital property that vests not later than the time of the entry of the decree in a proceeding for dissolution or annulment. The extent of the vested interest shall be determined and made final by the court pursuant to section 518.58. The presumption of marital property is overcome by a showing that the property is nonmarital property.

"Nonmarital property" means property real or personal, acquired by either spouse before, during, or after the existence of their marriage, which

(a) is acquired as a gift, bequest, devise or inheritance made by a third party to one but not to the other spouse;

(b) is acquired before the marriage;

(c) is acquired in exchange for or is the increase in value of property which is described in clauses (a), (b), (d), and (e);

(d) is acquired by a spouse after a decree of legal separation; or

(e) is excluded by a valid antenuptial contract.

Sec. 15. Minnesota Statutes 1986, section 518.54, is amended by adding a subdivision to read:

Subd. 10. [PUBLIC PENSION PLAN BENEFITS OR RIGHTS.] "Public pension plan benefits or rights" means a benefit or right from a public pension plan accrued to the end of the month in which marital assets are valued, as determined under the terms of the laws or other plan document provisions governing the plan, including section 356.30.

Sec. 16. Minnesota Statutes 1986, section 518.54, is amended by adding a subdivision to read:

Subd. 11. [PUBLIC PENSION PLAN.] "Public pension plan" means a pension plan or fund specified in section 356.20, subdivision 2, or 356.30, subdivision 3, the deferred compensation plan specified in section 352.96, or any retirement or pension plan or fund, including a supplemental retirement plan or fund, established, maintained, or supported by a governmental subdivision or public body whose revenues are derived from taxation, fees, assessments, or from other public sources.

Sec. 17. Minnesota Statutes 1986, section 518.58, is amended to read:

#### 518.58 [DIVISION OF MARITAL PROPERTY.]

Subdivision 1. [GENERAL.] Upon a dissolution of a marriage, an annulment, or in a proceeding for disposition of property following a dissolution of marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property and which has since acquired jurisdiction, the court shall make a just and equitable division of the marital property of the parties without regard to marital misconduct, after making findings regarding the division of the property. The court shall base its findings on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, opportunity for future acquisition of capital assets, and income of each party. The court shall also consider the contribution of each in the acquisition, preservation, depreciation or appreciation in the amount or value of the marital property, as well as the contribution of a spouse as a homemaker. It shall be

conclusively presumed that each spouse made a substantial contribution to the acquisition of income and property while they were living together as husband and wife. The court may also award to either spouse the household goods and furniture of the parties, whether or not acquired during the marriage.

If the court finds that either spouse's resources or property, including the spouse's portion of the marital property as defined in section 518.54, subdivision 5 are so inadequate as to work an unfair hardship, considering all relevant circumstances, the court may, in addition to the marital property, apportion up to one-half of the property otherwise excluded under section 518.54, subdivision 5, clauses (a) to (d) to prevent the unfair hardship. If the court apportions property other than marital property, it shall make findings in support of the apportionment. The findings shall be based on all relevant factors including the length of the marriage, any prior marriage of a party, the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, needs, and opportunity for future acquisition of capital assets and income of each party.

If the court finds that it is necessary to preserve the marital assets of the parties, the court may order the sale of the homestead of the parties or the sale of other marital assets, as the individual circumstances may require, during the pendency of a proceeding for a dissolution of marriage or an annulment. If the court orders a sale, it may further provide for the disposition of the funds received from the sale during the pendency of the proceeding. If liquid or readily liquidated marital property other than property representing vested pension benefits or rights is available, the court, so far as possible, shall divide the property representing vested pension benefits or rights by the disposition of an equivalent amount of the liquid or readily liquidated property.

Subd. 2. [PENSION PLANS.] The division of marital property that represents vested public pension benefits or rights in the form of future public pension plan payments:

(1) may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable;

(2) is payable only to the extent of the amount of the public pension plan benefit payable under the terms of the plan;

(3) is not payable for a period that exceeds the time that public pension plan benefits are payable to the public pension plan benefit recipient;

(4) is not payable in a lump sum amount from public pension plan assets attributable in any fashion to a spouse with the status of an

active member, deferred retiree, or benefit recipient of a public pension plan; and

(5) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee.

Sec. 18. [518.581] [SURVIVING SPOUSE BENEFIT.]

Subdivision 1. [AWARD OF BENEFIT.] If a current or former employee's marriage is dissolved, the court may order the employee, the employee's pension plan, or both, to pay amounts as part of the division of pension rights that the court may make under section 518.58, or as an award of maintenance in the form of a percentage of periodic or other payments or in the form of a fixed dollar amount. The court may, as part of the order, award a former spouse all or part of a survivor benefit unless the plan does not allow by law the payment of a surviving spouse benefit to a former spouse.

Subd. 2. [PAYMENT OF FUNDS BY RETIREMENT PLAN.] (a) If the court has ordered that a spouse has an interest in a pension plan, the court may order the pension plan to withhold payment of a refund upon termination of employment or lump sum distribution to the extent of the spouse's interest in the plan, or to provide survivor benefits ordered by the court.

(b) The court may not order the pension plan to:

(1) pay more than the equivalent of one surviving spouse benefit, regardless of the number of spouses or former spouses who may be sharing in a portion of the total benefit;

(2) pay surviving spouse benefits under circumstances where the plan member does not have a right to elect surviving spouse benefits; or

(3) pay surviving spouse benefits if the former spouse would not be eligible for benefits under the terms of the plan;

(4) order survivor benefits which, when combined with the annuity or benefit payable to the pension plan member, exceed the actuarial equivalent value of the normal retirement annuity form, determined under the plan documents of the pension plan then in effect and the actuarial assumptions then in effect for calculating optional annuity forms by the pension plan or for calculating the funding requirements of the pension plan if no optional annuity forms are provided by the pension plan.

(c) If more than one spouse or former spouse is entitled to a surviving spouse benefit, the pension plan shall pay each spouse a portion of the benefit based on the ratio of the number of years the spouse was married to the plan member to the total number of years the plan member was married to spouses who are entitled to the benefit.

Subd. 3. [NOTICE TO FORMER SPOUSE.] A pension plan shall notify a former spouse of an application by the employee for a refund of pension benefits if the former spouse has filed with the pension plan:

(1) a copy of the court order, including a withholding order, determining the former spouse's rights;

(2) the name and last known address of the employee; and

(3) the name and address of the former spouse.

A pension plan shall comply with an order, including a withholding order, issued by a court having jurisdiction over dissolution of marriage that is served on the pension plan, if the order states the name, last known address of the payees, and name and address of the former spouse, or if the names and addresses are provided to the pension plan with service of the order.

Subd. 4. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given in this subdivision.

(a) "Current or former public employee" or "employee" means an individual who has an interest in a pension plan.

(b) "Surviving spouse benefit" means (1) a benefit a surviving spouse may be eligible for under the laws and bylaws of the pension plan if the employee dies before retirement, or (2) a benefit selected for or available to a surviving spouse under the laws and bylaws of the pension plan upon the death of the employee after retirement.

**Sec. 19. [518.582] [PROCEDURE FOR VALUING PENSION BENEFITS OR RIGHTS.]**

Subdivision 1. [APPOINTMENT OF ACTUARY.] (a) Each court of this state that has jurisdiction to decide marriage dissolution matters may appoint an approved actuary to function as an expert witness in valuing pension benefits or rights.

(b) An approved actuary is a person who is enrolled as a member of the American Academy of Actuaries, or is enrolled as an actuary pursuant to the Federal Employee Retirement Income Security Act of 1974, as amended.

Subd. 2. [STANDARDS.] A court appointed actuary shall determine the present value of pension benefits or rights that are marital property of the parties to the action based on the applicable plan documents of the pension plan and the applicable actuarial assumptions specified for use in calculating optional annuity forms by the pension plan or for funding the pension plan, if reasonable, or as specified by the court. The court appointed actuary shall report to the court and to the parties the present value of the pension benefits or rights that are marital property.

Subd. 3. [COMPENSATION.] The court appointed actuary may be compensated at a rate established by the court. The compensation of the court appointed actuary shall be allocated between the parties as the court directs.

Subd. 4. [STIPULATION.] In lieu of valuing pension benefits or rights through use of the court appointed actuary, the parties may stipulate the present value of pension benefits or rights that are marital property.

Sec. 20. [EFFECTIVE DATE.]

Sections 1 to 7 and 9 to 13 are effective on the day following final enactment. Sections 14 to 18 are effective August 1, 1987, and apply to marriage dissolution decrees issued on or after that date."

Delete the title and insert:

"A bill for an act relating to retirement; various employee pension plans; specifying that exemptions from legal process do not include marital property divisions; requiring the provision of certain pension plan information in marriage dissolution actions; providing for court appointed actuaries in marriage dissolution actions; amending Minnesota Statutes 1986, sections 69.51; 352.15, subdivision 1; 352.96, by adding a subdivision; 352B.071; 353.15; 354.10; 354A.11; 422A.24; 423.39; 423.61; 423.813; 424.27; 518.54, subdivision 5, and by adding subdivisions; and 518.58; proposing coding for new law in Minnesota Statutes, chapters 356 and 518."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Judiciary.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 995, A bill for an act relating to human services; clarifying chemical dependency consolidated fund administration

procedures; amending Minnesota Statutes 1986, sections 246.51; 246.511; 254B.01, subdivision 5; 254B.02, subdivisions 1, 2, 3, and 5; 254B.03, subdivisions 1, 2, 3, 4, and 5; 254B.04, subdivision 2; 254B.06, subdivision 1; and 254B.09, subdivisions 3, 5, and 7; repealing Minnesota Statutes 1986, section 256.968.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 246.51, is amended to read:

**246.51 [PAYMENT FOR CARE AND TREATMENT; DETERMINATION.]**

Subdivision 1. [PROCEDURES.] The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the patient is able to pay. If the patient is unable to pay the full cost of care the commissioner shall make a determination as to the ability of the relatives to pay. The patient or relatives or both shall provide the commissioner documents and proofs necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the patient or relatives, both, liable for the full cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a patient at a regional treatment center after the patient has reached the age of 18 years. The commissioner's determination shall be conclusive in any action to enforce payment of the cost of care unless appealed from as provided in section 246.55. All money received, except for chemical dependency receipts, shall be paid to the state treasurer and placed in the general fund of the state and a separate account kept of it. Except for services provided under chapter 254B, responsibility under this section shall not apply to those relatives having gross earnings of less than \$11,000 per year.

Subd. 2. [RULES.] The commissioner shall adopt, pursuant to the administrative procedure act, rules establishing uniform standards for determination of patient liability and relative, guardian or conservator responsibility for care provided at state hospitals. The standards may differ for mental illness, chemical dependency, or mental retardation. The standards established in rules adopted under chapter 254B shall determine the amount of patient and relative responsibility when a portion of the patient's cost of care has been paid under chapter 254B. These rules shall have the force and effect of law.

Sec. 2. Minnesota Statutes 1986, section 246.511, is amended to read:



## 246.511 [RELATIVE RESPONSIBILITY.]

~~In no case, shall~~ Except for chemical dependency services paid for with funds provided under chapter 254B, a patient's or resident's relatives shall not, pursuant to the commissioner's authority under section 246.51, be ordered to pay more than ten percent of the cost of care, unless they reside outside the state. Parents of children in state hospitals shall have their responsibility to pay determined according to section 252.27, subdivision 2, or in rules adopted under chapter 254B if the cost of care is paid under chapter 254B. The commissioner may accept voluntary payments in excess of ten percent. The commissioner may require full payment of the full per capita cost of care in state hospitals for patients or residents whose parent, parents, spouse, guardian or conservator do not reside in Minnesota.

Sec. 3. Minnesota Statutes 1986, section 254B.01, subdivision 5, is amended to read:

Subd. 5. [LOCAL AGENCY.] "Local agency" means the agency designated by a board of county commissioners, a county welfare board, or a human services board to make placements and submit state invoices according to Laws 1986, chapter 394, sections 8 to 20.

Sec. 4. Minnesota Statutes 1986, section 254B.02, subdivision 1, is amended to read:

Subdivision 1. [CHEMICAL DEPENDENCY TREATMENT ALLOCATION.] The chemical dependency funds appropriated for allocation shall be placed in a special revenue account. For the fiscal year beginning July 1, 1987, funds shall be transferred to operate the vendor payment, invoice processing, and collections system for one year. The commissioner shall annually transfer funds from the chemical dependency fund to pay for operation of the drug and alcohol abuse normative evaluation system and to pay for all costs incurred by adding two positions for licensing of chemical dependency treatment and rehabilitation programs located in hospitals for which funds are not otherwise appropriated. The commissioner shall annually divide the money available in the chemical dependency fund that is not held in reserve by counties from a previous allocation. Twelve percent of the remaining money must be reserved for treatment of American Indians by eligible vendors under section 254B.05. The remainder of the money must be allocated among the counties according to the following formula, using state demographer data and other data sources determined by the commissioner:

(a) The county non-Indian and over age 14 per capita-months of eligibility for aid to families with dependent children, general assistance, and medical assistance is divided by the total state non-Indian and over age 14 per capita-months of eligibility to determine the caseload factor for each county.

(b) The average median family income for the previous three years for the state is divided by the average median family income for the previous three years for each county to determine the income factor.

(c) The non-Indian and over age 14 population of the county is multiplied by the sum of the income factor and the caseload factor to determine the adjusted population.

(d) \$15,000 shall be allocated to each county.

(e) The remaining funds shall be allocated proportional to the county adjusted population.

Sec. 5. Minnesota Statutes 1986, section 254B.02, subdivision 2, is amended to read:

Subd. 2. [COUNTY ADJUSTMENT; MAXIMUM ALLOCATION.] The commissioner shall determine the state money used by each county in fiscal year 1986, using all state data sources. If available records do not provide specific chemical dependency expenditures for every county, the commissioner shall determine the amount of state money using estimates based on available data. In state fiscal year 1988, a county must not be allocated more than 150 percent of the state money spent by or on behalf of the county in fiscal year 1986 for chemical dependency treatment services eligible for payment under section 254B.05, but not including expenditures made for persons eligible for placement under section 254B.09, subdivision 6. The allocation maximums must be increased by 25 percent each year. After fiscal year 1992, there must be no allocation maximum. The commissioner shall reallocate the excess over the maximum to counties allocated less than the fiscal year 1986 state money, using the following process:

(a) The allocation is divided by ~~1985~~ 1986 state expenditures to determine percentage of prior expenditure, and counties are ranked by percentage of prior expenditure less expenditures for persons eligible for placement under section 254B.09, subdivision 6.

(b) The allocation of the lowest ranked county is raised to the same percentage of prior expenditure as the second lowest ranked county. The allocation of these two counties is then raised to the percentage of prior expenditures of the third lowest ranked county.

(c) The operations under paragraph (b) are repeated with each county by ranking until the money in excess of the allocation maximum has been allocated.

Sec. 6. Minnesota Statutes 1986, section 254B.02, subdivision 3, is amended to read:

Subd. 3. [RESERVE ACCOUNT.] The commissioner shall allocate money from the reserve account to counties that, during the current fiscal year, have met or exceeded the base level of expenditures for eligible chemical dependency services from local money. The commissioner shall establish the base level for fiscal year 1988 as the amount of local money used for eligible services in calendar year 1986. In later years, the base level must be increased in the same proportion as state appropriations to implement Laws 1986, chapter 394, sections 8 to 20, are increased. The base level must ~~not~~ be decreased if ~~appropriations are the fund balance from which allocations are made under section 254B.02, subdivision 1,~~ is decreased in later years. The local match rate for the reserve account is the same rate as applied to the initial allocation. Reserve account payments must not be included when calculating the county adjustments made according to subdivision 2.

Sec. 7. Minnesota Statutes 1986, section 254B.02, subdivision 5, is amended to read:

Subd. 5. [ADMINISTRATIVE ADJUSTMENT.] The commissioner may make payments to local agencies from money allocated under this section to support administrative activities under sections 254B.03 and 254B.04. The administrative payment must not exceed five percent of the first \$50,000, four percent of the next \$50,000, and three percent of the remaining county allocation and must not be paid if the level of expenditures indicates that the allocation for the year will be exhausted by payments for services from the allocation. Twenty-five percent of the administrative allowance shall be advanced at the beginning of each year and remaining payments must be made under this section at the end of each quarter from any unspent allocation for that year quarter, based on the payments for services made in the most recent quarter for which data is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the administrative allowance for any succeeding quarter.

Sec. 8. Minnesota Statutes 1986, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. [LOCAL AGENCY DUTIES.] (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or non-residential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.01 to 14.69.

(b) In order to contain costs, the county board shall, with the approval of the commissioner of human services, select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social

services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.

Sec. 9. Minnesota Statutes 1986, section 254B.03, subdivision 2, is amended to read:

Subd. 2. [CHEMICAL DEPENDENCY SERVICES.] (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification that, if located outside of federally recognized tribal lands, would be required to be licensed by the commissioner as a ~~residential or nonresidential~~ chemical dependency treatment or rehabilitation program under sections 245.781 to 245.812, and services other than detoxification provided in another state that would be required to be licensed as a chemical dependency program if the program were in the state. Out-of-state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide chemical dependency treatment. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245.791. Except for chemical dependency transitional rehabilitation programs, vendors receiving payments from the chemical dependency fund must not require copayment from a recipient of benefits for services provided under this subdivision.

(b) A county may, from its own resources, provide chemical dependency services for which state payments are not made. A county may elect to use the same invoice procedures and obtain the same state payment services as are used for chemical dependency services for which state payments are made under this section if county payments are made to the state in advance of state payments to vendors. When a county uses the state system for payment, the commissioner shall make monthly billings to the county using the most recent available information to determine the anticipated services for which payments will be made in the coming month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

(c) The commissioner shall coordinate chemical dependency services and determine whether there is a need for any proposed

expansion of chemical dependency treatment services. The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the expansion of existing program capacity. The commissioner shall consider the provider's capacity to obtain clients from outside the state based on plans, agreements, and previous utilization history, when determining the need for new treatment services.

Sec. 10. Minnesota Statutes 1986, section 254B.03, subdivision 3, is amended to read:

Subd. 3. [LOCAL AGENCIES TO PAY STATE FOR COUNTY SHARE.] Local agencies shall submit invoices to the state on forms supplied by the commissioner and according to procedures established by the commissioner. Local agencies shall pay the state for the county share of the invoiced services. Payments shall be made at the beginning of each month for services provided in the previous month. The commissioner shall bill the county monthly for services, based on the most recent month for which expenditure information is available. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

Sec. 11. Minnesota Statutes 1986, section 254B.03, subdivision 4, is amended to read:

Subd. 4. [DIVISION OF COSTS.] The county shall, out of local money, ~~reimburse pay~~ the state for 15 percent of the cost of chemical dependency services ~~costs paid by the state under this section~~. Counties may use the indigent hospitalization levy for treatment and hospital payments made under this section. Fifteen percent of any state collections from private or third-party pay, less 15 percent of the cost of payment and collections, must be distributed to the county that paid for a portion of the treatment under this section. If all funds allocated according to section 254B.02 are exhausted by a county and the county has met or exceeded the base level of expenditures under section 254B.02, subdivision 3, the county shall ~~reimburse pay~~ the state for 15 percent of the costs paid by the state under this section. The commissioner may refuse to pay state funds for services to persons not eligible under section 254B.04, subdivision 1, ~~if the commissioner determines that funds will otherwise not be available for persons who are entitled to chemical dependency fund services the county financially responsible for the persons has exhausted its allocation.~~

Sec. 12. Minnesota Statutes 1986, section 254B.03, subdivision 5, is amended to read:

Subd. 5. [RULES; APPEAL.] The commissioner shall adopt rules as necessary to implement Laws 1986, chapter 394, sections 8 to 20.

The commissioner shall ensure that the rules are effective on July 1, 1987. The commissioner shall establish an appeals process for use by vendors or recipients when services certified by the county are disputed. The commissioner shall adopt rules and standards for the appeal process to assure adequate redress for persons referred to inappropriate services.

Sec. 13. Minnesota Statutes 1986, section 254B.04, is amended to read:

**254B.04 [ELIGIBILITY FOR CHEMICAL DEPENDENCY FUND SERVICES.]**

Subdivision 1. [ELIGIBILITY.] Persons eligible for benefits under sections 256D.01 to 256D.21, or for federal benefits under Code of Federal Regulations, title 25, part 20, and persons eligible for federal health care benefits under section 256B.06 are entitled to chemical dependency fund services.

Subd. 2. [AMOUNT OF CONTRIBUTION.] The commissioner shall adopt a sliding fee scale to determine the amount of contribution to be required from persons whose income ~~and nonexempt property~~ are is greater than the standard of assistance under sections 256B.06 and 256D.01 to 256D.21. The commissioner may adopt an existing fee scale from another assistance program or from the state facilities by publication in the State Register. The commissioner shall establish a separate fee scale for recipients of chemical dependency transitional rehabilitation services that provides for the collection of fees for board and lodging expenses. The fee schedule shall ensure that employed persons are allowed the income disregards and savings accounts that are allowed residents of community mental illness facilities under section 256D.06, subdivisions 1 and 1b. The fee scale must not provide assistance to persons whose income is more than 115 percent of the state median income. Payments of liabilities under this section are medical expenses for purposes of determining spend-down under sections 256B.06 and 256D.01 to 256D.21.

Sec. 14. Minnesota Statutes 1986, section 254B.05, is amended to read:

**254B.05 [VENDOR ELIGIBILITY.]**

Subdivision 1. [LICENSURE REQUIRED.] Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245.791. American Indian programs that, if located outside of federally recognized tribal lands, would be required to be licensed to provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, are eligible vendors. Detoxification programs are not eligible

vendors. Programs that, if located outside of federally recognized tribal lands, would not be licensed as a chemical dependency residential or nonresidential treatment program under sections 245.781 to 245.812 are not eligible vendors. To be eligible for payment under the Consolidated Chemical Dependency Treatment Fund, a vendor must participate in the Drug and Alcohol Abuse Normative Evaluation System or a comparable system approved by the commissioner.

Subd. 2. [REGULATORY METHODS.] (a) Where appropriate and feasible, the commissioner shall identify and implement alternative methods of regulation and enforcement to the extent authorized in this subdivision. These methods shall include:

(1) expansion of the types and categories of licenses that may be granted;

(2) when the standards of an independent accreditation body have been shown to predict compliance with the rules, the commissioner shall consider compliance with the accreditation standards to be equivalent to partial compliance with the rules; and

(3) use of an abbreviated inspection that employs key standards that have been shown to predict full compliance with the rules.

If the commissioner determines that the methods in clause (2) or (3) can be used in licensing a program, the commissioner may reduce any fee set under section 10 by up to 50 percent.

(b) The commissioner shall work with the commissioners of health, public safety, administration, and education in consolidating duplicative licensing and certification rules and standards if the commissioner determines that consolidation is administratively feasible, would significantly reduce the cost of licensing, and would not reduce the protection given to persons receiving services in licensed programs. Where administratively feasible and appropriate, the commissioner shall work with the commissioners of health, public safety, administration, and education in conducting joint agency inspections of programs.

(c) The commissioner shall work with the commissioners of health, public safety, administration, and education in establishing a single point of application for applicants who are required to obtain concurrent licensure from more than one of the commissioners listed in this clause.

Subd. 3. [FEE REDUCTIONS.] If the commissioner determines that the methods in subdivision 2, clause (2) or (3), can be used in licensing a program, the commissioner shall reduce licensure fees by up to 50 percent. The commissioner may adopt rules to provide for

the reduction of fees when a license holder substantially exceeds the basic standards for licensure.

Sec. 15. Minnesota Statutes 1986, section 254B.06, subdivision 1, is amended to read:

Subdivision 1. [STATE COLLECTIONS.] The commissioner is responsible for all collections from persons determined to be partially responsible for the cost of care of an eligible person receiving services under Laws 1986, chapter 394, sections 8 to 20. The commissioner may collect all third-party payments for chemical dependency services provided under Laws 1986, chapter 394, sections 8 to 20, including private insurance and federal medicaid and medicare financial participation. The commissioner shall deposit in the general fund a dedicated account a percentage of collections to pay for the cost of operating the chemical dependency consolidated treatment fund invoice processing and vendor payment system, billing, and collections. The remaining receipts must be deposited in the chemical dependency fund.

Sec. 16. Minnesota Statutes 1986, section 254B.08, is amended to read:

254B.08 [FEDERAL WAIVERS.]

The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation for the provision of services to persons who need chemical dependency services. The commissioner may seek amendments to the waivers or apply for additional waivers to contain costs. The commissioner shall ensure that payment for the cost of providing chemical dependency services under the federal waiver plan does not exceed the cost of chemical dependency services that would have been provided without the waived services.

Notwithstanding sections 254B.04 and 256B.02, subdivision 8, clause (18), and rules adopted under section 254B.03, subdivision 5, persons eligible under section 256B.06 for medical assistance benefits shall not be eligible for services reimbursed through the consolidated chemical dependency fund, except for transitional rehabilitation, extended care programs, and culturally specific programs as defined by Minnesota Rules, part 9530.6605, subpart 13, until the federal Social Security Act, section 2108 (1915B), program waivers are secured. Until the necessary federal program waivers are secured, persons eligible for medical assistance benefits under section 256B.06 shall be eligible for chemical dependency treatment services under section 256B.02, subdivision 8.

Sec. 17. Minnesota Statutes 1986, section 254B.09, subdivision 3, is amended to read:



Subd. 3. [TRIBAL NONPARTICIPATION.] If a federally recognized tribal governing body has not entered into an agreement under subdivision 2 or cancels the agreement, money must be reallocated to the account established by subdivision 5 4.

Sec. 18. Minnesota Statutes 1986, section 254B.09, subdivision 5, is amended to read:

Subd. 5. [TRIBAL RESERVE ACCOUNT.] The commissioner shall reserve 7.5 percent of the American Indian chemical dependency account. The reserve must be allocated to those tribal units that have used all money allocated under subdivision 4 according to agreements made under subdivision 2. An American Indian tribal governing body may receive not more than 30 percent of the reserve account in a year. Reserve payments shall be made only for persons entitled to services under section 254B.04, subdivision 1. Money must be allocated as invoices are received.

Sec. 19. Minnesota Statutes 1986, section 254B.09, subdivision 7, is amended to read:

Subd. 7. [NONRESERVATION INDIAN ACCOUNT.] Fifty percent of the American Indian chemical dependency allocation must be held in reserve by the commissioner in an account for treatment of Indians not residing on lands of a reservation receiving money under subdivision 4. This money must be used to pay for services certified by county invoice to have been provided to an American Indian eligible recipient. Money allocated under this subdivision may be used for payments on behalf of American Indian county residents only if, in addition to other placement standards, the county certifies that the placement was appropriate to the cultural orientation of the client. Any funds for treatment of nonreservation Indians remaining at the end of a fiscal year shall be reallocated under section 254B.02.

Sec. 20. [REPEALER.]

Minnesota Statutes 1986, section 256.968, is repealed.

Sec. 21. [EFFECTIVE DATE.]

Section 14 is effective the day following enactment."

Delete the title and insert:

"A bill for an act relating to human services; clarifying chemical dependency consolidated fund administration procedures; amending Minnesota Statutes 1986, sections 246.51; 246.511; 254B.01, subdivision 5; 254B.02, subdivisions 1, 2, 3, and 5; 254B.03, subdivisions 1, 2, 3, 4, and 5; 254B.04; 254B.05; 254B.06, subdivision 1; 254B.08;

and 254B.09, subdivisions 3, 5, and 7; repealing Minnesota Statutes 1986, section 256.968."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kalis from the Committee on Transportation to which was referred:

H. F. No. 1087, A bill for an act relating to public safety; school buses; requiring training for school bus drivers; providing for transitional requirements; amending Minnesota Statutes 1986, section 171.321, subdivisions 1, 2, and by adding a subdivision.

Reported the same back with the following amendments:

Page 3, after line 8, insert:

"Sec. 5. [APPROPRIATION.]

\$50,000 is appropriated from the general fund to the commissioner of public safety to administer sections 1 and 2, \$25,000 to be available for the fiscal year ending June 30, 1988, and \$25,000 to be available for the fiscal year ending June 30, 1989."

Page 3, line 9, delete "5" and insert "6"

Amend the title as follows:

Page 1, line 4, after the semicolon insert "appropriating money;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1153, A bill for an act relating to retirement; Millerville volunteer firefighters relief association; authorizing the recognition

of certain prior service in the computation of service pension amounts.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1176, A bill for an act relating to retirement; authorizing the Mankato police benefit association to base certain postretirement increases on other increases granted.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1211, A bill for an act relating to state lands; authorizing the conveyance of certain lands in Pine county to the Amherst H. Wilder Foundation; amending Laws 1981, chapter 354, section 1, subdivisions 1 and 5; repealing Laws 1981, chapter 354, section 1, subdivisions 2 and 3.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1269, A bill for an act relating to state lands; providing for exchange of tax-forfeited peat lands in Aitkin county.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Environment and Natural Resources.

The report was adopted.

Skoglund from the Committee on Financial Institutions and Insurance to which was referred:

H. F. No. 1304, A bill for an act relating to insurance; regulating cancellations of insurance agency contracts; proposing coding for new law in Minnesota Statutes, chapter 60A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [60A.172] [INSURANCE AGENCY CONTRACTS; CANCELLATION.]

(a) An insurer may not cancel a written agreement with an agent, or without the agent's written approval, reduce or restrict an agent's underwriting authority with respect to property or casualty insurance, based solely on the loss ratio experience on that agent's book of business, if: the insurer required the agent to submit the application for underwriting approval, all material information on the application was fully completed, and the agent has not omitted or altered any information provided by the applicant.

(b) For purposes of this section, “loss ratio experience” means the ratio of premiums paid divided by the claims paid during a two-year period.

(c) This section applies only to agents who write insurance business exclusively for one company or agents in the direct employ of the company.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment.”

With the recommendation that when so amended the bill pass.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 1323, A bill for an act relating to human services; endorsing the Store-to-Door grocery delivery program for certain

elderly citizens; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 256.

Reported the same back with the following amendments:

Page 1, delete lines 10 to 13

Page 1, line 14, delete "Subd. 2. [STUDY.]"

Page 1, lines 15 and 16, delete "by Social Technologies for a Livable Community"

Page 2, line 20, delete "subdivision 2"

Amend the title as follows:

Page 1, line 2, delete "endorsing the" and insert "requiring a study of the"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 1328, A bill for an act relating to human services; extending the deadline for community work experience program pilot projects; amending Minnesota Statutes 1986, section 256.737, subdivision 1.

Reported the same back with the following amendments:

Page 2, line 13, strike "Projects end" and insert "As the commissioner phases in case management and other employment and training services under section 256.736, and" and strike "and a report" and insert "the commissioner may phase out projects under this section."

Page 2, lines 14 to 16, strike the old language and delete the new language

With the recommendation that when so amended the bill pass.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1404, A bill for an act relating to commerce; franchises; regulating nonrenewals; requiring prior notice of nonrenewal; amending Minnesota Statutes 1986, section 80C.14.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 80C.14, is amended to read:

80C.14 [UNFAIR PRACTICES.]

Subdivision 1. [PROHIBITION.] No person, whether by means of a term or condition of a franchise or otherwise, shall engage in any unfair or inequitable practice in contravention of such rules as the commissioner may adopt defining as to franchises the words "unfair and inequitable." For the purpose of rules defining the words "unfair and inequitable", the commissioner may specifically recognize classifications of franchises including but not limited to the classifications of motor vehicle fuel franchises, motor vehicle franchises, hardware franchises, and franchises which require that the franchisee make an initial, unfinanced investment in excess of \$200,000. ~~Any~~ A violation of this section is enjoined by a court of competent jurisdiction.

A temporary injunction may be granted under this section without requiring the posting of any bond or security. A bond or security ~~shall be~~ is required if a temporary restraining order is granted.

Subd. 2. [ACTS CONSTITUTING.] All franchise contracts or agreements, other than those classifications of franchises specifically recognized by the commissioner ~~pursuant to~~ under subdivision 1, and any other device or practice of a franchisor ~~shall~~ must conform to the following provisions subdivisions 3 and 4. It shall be deemed is an unfair and inequitable practice for any a person to: commit an act specified in subdivision 3 or 4.

Subd. 3. [TERMINATION OR CANCELLATION.] ~~(a) terminate or cancel a franchise without first giving written notice setting forth all the reasons for the termination or cancellation to the franchisee at least 60 days in advance of termination or cancellation, except that the notice shall be effective immediately upon receipt where the alleged grounds are: No person may terminate or cancel a franchise unless: (i) that person has given written notice setting forth all the reasons for the termination or cancellation at least 90 days in advance of termination or cancellation, and (ii) the recipient of the notice fails to correct the reasons stated for termination or cancel-~~

lation in the notice within 60 days of receipt of the notice; except that the notice is effective immediately upon receipt where the alleged grounds for termination or cancellation are:

(1) voluntary abandonment of the franchise relationship by the franchisee;

(2) the conviction of the franchisee of an offense directly related to the business conducted pursuant to the franchise; or

(3) failure to cure a default under the franchise agreement which materially impairs the goodwill associated with the franchisor's trade name, trademark, service mark, logotype or other commercial symbol after the franchisee has received written notice to cure of at least 24 hours in advance thereof;

(b) No person may terminate or cancel a franchise except for good cause. "Good cause" shall be means failure by the franchisee to substantially to comply with the material and reasonable franchise requirements imposed by the franchise franchisor including, but not limited to:

(1) the bankruptcy or insolvency of the franchisee;

(2) assignment for the benefit of creditors or similar disposition of the assets of the franchise business;

(3) voluntary abandonment of the franchise business;

(4) conviction or a plea of guilty or no contest to a charge of violating any law relating to the franchise business; or

(5) any act by or conduct of the franchisee which materially impairs the goodwill associated with the franchisor's trademark, trade name, service mark, logotype or other commercial symbol; or

(c) fail to renew a franchise unless the franchisee has been given written notice of the intention not to renew at least 90 days in advance thereof and has been given a sufficient opportunity to recover the franchisee's investment unless the failure to renew is for good cause as defined in clause (b).

Subd. 4. [FAILURE TO RENEW.] Unless the failure to renew a franchise is for good cause as defined in subdivision 3, paragraph (b), and the franchisee has failed to correct reasons for termination as required by subdivision 3, no person may fail to renew a franchise unless (1) the franchisee has been given written notice of the intention not to renew at least 180 days in advance of the expiration of the franchise; (2) the franchisee has been given an opportunity to operate the franchise over a sufficient period of time to enable him to

recover the fair market value of the franchise as a going concern; and (3) the franchisor's refusal to renew is not for the purpose of converting the franchisee's business premises to an operation that will be owned by the franchisor for its own account.

Subd. 5. [WITHHOLDING CONSENT TO TRANSFER.] It is unfair and inequitable for a person to unreasonably withhold consent to an assignment, transfer, or sale of the franchise whenever the franchisee to be substituted meets the present qualifications and standards required of the franchisees of the particular franchisor.

Sec. 2. [EFFECTIVE DATE.]

This act is effective the day following final enactment and applies to all franchise contracts or agreements in effect on that date."

Delete the title and insert:

"A bill for an act relating to commerce; regulating nonrenewals and transfers of franchises; providing civil liability for unfair practices in relation to franchises; amending Minnesota Statutes 1986, section 80C.14."

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1407, A bill for an act relating to environment; establishing a siting process for a low-level radioactive waste facility; providing for volunteer sites and an alternative site selection process; establishing a siting board; appropriating money; amending Minnesota Statutes 1986, sections 116C.832, subdivision 1, and by adding subdivisions; 116C.834, subdivision 1; and 116C.842, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 116C.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Munger from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1451, A bill for an act relating to environment; requiring vehicle weighing scales at sanitary landfills; amending Minnesota Statutes 1986, section 169.872, by adding a subdivision.

Reported the same back with the following amendments:



Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 169.872, subdivision 2, is amended to read:

Subd. 2. [EVIDENCE.] Except for records relating to the loading and unloading of the first haul of unprocessed or raw farm products and the transportation of raw and unfinished forest products, a record kept and maintained as provided in subdivision 1 this section that shows that a vehicle has exceeded a gross weight limit imposed by this chapter is relevant evidence of a violation of this chapter. The foregoing provisions do not limit the introduction of other competent evidence bearing upon the question of whether or not there is a violation of the prescribed maximum weight limitation permitted by this chapter.

Sec. 2. Minnesota Statutes 1986, section 169.872, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] A person who fails to keep, maintain, or open for inspection and copying, those documents as required in subdivision 1 is guilty of a misdemeanor. A person who does not accurately record the information required to be contained in those documents required in subdivision 1 this section is guilty of a misdemeanor.

Sec. 3. Minnesota Statutes 1986, section 169.872, is amended by adding a subdivision to read:

Subd. 1a. [SCALES REQUIRED.] (a) The following facilities must be equipped with scales for weighing loaded vehicles:

- (1) a waste facility that is used for the disposal of solid waste;
- (2) a resource recovery facility, as defined in section 115A.03, subdivision 28; and
- (3) a transfer station, as defined in section 115A.03, subdivision 33.

A person loading or unloading a vehicle at one of these facilities shall weigh the loaded vehicle and record the weight as provided in subdivision 1.

(b) This subdivision does not apply to a facility on which:

- (1) the pollution control agency has served a notice of closing;
- (2) the owner or operator will close the facility in less than one year; or

(3) the owner or operator can demonstrate that the facility receives less than 75,000 cubic yards of solid waste per year.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 2 are effective December 31, 1987.

Section 3 is effective July 1, 1987, for facilities that have scales and July 1, 1990, for facilities that do not have scales."

Delete the title and insert:

"A bill for an act relating to environment; requiring vehicle weighing scales at solid waste disposal facilities, resource recovery facilities, and waste transfer stations; amending Minnesota Statutes 1986, section 169.872, subdivisions 2 and 3, and by adding a subdivision."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Transportation.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1475, A bill for an act relating to state government; civil service; providing opportunities for persons with disabilities; amending Minnesota Statutes 1986, sections 43A.10, subdivision 8; 43A.13, subdivision 7; 43A.191, by adding a subdivision; 43A.42; proposing coding for new law in Minnesota Statutes, chapter 43A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [43A.071] [SERVICE WORKER.]

The disability levels and types covered under the service worker category in the state civil service may include persons with physical disabilities, mental health disabilities, and mental retardation.

Sec. 2. Minnesota Statutes 1986, section 43A.10, subdivision 8, is amended to read:

Subd. 8. [ELIGIBILITY FOR QUALIFIED HANDICAPPED EXAMINATIONS.] The commissioner shall establish examination procedures for candidates whose handicaps are of such a severe nature that the candidates are unable to demonstrate their abilities in

competitive examination processes. The examination procedures shall consist of up to 700 hours on-the-job trial work experience which will be in lieu of a competitive examination and for which the disabled person has the option of being paid or unpaid. Up to three persons with severe disabilities and their job coach shall be allowed to demonstrate their job competence as a unit through the on-the-job trial work experience examination procedure. This work experience shall be limited to candidates for appointment, promotion, or transfer who have a physical or mental impairment for which there is no reasonable accommodation in the examination process. Implementation of provisions of this subdivision shall not be deemed a violation of other provisions of Laws 1981, chapter 210 or 363.

Sec. 3. [43A.421] [SUPPORTED WORK PROGRAM.]

A total of 50 additional full-time positions within agencies of state government may be selected for inclusion for a supported work program for persons with severe disabilities. A full-time position may be shared by up to three persons with severe disabilities and their job coach.

Amend the title as follows:

Page 1, line 4, delete "sections" and insert "section"

Page 1, line 5, delete everything after "8;"

Page 1, line 6, delete "subdivision; 43A.42;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Greenfield from the Committee on Health and Human Services to which was referred:

H. F. No. 1499, A bill for an act relating to health; requiring transfers from the special revenue account to the public health fund; amending Minnesota Statutes 1986, section 214.06, subdivision 1.

Reported the same back with the following amendments:

Page 2, after line 5, insert:

"Sec. 2. [COMMISSION ON HEALTH PLAN REGULATORY REFORM.]

Subdivision 1. [PURPOSE.] The legislature finds that the present rapid development of new health plan products and arrangements

may result in a situation in which consumer protection and equitable competition may be inadvertently impaired by statutes or rules adopted to address previously existing market conditions. The legislature further finds that it is desirable that existing regulatory requirements for health plans be reviewed in the light of recent and potential future changes in the types of health plans available to purchasers.

Subd. 2. [CREATION AND MEMBERSHIP.] The governor shall create a commission on health plan regulatory reform for the purpose of reviewing and making recommendations for any necessary improvements in state policy relating to the regulation of health insurers, nonprofit health service plans, health maintenance organizations, preferred provider organizations, and other arrangements that insure or finance the provision of health services.

The commission membership shall be as follows:

(1) the director of the state planning agency, or the director's designee, who shall chair the commission;

(2) two members from the senate of the state of Minnesota, one from the majority party and one from the minority party;

(3) two members from the house of representatives of the state of Minnesota, one from the majority party and one from the minority party;

(4) the commissioner of commerce, or the commissioner's designee;

(5) the commissioner of health, or the commissioner's designee;

(6) one member representing a health maintenance organization;

(7) one member representing a nonprofit health service plan;

(8) one member representing a health plan that is not a health maintenance organization or a nonprofit health service plan;

(9) one public employer;

(10) one private employer;

(11) one member representing organized labor; and

(12) two natural persons who are consumers.

Subd. 3. [REPORT.] The commission shall perform the review specified in subdivision 2 and report to the governor and the legislature by January 1, 1989.

Subd. 4. [APPROPRIATION.] \$..... is appropriated from the general fund to the commissioner of health for the purposes of this section. This appropriation is available only to the extent that it is matched on a dollar for dollar basis by contributions from the private sector. Pursuant to interagency agreement, the commissioner shall transfer appropriate portions of this amount to the state planning agency and the commerce department to support the staffing of the commission.

Page 2, line 6, delete "2" and insert "3"

Amend the title as follows:

Page 1, line 3, after the semicolon insert "appropriating money;"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Appropriations.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 1515, A bill for an act relating to public offices; fixing resignation effective dates; prohibiting contingent resignations; permitting the submission and withdrawal of prospective resignations in certain circumstances; providing for appeals in statewide election contests; amending Minnesota Statutes 1986, sections 2.722, subdivision 4; 209.09; 351.01; and 480A.06, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 209.09, is amended to read:

209.09 [APPEALS.]

Subdivision 1. [MOST CONTESTS.] If the decision of the district court in any contest under this chapter is appealed, the appellant shall file in the district court a bond of \$500 for the payment of all costs incurred by the respondent if appellant fails on the appeal. Except for a statewide contest or a state legislative contest, the notice of appeal must be served and filed in the court of appeals in

the case of a general election no later than ten days and, in the case of a primary, no later than five days after the entry of the district court's decision in the contest. The record on appeal must be made, certified, and filed in the court of appeals within 15 days after service of notice of appeal. The appeal may be brought on for hearing in the court at any time, upon notice from either party, as the court determines; and may be heard and determined summarily by the court.

Subd. 2. [STATEWIDE OFFICES AND QUESTIONS.] Section 209.10, subdivision 4, applies to a contest regarding a statewide office, a constitutional amendment, or other question voted on statewide. A copy of the supreme court's decision must be forwarded to the contestant and the contestee.

Sec. 2. Minnesota Statutes 1986, section 351.01, is amended to read:

351.01 [RESIGNATIONS.]

Subdivision 1. [TO WHOM MADE.] Resignations shall be made in writing signed by the resigning officer:

(1) By incumbents of elective offices, to the officer authorized by law to fill a vacancy in such office by appointment, or to order a special election to fill the vacancy;

(2) By appointive officers, to the body, board, or officer appointing them, unless otherwise specially provided.

Subd. 2. [WHEN EFFECTIVE.] Except as provided by subdivision 3 or other express provision of law or charter to the contrary, a resignation is effective when it is received by the officer, body, or board authorized to receive it.

Subd. 3. [CONTINGENT RESIGNATIONS PROHIBITED; EXCEPTION.] (a) Except as provided in paragraph (b), no resignation may be made to take effect upon the occurrence of a future contingency. Statements explaining the reasons for a resignation must not be considered to be contingencies unless expressly stated as contingencies.

(b) A resignation may be made expressly to take effect at a stated future date. Unless it is withdrawn as provided under subdivision 4, a resignation is effective at 12:01 a.m. on the stated date.

Subd. 4. [WITHDRAWAL OF RESIGNATION.] A prospective resignation permitted by subdivision 3 may only be withdrawn by a written statement signed by the officer and submitted in the same manner as the resignation, before it has been accepted by resolution

of the body or board or a written acceptance of the officer authorized to receive it.

Sec. 3. Minnesota Statutes 1986, section 480A.06, subdivision 1, is amended to read:

Subdivision 1. [FINAL DECISIONS.] The court of appeals has jurisdiction of appeals from all final decisions of the trial courts, other than the conciliation courts, of the state of Minnesota, except that it shall not have jurisdiction of appeals in legislative or statewide election contests or criminal appeals in cases in which the defendant has been convicted of murder in the first degree.

Sec. 4. [EFFECTIVE DATE.]

This act is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to public offices; fixing resignation effective dates; prohibiting contingent resignations; permitting the submission and withdrawal of prospective resignations in certain circumstances; providing for appeals in statewide election contests; amending Minnesota Statutes 1986, sections 209.09; 351.01; and 480A.06, subdivision 1."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

H. F. No. 1563, A bill for an act relating to public safety; providing that local governing body may appoint local board of appeal for order issued under the state fire code; providing for finding on cost-benefit ratio obtained by complying with order; providing for notice; providing for liability of owners of dwellings for nonfunctioning smoke detectors; providing penalties; amending Minnesota Statutes 1986, sections 299F.011, subdivisions 5, 6, and by adding a subdivision; and 299F.362, subdivisions 5 and 6.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 299F.011, is amended by adding a subdivision to read:

Subd. 5a. [LOCAL BOARD OF APPEAL.] Local governing bodies may appoint boards of appeal to hear and rule on appeals from orders issued under the fire code. An appeal from a local board of appeal may be made to the local governing body. If a board of appeal is not appointed, the appeals of orders must be made directly to the governing body. Local boards of appeal and governing bodies are not liable for damages in connection with granting variances, abatements, denials, or modifications of orders from the fire code that are made in good faith.

Sec. 2. Minnesota Statutes 1986, section 299F.011, is amended by adding a subdivision to read:

Subd. 5b. When considering appeals for variances from the fire code, the local appeal board or governing body, the state fire marshal, a state administrative law judge, and a court shall take into consideration the benefit to be obtained by complying with the fire marshal's orders and the effect on affordable housing.

Sec. 3. Minnesota Statutes 1986, section 299F.011, subdivision 6, is amended to read:

Subd. 6. A person who violates a provision of the uniform fire code shall be guilty of a misdemeanor. No person shall be convicted for violating the uniform fire code unless the person shall have been given notice of the violation in writing and reasonable time to comply. The notice must contain a statement explaining the right to appeal the orders.

Sec. 4. Minnesota Statutes 1986, section 299F.362, subdivision 5, is amended to read:

Subd. 5. [MAINTENANCE RESPONSIBILITIES.] For all occupancies covered by this section where the occupant is not the owner of the dwelling unit or the guest room, the owner is responsible for maintenance of the smoke detectors. An owner may file inspection and maintenance reports with the local fire marshal for establishing evidence of inspection and maintenance of smoke detectors.

Sec. 5. Minnesota Statutes 1986, section 299F.362, is amended by adding a subdivision to read:

Subd. 5a. [INFORM OWNER; NO ADDED LIABILITY.] The occupant of a dwelling unit must inform the owner of the dwelling unit of a nonfunctioning smoke detector within 24 hours of discovering that the smoke detector in the dwelling unit is not functioning. If the occupant fails to inform the owner under this subdivision, the occupant's liability for damages is not greater than it otherwise would be.



Sec. 6. Minnesota Statutes 1986, section 299F.362, subdivision 6, is amended to read:

Subd. 6. [PENALTY PENALTIES.] (a) Any person who violates any provision of this section shall be subject to the same penalty incurred for violation of the uniform fire code, as specified in section 299F.011, subdivision 6.

(b) An occupant who willfully disables a smoke detector or causes it to be nonfunctioning, resulting in damage or injury to persons or property, is guilty of a misdemeanor."

Delete the title and insert:

"A bill for an act relating to public safety; providing that local governing body may appoint local board of appeal for order issued under the state fire code; providing for notice; providing for smoke detector maintenance; providing penalties; amending Minnesota Statutes 1986, sections 299F.011, subdivision 6, and by adding subdivisions; and 299F.362, subdivisions 5, 6, and by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

S. F. No. 161, A bill for an act relating to veterans; requiring the commissioner to establish a certification process for veterans service officers; amending Minnesota Statutes 1986, section 197.605, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

S. F. No. 184, A bill for an act relating to utilities; trade practices; restricting use and connection of automatic dialing-announcing

devices to telephone lines; proposing coding for new law in Minnesota Statutes, chapter 325E.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [325E.26] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The terms used in sections 1 to 7 have the meanings given them in this section.

Subd. 2. [AUTOMATIC DIALING-ANNOUNCING DEVICE.] "Automatic dialing-announcing device" means a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

Subd. 3. [CALLER.] "Caller" means an individual, corporation, firm, partnership, association, or legal or commercial entity who attempts to contact, or who contacts, a subscriber in this state by using a telephone or a telephone line.

Subd. 4. [COMMERCIAL TELEPHONE SOLICITATION.] "Commercial telephone solicitation" means any unsolicited call to a residential subscriber when the person initiating the call has not had a prior business or personal relationship with the subscriber, and when the purpose of the call is to solicit the purchase or the consideration of purchase of goods or services by the subscriber. Commercial telephone solicitation does not include calls initiated by organizations listed in section 290.21, subdivision 3, clauses (a) to (e).

Subd. 5. [SUBSCRIBER.] "Subscriber" means an individual who has subscribed to residential telephone service from a telephone company regulated by this state, and the other persons living or residing with the subscribing individual.

Subd. 6. [TELEPHONE COMPANY.] "Telephone company" means those companies subject to the commission's regulatory authority under section 237.075.

Sec. 2. [325E.27] [USE OF PRERECORDED OR SYNTHESIZED VOICE MESSAGES.]

A caller shall not use or connect to a telephone line an automatic dialing-announcing device that delivers a prerecorded or synthesized voice message, unless: (1) the subscriber has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message; or (2) the message is immediately preceded by a live

operator who introduces the message. This section does not prohibit the use of automatic dialing-announcing devices for contacting subscribers with whom the caller has a current business relationship or advising parents that their children are not in attendance at school.

Sec. 3. [325E.28] [REQUIREMENTS ON AUTOMATIC DIALING-ANNOUNCING DEVICES.]

A caller shall not use an automatic dialing-announcing device unless the device is designed and operated so as to disconnect within ten seconds after termination of the telephone call by the subscriber.

Sec. 4. [325E.29] [MESSAGE REQUIREMENTS.]

At the outset of the message, a prerecorded or synthesized voice message subject to section 2, must disclose:

(1) the name of the business, firm, organization, association, partnership, or entity for which the message is being made;

(2) the purpose of the message; and

(3) the identity or kinds of goods or services the message is promoting.

If the message solicits payment or commitment of funds, that must be disclosed.

Sec. 5. [325E.30] [COMMERCIAL TELEPHONE SOLICITATION.]

Subdivision 1. [RULES.] The public utilities commission shall adopt rules to protect residential telephone subscribers from unwanted telephone solicitation. The rules must require that, by May 1, 1988, each telephone company:

(1) allow residential subscribers the option of having an asterisk placed by their names in the company's annual directory to denote that they do not want to receive calls for commercial telephone solicitation; or

(2) publish a separate directory of subscribers who do not want commercial telephone solicitation; or

(3) compile a list, including names and telephone numbers, of subscribers who do not want commercial telephone solicitation; or

(4) any combination of the above.

Any directory or list compiled must be updated annually and must be made available to persons who engage in commercial solicitation.

Subd. 3. [UNWANTED SOLICITATION PROHIBITED.] No person shall make a commercial telephone solicitation to a residential subscriber if that subscriber:

(1) is listed in the regular directory with an asterisk;

(2) is listed in a separate directory of subscribers who do not want commercial telephone solicitation; or

(3) is on a list of subscribers who do not want commercial telephone solicitation.

Subd. 4. [RECORDS.] Every person who engages in commercial telephone solicitation shall keep records of every telephone number called with the date and time of each call. These records shall be available for inspection by a city or county attorney or the attorney general.

Subd. 5. [NOTICE.] Each telephone company shall provide an efficient mechanism to identify residential subscribers who do not want commercial telephone solicitation and shall annually notify its subscribers of the opportunity to be listed so as to preclude unwanted solicitation. Each subscriber must notify the telephone company, in the manner provided by the company, of the subscriber's desire not to receive commercial telephone solicitation before the subscriber may be so listed.

#### Sec. 6. [325E.31] [PRIVATE RIGHT OF ACTION.]

A subscriber contacted by a caller in violation of sections 2 to 4 may bring an action to recover damages of not more than \$250, together with reasonable attorney's fees.

#### Sec. 7. [325E.32] [PENALTIES; REMEDIES.]

A person who is found to have violated sections 2 to 5 is subject to the penalties and remedies provided in section 8.31. A person who violated section 5 is also guilty of a petty misdemeanor."

Delete the title and insert:

"A bill for an act relating to telephone use; restricting use and connection of automatic dialing-announcing devices to telephone lines; allowing individual residential subscribers to prohibit unwanted commercial telephone solicitation; establishing penalties; proposing coding for new law in Minnesota Statutes, chapter 325E."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Commerce.

The report was adopted.

Osthoff from the Committee on Metropolitan Affairs to which was referred:

S. F. No. 282, A bill for an act relating to metropolitan government; permitting regional railroad authorities to engage in certain activities; amending Minnesota Statutes 1986, section 473.398.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 473.398, is amended to read:

473.398 [TRANSIT NEEDS ASSESSMENT.]

(a) The metropolitan council, the regional transit board, and the metropolitan transit commission, ~~and any regional rail authority or political subdivision in the metropolitan area~~ may not either separately or in combination expend or obligate any money from public sources for study, planning, design, preliminary engineering, engineering, acquisition, construction, or any other purpose related to facilities for transporting passengers by cars operating on fixed rails, without express legislative authorization.

(b) Before performing any further detailed work on light rail transit, the regional transit board shall complete the total assessment of transit service needs and markets for the metropolitan area and the implementation plan required by section 473.377, subdivisions 1 and 2. It may consider any mode of travel to serve identified needs and markets.

(c) Following approval of the implementation plan by the metropolitan council, as required by section 473.377, subdivision 1, the regional transit board may commence corridor planning, consisting of preliminary engineering for general route configuration and alignments, station locations, modal interconnectors, and access of any modes including light rail transit, for the corridor between the downtowns of Minneapolis and St. Paul if the needs assessment and implementation plan so provide. It may utilize private or public funds to do this work.

(d) The board shall report to the legislature by December 1, 1986, on the needs, alternative transit systems, and services considered

and recommendations for implementation, costs, alternative sources of financing, and preferred financing sources.

(e) Notwithstanding the provisions of paragraph (a), the metropolitan council may cooperate with regional rail authorities in the study, planning, and design of regional rail authority light rail transit systems, and the metropolitan transit commission may cooperate with regional rail authorities in the operation and operational planning of regional rail authority light rail transit systems.

Sec. 2. [473.170] [LIGHT RAIL TRANSIT; DESIGN PLANS.]

Subdivision 1. [REQUIREMENT.] Before constructing a light rail transit facility, the political subdivision proposing the facility must have held a public hearing on preliminary design plans, as provided in subdivision 2, and submitted preliminary and final design plans for review, as provided in subdivisions 3 to 5. Design plans must include a plan for handicapped accessibility.

Subd. 2. [PRELIMINARY DESIGN PLANS; PUBLIC HEARING.] Before preparing final design plans for a light rail transit facility, a public hearing on the preliminary design plans must be held by the political subdivision proposing the facility. The hearing must be held following appropriate public notification and publicity to ensure that affected parties have an opportunity to present their views at the hearing.

Subd. 3. [PRELIMINARY DESIGN PLANS; LOCAL APPROVAL.] At least 30 days before the hearing under subdivision 2, the proposer shall submit the preliminary design plans to the governing body of each statutory and home rule charter city, county, and town in which the route is proposed to be located. The city, county, or town shall hold a public hearing and has 45 days following the hearing under subdivision 2 to review and approve or disapprove the plans for the route located in the city, county, or town. Failure to respond within the time period is deemed to be approval, unless an extension of time is agreed to by the city, county, or town and the proposer. If the preliminary design plans are approved, the proposer may proceed with final design plans under subdivision 5.

Subd. 4. [PRELIMINARY DESIGN PLANS; METROPOLITAN COUNCIL REFERRAL.] If the governing body of one or more cities, counties, or towns disapproves the preliminary design plans within the period allowed under subdivision 3, the proposer may refer the plans to the metropolitan council. The council shall hold a hearing, giving the proposer and the disapproving local governmental units opportunity to present the case for or against approval of the plans. The council may conduct independent study as it deems desirable and may mediate and attempt to resolve disagreements about the plans. Not later than 90 days after the referral, the council shall either approve the plans as submitted by the proposer or recommend

amended plans to accommodate the objections presented by the disapproving local governmental units. Failure to respond within the time period is deemed to be approval, unless an extension of time is agreed to by the council and the proposer. Following approval or recommendation of preliminary design plans by the council, the proposer may proceed with final design plans under subdivision 5.

Subd. 5. [FINAL DESIGN PLANS.] (a) After the approval of preliminary design plans under subdivision 3 or review by the council following referral to the council under subdivision 4, the proposer may prepare final design plans.

(b) Before proceeding with construction, the proposer shall submit the final design plans to the governing body of each statutory and home rule city, county, and town in which the route is proposed to be located. The city, county, or town has 60 days following the submittal to review and approve or disapprove the plan for the route located in the city, county, or town. Failure to respond within the time period is deemed to be approval, unless an extension is agreed to by the city, county, or town and the proposer. If the final design plans are approved, the proposer may proceed with construction.

(c) If the governing body of one or more cities, counties, or towns disapproves of the final design plans within the period allowed under paragraph (b), the proposer may refer the plans to the metropolitan council. The council shall review the final plans under the same procedure and with the same effect as provided in subdivision 4 for preliminary design plans. Following approval or recommendation of final design plans by the council, the proposer may proceed with construction.

Subd. 6. [COUNTY APPROVAL.] Preliminary and final design plans for a light rail transit facility in the metropolitan area must be submitted for approval or disapproval by the governing board of the county in which the route is proposed to be located. The proposer of the facility may not proceed with the facility without the approval of the county.

Subd. 7. [COUNCIL APPROVAL.] Before proceeding with final plans for a light rail transit facility, a regional rail authority established under chapter 398A shall submit preliminary engineering and other plans to the metropolitan council for review, and approval or disapproval, for consistency with the council's development guide.

Subd. 8. [METROPOLITAN SIGNIFICANCE.] Nothing in this section diminishes or replaces the authority of the council under section 473.173.

Sec. 3. [METROPOLITAN TRANSIT PLANNING PROCESS.]

By January 15, 1988, the council shall report to the legislature a recommended process for coordinating the planning and development of transit by regional railroad authorities and other political subdivisions.

Sec. 4. [APPLICATION.]

Sections 1 to 3 are effective the day following final enactment in the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington."

Delete the title and insert:

"A bill for an act relating to metropolitan government; permitting regional railroad authorities to engage in certain activities; amending Minnesota Statutes 1986, section 473.398; proposing coding for new law in Minnesota Statutes, chapter 473."

With the recommendation that when so amended the bill pass.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

S. F. No. 378, A bill for an act relating to utilities; requiring owners of electric power lines to trim vegetation around lines; providing that failure to trim vegetation is a nuisance; proposing coding for new law in Minnesota Statutes, chapter 561.

Reported the same back with the following amendments:

Page 2, line 19, before the period insert "except that a landowner who does not grant a public utility permission to remove vegetation around the utility's electric lines may not recover damages caused from the lack of removal"

With the recommendation that when so amended the bill pass.

The report was adopted.

Kostohryz from the Committee on General Legislation, Veterans Affairs and Gaming to which was referred:

S. F. No. 721, A bill for an act relating to veterans; requiring the placement of a plaque on the Capitol grounds recognizing certain prisoners of war and soldiers missing in action.



Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

S. F. No. 1349, A bill for an act relating to state departments and agencies; renaming the division of emergency services; amending Minnesota Statutes 1986, section 12.04.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 259, 384, 529, 569, 574, 647, 884, 1304, 1328, 1404, 1475, 1515 and 1563 were read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. Nos. 161, 282, 378, 721 and 1349 were read for the second time.

## **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Vanasek, Schreiber, Voss, Forsythe and Anderson, G., introduced:

H. F. No. 1623, A bill for an act relating to state government; creating a legislative budget office; providing for its duties; providing for a director of the legislative budget office and the manner of the director's appointment and service; eliminating the department of finance and transferring its powers and duties to the department of revenue; amending Minnesota Statutes 1986, sections 3.30, subdivision 1; 3.303, subdivision 2; 3.98, subdivisions 1 and 4; 3.982; 15.06, subdivision 1; 270.66, subdivision 1; 282.09, subdivision 1; and 293.06; proposing coding for new law in Minnesota Statutes, chapter 270A; proposing coding for new law as Minnesota Statutes,

chapters 3D and 272A; repealing Minnesota Statutes 1986, sections 3.30, subdivision 2; 16A.01; 16A.1281; and 16A.45.

The bill was read for the first time and referred to the Committee on Ways and Means.

Larsen; Carlson, D.; Solberg; Beard and Price introduced:

H. F. No. 1624, A bill for an act relating to commerce; regulating personal property locker facilities; providing licensing and bonding requirements; regulating rental agreements; providing minimum health and safety standards; proposing coding for new law as Minnesota Statutes, chapter 504A.

The bill was read for the first time and referred to the Committee on Commerce.

Solberg and Neuenschwander introduced:

H. F. No. 1625, A bill for an act relating to veterans; requiring the construction of a veterans home in Grand Rapids with the use of nonstate funds and providing for the operation and administration of the home; proposing coding for new law in Minnesota Statutes, chapter 198.

The bill was read for the first time and referred to the Committee on Health and Human Services.

Kahn, Ogren, Greenfield and Anderson, R., introduced:

H. F. No. 1626, A bill for an act relating to alcoholic beverages; directing the commissioner of public safety to establish a program for approving courses to train servers of alcoholic beverages in responsible sale and consumption; proposing coding for new law in Minnesota Statutes, chapter 299A.

The bill was read for the first time and referred to the Committee on Regulated Industries.

Kahn, Ogren, Greenfield and Anderson, R., introduced:

H. F. No. 1627, A bill for an act relating to alcoholic beverages; authorizing cities and counties to issue licenses permitting on-sales of alcoholic beverages during certain hours when on-sales are otherwise prohibited; amending Minnesota Statutes 1986, section

340A.504, subdivisions 1, 2, 3, and 6; proposing coding for new law in Minnesota Statutes, chapter 340A.

The bill was read for the first time and referred to the Committee on Regulated Industries.

Kahn, Battaglia, Clark, Rose and Sparby introduced:

H. F. No. 1628, A bill for an act relating to environment; requiring an assessment to be paid by nuclear fission electrical generating plants to fund the costs of certain high-level radioactive waste programs; proposing coding for new law in Minnesota Statutes, chapter 116C.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Simoneau and Voss introduced:

H. F. No. 1629, A bill for an act relating to the county of Anoka; exempting an allocation of issuance authority for a solid waste project from the notice of issue filing deadline.

The bill was read for the first time and referred to the Committee on Taxes.

Blatz, Kludt, Vellenga, McDonald and Dempsey introduced:

H. F. No. 1630, A bill for an act relating to child abuse; requiring a clergyman who knows or has reason to believe a child is being abused to report the information to law enforcement authorities or the local welfare agency; amending Minnesota Statutes 1986, section 626.556, subdivision 3.

The bill was read for the first time and referred to the Committee on Judiciary.

#### HOUSE ADVISORIES

The following House Advisories were introduced:

Rodosovich, Knuth, Simoneau and Blatz introduced:

H. A. No. 25, A proposal to study changes to the Minnesota administrative procedure act.

The advisory was referred to the Committee on Governmental Operations.

Tjornhom introduced:

H. A. No. 26, A proposal to study the effects of aircraft noise on property values.

The advisory was referred to the Committee on Metropolitan Affairs.

### MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 557, A bill for an act relating to state departments and agencies; renaming the mental retardation division of the department of human services; amending Minnesota Statutes 1986, section 245.072.

H. F. No. 1042, A bill for an act relating to motor carriers; exempting drivers of intrastate charter carriers from having in possession a medical examiner certificate if the driver has a school bus endorsement; amending Minnesota Statutes 1986, section 221.031, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 499, A bill for an act relating to metropolitan government; changing the treatment of current value credits and modifying the cost allocation system of the metropolitan waste control commission; providing for a reserve fund for the commission; authorizing appointment of advisory committees by the commission; authorizing an implementation period for transition to a new cost allocation system; amending Minnesota Statutes 1986, sections 473.511, subdivision 4; and 473.517, subdivisions 1, 2, 3, and 9; repealing Minnesota Statutes 1986, section 473.517, subdivisions 4, 5, and 7.

H. F. No. 1028, A bill for an act relating to labor; regulating mediation, fact finding, and other functions of the bureau of medi-

ation services; providing for violations of the labor union democracy act; amending Minnesota Statutes 1986, sections 179.02, subdivision 2, and by adding a subdivision; 179.07; 179.08; 179.083; 179.22; 179.38; proposing coding for new law in Minnesota Statutes, chapter 179; repealing Minnesota Statutes 1986, sections 179.05; 179.23; and 179.24.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 235, A bill for an act relating to education; allowing certain districts to mail summaries of the school board proceedings rather than publish them; amending Minnesota Statutes 1986, section 123.33, by adding a subdivision.

H. F. No. 1049, A bill for an act relating to labor; regulating the administration of the occupational safety and health act; clarifying employee rights to sue; amending Minnesota Statutes 1986, sections 182.659, subdivisions 6 and 8; 182.661, by adding a subdivision; 182.666, subdivisions 1, 2, 4, 5, and 6; and 182.669, subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. No. 235, 345 and 922.

PATRICK E. FLAHAVEN, Secretary of the Senate

### FIRST READING OF SENATE BILLS

S. F. No. 235, A bill for an act relating to missing children; requiring schools to develop policies on notifying parents whose children are absent from school; requiring that certain documents be provided to schools when new students enroll; proposing coding for new law in Minnesota Statutes, chapter 123.

The bill was read for the first time.

Bishop moved that S. F. No. 235 and H. F. No. 259, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 345, A bill for an act relating to environment; prohibiting the use of certain pesticides; proposing coding for new law in Minnesota Statutes, chapter 18A.

The bill was read for the first time.

Nelson, D., moved that S. F. No. 345 and H. F. No. 844, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 922, A bill for an act relating to horse racing; regulating license suspensions and revocations of class C licenses; modifying the time periods and dollar limitations used to trigger contested case hearings; requiring rules that prohibit horses from carrying foreign substances when they race; requiring medical testing fee rules; making permanent the statutory provisions authorizing the use of certain medications; amending Minnesota Statutes 1986, sections 240.08, subdivision 5; 240.16, subdivision 1; 240.22; 240.24, subdivisions 1 and 3; and Laws 1985, chapter 211, section 5.

The bill was read for the first time.

Redalen moved that S. F. No. 922 and H. F. No. 1038, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

The Speaker called Long to the Chair.

### CONSENT CALENDAR

H. F. No. 1495, A bill for an act relating to liquor; authorizing the city of Little Falls to issue a temporary on-sale intoxicating liquor license.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 113 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Larsen	Omann	Simoneau
Anderson, R.	Gruenes	Lasley	Orenstein	Skoglund
Battaglia	Gutknecht	Lieder	Osthoff	Solberg
Bauerly	Hartle	Long	Otis	Stanis
Beard	Heap	Marsh	Ozment	Steensma
Begich	Himle	McEachern	Pappas	Swiggum
Bennett	Hugoson	McKasy	Pauly	Swenson
Bertram	Jacobs	McLaughlin	Pelowski	Tompkins
Bishop	Jaros	McPherson	Peterson	Trimble
Blatz	Jefferson	Milbert	Price	Tunheim
Boo	Jennings	Miller	Redalen	Uphus
Brown	Jensen	Minne	Reding	Valento
Burger	Johnson, A.	Morrison	Rest	Vanasek
Carlson, D.	Johnson, V.	Munger	Rice	Voss
Carlson, L.	Kahn	Nelson, C.	Riveness	Wagenius
Carruthers	Kalis	Nelson, D.	Rodosovich	Waltman
Clark	Kelly	Nelson, K.	Rose	Welle
Clausnitzer	Kelso	Neuenschwander	Rukavina	Wenzel
Cooper	Kinkel	O'Connor	Sarna	Winter
Dauner	Kludt	Ogren	Scheid	Wynia
DeBlieck	Knuth	Olsen, S.	Schoenfeld	Spk. Norton
Dorn	Kostohryz	Olson, E.	Seaberg	
Forsythe	Krueger	Olson, K.	Segal	

Those who voted in the negative were:

Dempsey	Frerichs	Haukoos	Johnson, R.	Onnen
				Schafer

The bill was passed and its title agreed to.

S. F. No. 157 was reported to the House.

Orenstein moved that S. F. No. 157 be continued on the Consent Calendar for one day. The motion prevailed.

S. F. No. 324, A bill for an act relating to traffic regulations; removing exemptions regarding alcohol or controlled substance-related activities of persons engaged in work upon the highway; amending Minnesota Statutes 1986, section 169.03, subdivision 6.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Bennett	Carlson, D.	Dauner	Frederick
Anderson, R.	Bertram	Carlson, L.	DeBlieck	Frerichs
Battaglia	Blatz	Carruthers	Dempsey	Greenfield
Bauerly	Boo	Clark	Dille	Gruenes
Beard	Brown	Clausnitzer	Dorn	Gutknecht
Begich	Burger	Cooper	Forsythe	Hartle

Haukoos	Krueger	Nelson, K.	Quist	Steensma
Heap	Larsen	Neuenschwander	Redalen	Sviggum
Himle	Lasley	O'Connor	Reding	Swenson
Hugoson	Lieder	Ogren	Rice	Thiede
Jacobs	Long	Olsen, S.	Richter	Tjornhom
Jaros	Marsh	Olson, E.	Rodosovich	Tompkins
Jefferson	McDonald	Olson, K.	Rose	Trimble
Jennings	McEachern	Omman	Rukavina	Tunheim
Jensen	McKasy	Onnen	Sarna	Uphus
Johnson, A.	McLaughlin	Orenstein	Schafer	Valento
Johnson, R.	McPherson	Osthoff	Scheid	Vanasek
Johnson, V.	Milbert	Otis	Schoenfeld	Voss
Kalis	Miller	Ozment	Schreiber	Wagenius
Kelly	Minne	Pappas	Segal	Waltman
Kelso	Morrison	Pauly	Simoneau	Welle
Kinkel	Munger	Pelowski	Skoglund	Wenzel
Kludt	Murphy	Peterson	Solberg	Winter
Knuth	Nelson, C.	Poppenhagen	Sparby	Wynia
Kostohryz	Nelson, D.	Price	Stanis	Spk. Norton

The bill was passed and its title agreed to.

S. F. No. 365, A bill for an act relating to search and seizure; requiring enforcement officers to have probable cause before entering certain buildings to determine whether wild animals are stored in compliance with the game and fish laws; amending Minnesota Statutes 1986, section 97A.215, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frederick	Krueger	Omman	Schoenfeld
Anderson, R.	Frerichs	Larsen	Onnen	Schreiber
Battaglia	Greenfield	Lasley	Orenstein	Seaberg
Bauerly	Gruenes	Lieder	Osthoff	Segal
Beard	Gutknecht	Long	Otis	Simoneau
Begich	Hartle	Marsh	Ozment	Skoglund
Bennett	Haukoos	McDonald	Pappas	Solberg
Bertram	Heap	McEachern	Pauly	Sparby
Bishop	Himle	McKasy	Pelowski	Stanis
Blatz	Hugoson	McLaughlin	Peterson	Steensma
Boo	Jacobs	McPherson	Poppenhagen	Sviggum
Brown	Jaros	Milbert	Price	Swenson
Burger	Jefferson	Miller	Quist	Thiede
Carlson, D.	Jennings	Minne	Redalen	Tjornhom
Carlson, L.	Jensen	Morrison	Reding	Tompkins
Carruthers	Johnson, A.	Munger	Rest	Trimble
Clark	Johnson, R.	Murphy	Rice	Tunheim
Clausnitzer	Johnson, V.	Nelson, C.	Richter	Uphus
Cooper	Kalis	Nelson, D.	Riveness	Valento
Dauner	Kelly	Nelson, K.	Rodosovich	Vanasek
DeBlick	Kelso	Neuenschwander	Rose	Voss
Dempsey	Kinkel	O'Connor	Rukavina	Wagenius
Dille	Kludt	Olsen, S.	Sarna	Waltman
Dorn	Knuth	Olson, E.	Schafer	Welle
Forsythe	Kostohryz	Olson, K.	Scheid	Wenzel



Winter

Wynia

Spk. Norton

The bill passed and its title agreed to.

H. F. No. 1185, A bill for an act relating to education; clarifying that funds may not be transferred from the debt redemption fund; amending Minnesota Statutes 1986, section 121.9121, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Gutknecht	Marsh	Pappas	Sparby
Battaglia	Hartle	McDonald	Pauly	Stanius
Bauerly	Haukoos	McEachern	Pelowski	Steensma
Beard	Heap	McKasy	Peterson	Sviggum
Bennett	Himle	McLaughlin	Poppenhagen	Swenson
Bertram	Hugoson	McPherson	Price	Thiede
Bishop	Jacobs	Milbert	Quist	Tjornhom
Blatz	Jaros	Miller	Redalen	Tompkins
Boo	Jefferson	Minne	Reding	Trimble
Brown	Jennings	Morrison	Rest	Tunheim
Burger	Jensen	Munger	Rice	Uphus
Carlson, D.	Johnson, A.	Murphy	Richter	Valento
Carlson, L.	Johnson, R.	Nelson, C.	Riveness	Vanasek
Carruthers	Johnson, V.	Nelson, D.	Rodosovich	Voss
Clark	Kalis	Nelson, K.	Rose	Wagenius
Clausnitzer	Kelly	Neuenschwander	Rukavina	Waltman
Cooper	Kelso	O'Connor	Sarna	Welle
Dauner	Kinkel	Olsen, S.	Schafer	Wenzel
DeBlick	Kludt	Olson, E.	Scheid	Winter
Dempsey	Knuth	Olson, K.	Schoenfeld	Wynia
Dille	Kostohryz	Omann	Schreiber	Spk. Norton
Dorn	Krueger	Onnen	Seaberg	
Forsythe	Larsen	Orenstein	Segal	
Frederick	Lasley	Osthoff	Simoneau	
Greenfield	Lieder	Otis	Skoglund	
Gruenes	Long	Ozment	Solberg	

The bill was passed and its title agreed to.

S. F. No. 59, A bill for an act relating to highway traffic regulations; prescribing who shall prosecute persons who operate motorboats while under the influence of alcohol or a controlled substance; amending Minnesota Statutes 1986, section 361.12, subdivision 5:

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Gruenes	Long	Otis	Solberg
Anderson, R.	Gutknecht	Marsh	Ozment	Sparby
Battaglia	Hartle	McDonald	Pappas	Stanis
Bauerly	Haukoos	McEachern	Pauly	Steensma
Beard	Heap	McKasy	Pelowski	Sviggum
Begich	Himle	McLaughlin	Peterson	Swenson
Bennett	Hugoson	McPherson	Poppenhagen	Thiede
Bertram	Jacobs	Milbert	Price	Tjornhom
Bishop	Jaros	Miller	Quist	Tompkins
Blatz	Jefferson	Minne	Redalen	Trimble
Brown	Jennings	Morrison	Reding	Tunheim
Burger	Jensen	Munger	Rest	Uphus
Carlson, L.	Johnson, A.	Murphy	Rice	Valento
Carruthers	Johnson, V.	Nelson, C.	Richter	Vanasek
Clark	Kahn	Nelson, D.	Riveness	Voss
Clausnitzer	Kalis	Nelson, K.	Rodosovich	Wagenius
Cooper	Kelly	Neuenschwander	Rukavina	Waltman
Dauner	Kelso	O'Connor	Sarna	Welle
DeBlicke	Kinkel	Ogren	Schafer	Wenzel
Dempsey	Kludt	Olsen, S.	Scheid	Winter
Dille	Knuth	Olson, E.	Schoenfeld	Wynia
Dorn	Kostohryz	Olson, K.	Schreiber	Spk. Norton
Forsythe	Krueger	Omann	Seaberg	
Frederick	Larsen	Onnen	Segal	
Frerichs	Lasley	Orenstein	Simoneau	
Greenfield	Lieder	Osthoff	Skoglund	

The bill was passed and its title agreed to.

S. F. No. 698, A bill for an act relating to education; authorizing northeast metropolitan intermediate school district No. 916 to issue certain bonds for the acquisition and betterment of a secondary vocational and special education facility.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Clark	Himle	Knuth	Morrison
Anderson, R.	Clausnitzer	Hugoson	Kostohryz	Munger
Battaglia	Cooper	Jacobs	Krueger	Murphy
Bauerly	DeBlicke	Jaros	Larsen	Nelson, C.
Beard	Dempsey	Jefferson	Lasley	Nelson, D.
Begich	Dille	Jennings	Lieder	Nelson, K.
Bennett	Dorn	Jensen	Long	Neuenschwander
Bertram	Forsythe	Johnson, A.	Marsh	O'Connor
Bishop	Frederick	Johnson, R.	McDonald	Olsen, S.
Blatz	Frerichs	Johnson, V.	McEachern	Olson, E.
Boo	Greenfield	Kahn	McKasy	Olson, K.
Brown	Gruenes	Kalis	McLaughlin	Omann
Burger	Gutknecht	Kelly	McPherson	Onnen
Carlson, D.	Hartle	Kelso	Milbert	Orenstein
Carlson, L.	Haukoos	Kinkel	Miller	Osthoff
Carruthers	Heap	Kludt	Minne	Otis

Ozment	Rest	Schreiber	Swenson	Wagenius
Pappas	Rice	Seaberg	Thiede	Waltman
Pauly	Richter	Segal	Tjornhom	Welle
Pelowski	Riveness	Simoneau	Tompkins	Wenzel
Peterson	Rodosovich	Skoglund	Trimble	Winter
Poppenhagen	Rose	Solberg	Tunheim	Wynia
Price	Rukavina	Sparby	Uphus	Spk. Norton
Quist	Schafer	Stanisus	Valento	
Redalen	Scheid	Steensma	Vanasek	
Reding	Schoenfeld	Sviggum	Voss	

The bill was passed and its title agreed to.

### SPECIAL ORDERS

S. F. No. 341, A bill for an act relating to insurance; regulating unfair settlement practices of automobile insurers; requiring repairs with original equipment parts; providing an exception; regulating insurance appraisals; revising the truth-in-repairs act to require disclosure of whether new parts are original equipment parts; amending Minnesota Statutes 1986, sections 72A.20, subdivision 12a; 72B.091, subdivision 2; 325F.56, subdivision 8; and 325F.60, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 122 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Anderson, G.	Gruenes	Long	Osthoff	Skoglund
Anderson, R.	Gutknecht	Marsh	Otis	Solberg
Battaglia	Hartle	McDonald	Ozment	Sparby
Bauerly	Haukoos	McEachern	Pauly	Stanisus
Beard	Heap	McKasy	Pelowski	Steensma
Begich	Hugoson	McLaughlin	Peterson	Sviggum
Bennett	Jacobs	McPherson	Price	Swenson
Bertram	Jaros	Milbert	Quinn	Thiede
Bishop	Jefferson	Miller	Quist	Tjornhom
Blatz	Jennings	Minne	Redalen	Tompkins
Boo	Jensen	Morrison	Reding	Tunheim
Brown	Johnson, A.	Munger	Rest	Uphus
Burger	Johnson, R.	Murphy	Rice	Valento
Carlson, D.	Johnson, V.	Nelson, C.	Richter	Vanasek
Carlson, L.	Kahn	Nelson, D.	Riveness	Voss
Carruthers	Kalis	Nelson, K.	Rodosovich	Wagenius
Clark	Kelly	Neuenschwander	Rose	Waltman
Clausnitzer	Kinkel	O'Connor	Rukavina	Welle
Cooper	Kludt	Ogren	Sarna	Wenzel
Dauner	Knuth	Olsen, S.	Schafer	Winter
DeBlicke	Kostohryz	Olson, E.	Scheid	Wynia
Dempsey	Krueger	Olson, K.	Schoenfeld	Spk. Norton
Dorn	Larsen	Omann	Seaberg	
Frerichs	Lasley	Onnen	Segal	
Greenfield	Lieder	Orenstein	Simoneau	

Those who voted in the negative were:

Forsythe

The bill was passed and its title agreed to.

H. F. No. 291 was reported to the House.

Winter moved to amend H. F. No. 291, the first engrossment, as follows:

Page 9, line 30, reinstate the stricken "a reciprocating state"

Page 9, line 30, delete "any"

The motion prevailed and the amendment was adopted.

Winter moved to amend H. F. No. 291, the first engrossment, as amended, as follows:

Page 24, delete lines 14 to 17

The motion prevailed and the amendment was adopted.

Winter moved to amend H. F. No. 291, the first engrossment, as amended, as follows:

Pages 24 to 27, delete section 35

Renumber remaining sections

Amend the title as follows:

Page 1, line 34, after "325G.36;" insert "and"

Page 1, line 35, delete "and 336.9-501;"

The motion prevailed and the amendment was adopted.

Scheid moved to amend H. F. No. 291, the first engrossment, as amended, as follows:

Page 6, line 4, delete "or which" and insert "without sending at least 30 days prior notice to at least one of the deposit account holders at the last known address on file with the financial institution. If the new account"

Page 6, line 5, delete "without first obtaining" and insert ", the financial institution must obtain"

Page 6, line 5, after "of" insert "at least one of"

Page 6, line 6, delete "holder" and insert "holders before the new terms become effective"

Page 6, line 7, delete "close" and insert "closure"

Page 6, line 8, after "sending" insert "at least one of"

Page 6, line 8, delete "holder" and insert "holders"

Page 6, line 9, delete "by certified mail"

Page 6, line 12, delete "60" and insert "30"

Page 6, line 13, after "account" insert ", except that, if the financial institution has reasonable suspicion to believe that account is being used in connection with a check-related fraud or other crime or that funds will not be available to pay items drawn on the account, the notice may be sent the same day as the account is closed."

(c) As used in this section, the following terms have the meanings given them. "Deposit account" means a contract of deposit of funds between a depositor and a financial institution, and includes a checking account, savings account, certificate of deposit share account, and other like arrangement. "Financial institution" means any organization authorized to do business under state or federal laws relating to financial institutions, including, without limitation, banks and trust companies, savings banks, savings and loan associations, industrial loan and thrift companies, and credit unions."

The motion prevailed and the amendment was adopted.

H. F. No. 291, A bill for an act relating to financial institutions; regulating incorporations and operations of banks; requiring approval of certain insider agreements; regulating acquisitions by bank holding companies; authorizing the commissioner to borrow money to satisfy obligations of certain closed institutions; regulating bank or trust company investments; regulating claims against liquidated institutions; providing for the organization of credit unions; regulating interest and dividends paid on deposits; regulating industrial loan and thrifts; providing for the submission of certain reports; modifying the maximum allowable interest rate on certain loans used to satisfy the balances owed on contracts for deed; requiring the periodic examination of collection agencies; regulating

consumer deficiency judgments; modifying the examination requirement for safe deposit companies and insurance premium finance companies; regulating motor vehicle installment sales; regulating bank applications; amending Minnesota Statutes 1986, sections 46.041; 46.042; 46.07, subdivision 2; 46.131, subdivision 9; 47.10, subdivision 3, and by adding a subdivision; 47.204, subdivision 1; 47.205, subdivisions 2 and 4; 48.055, subdivision 5; 48.15, subdivision 2; 48.51; 48.61, subdivisions 3 and 5; 48.92, subdivision 10; 48.97, subdivision 2; 48.98, subdivision 1; 48.99, subdivision 1; 49.04, subdivision 1; 49.05, by adding a subdivision; 49.24, subdivision 5; 51A.58; 52.01; 52.02, subdivision 3; 52.09, subdivision 2; 52.18; 53.04, subdivisions 3a and 5; 53.09, subdivision 2; 55.095; 55.15; 56.12; 59A.06, subdivision 3; 168.66, subdivisions 5 and 9; 168.705; 168.71; 168.72, subdivisions 1 and 4; 168.73; 168.74; 325G.36; and 332.29, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 46 and 47; repealing Minnesota Statutes 1986, sections 48.60 and 55.13.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 105 yeas and 19 nays as follows:

Those who voted in the affirmative were:

Battaglia	Gruenes	Larsen	Omann	Seaberg
Bauerly	Gutknecht	Lasley	Onnen	Segal
Beard	Hartle	Lieder	Orenstein	Simoneau
Begich	Heap	Long	Osthoff	Skoglund
Bennett	Himle	Marsh	Otis	Sparby
Bertram	Jacobs	McEachern	Ozment	Stanisus
Bishop	Jaros	McKasy	Pappas	Steensma
Blatz	Jefferson	McLaughlin	Pauly	Sviggum
Boo	Jennings	McPherson	Pelowski	Swenson
Burger	Jensen	Milbert	Peterson	Tjornhom
Carlson, D.	Johnson, A.	Minne	Price	Tompkins
Carlson, L.	Johnson, R.	Morrison	Quinn	Trimble
Carruthers	Kahn	Munger	Redalen	Tunheim
Clark	Kalis	Murphy	Reding	Valento
Clausnitzer	Kelly	Nelson, C.	Rest	Vanasek
Cooper	Kelso	Nelson, D.	Rose	Voss
Dauner	Kinkel	Nelson, K.	Rukavina	Wagenius
DeBlieck	Kludt	O'Connor	Sarna	Waltman
Dempsey	Knuth	Ogren	Scheid	Wenzel
Dorn	Kostohryz	Olsen, S.	Schoenfeld	Winter
Greenfield	Krueger	Olson, K.	Schreiber	Spk. Norton

Those who voted in the negative were:

Anderson, G.	Frerichs	McDonald	Quist	Thiede
Anderson, R.	Haukoos	Miller	Richter	Uphus
Forsythe	Hugoson	Olson, E.	Rodosovich	Welle
Frederick	Johnson, V.	Poppenhagen	Schafer	

The bill was passed, as amended, and its title agreed to.

S. F. No. 1015 was reported to the House.

Dauner and Begich moved to amend S. F. No. 1015, as follows:

Page 1, after line 24, insert:

"Sec. 2. Minnesota Statutes 1986, section 183.411, subdivision 2, is amended to read:

Subd. 2. [INSPECTION.] When used only for display and demonstration purposes, steam farm traction engines, portable and stationary show engines and portable and stationary show boilers shall be inspected every two years according to law.

(a) Boilers or show engines of lap seam construction not certified in Minnesota or previously certified in Minnesota but that have been repaired or altered after certification, may be certified in Minnesota if:

(1) all alterations have been done in accordance with American National Standard ANSI/NB23 R-404 or R-505; or

(2) form R-1, report of alteration, has been prepared by a registered professional engineer with verification by the authorized inspection agency responsible for the inservice inspection of the object in accordance with American National Standard ANSI/NB23 R-502; or

(3) the engine has received a certificate allowing operation, or repairs have been authorized under American National Standard ANSI/NB23 R-404.1, R-404.2, or R-404.3 in Minnesota or another jurisdiction that accepts the provisions of American National Standard ANSI/NB23 and an inspection has been completed by an inspector certified in Minnesota according to the standards set in clause (b).

(b) A hobby boiler or show engine, not certified in Minnesota or any other jurisdiction must successfully complete, at the owner's expense, inspection by:

(1) full radiographic examination of the long or longitudinal seam; and

(2) ultrasonic examination for metal thickness (for purposes of calculating the maximum allowable working pressure the thinnest reading shall be used — see also American National Standard ANSI/NB23 I-303.8); and

(3) magnetic particle or radiographic examination of areas where dye penetrant testing shows possible cracks; and

(4) hydrostatic testing at one and one-half maximum allowable working pressure.

(c) Further, each such object shall successfully complete an inspection of:

(1) the fusible plug;

(2) the safety valve, which must be of American society of mechanical engineer's approved design and set at the maximum allowable working pressure and sealed in an appropriate manner not allowing tampering with the valve setting without destroying the seal; and

(3) the boiler power piping.

Any longitudinal cracks found in riveted longitudinal seams requires that the vessel be sealed and not approved for use in Minnesota. If the boiler or show engine is jacketed, the jacket must be removed prior to inspection."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after "183.411," insert "subdivision 2, and"

The motion prevailed and the amendment was adopted.

S. F. No. 1015, A bill for an act relating to public safety; regulating boilers and their operation; amending Minnesota Statutes 1986, sections 183.375, subdivision 2; 183.411, by adding a subdivision; 183.42; 183.545, subdivision 4; and 183.56; repealing Minnesota Statutes 1986, section 183.545, subdivision 5.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.  
Anderson, R.  
Battaglia  
Bauerly

Beard  
Begich  
Bennett  
Bertram

Blatz  
Brown  
Burger  
Carlson, D.

Carlson, L.  
Carruthers  
Clark  
Clausnitzer

Cooper  
Dauner  
DeBlick  
Dempsey



Dorn	Kinkel	Nelson, K.	Reding	Sviggunn
Forsythe	Kludt	Neuenschwander	Rest	Swenson
Frederick	Knuth	O'Connor	Rice	Thiede
Frerichs	Kostohryz	Ogren	Richter	Tjornhom
Greenfield	Krueger	Olsen, S.	Riveness	Tompkins
Gruenes	Larsen	Olson, E.	Rodosovich	Trimble
Gutknecht	Lasley	Olson, K.	Rose	Tunheim
Hartle	Lieder	Omman	Rukavina	Uphus
Haukoos	Long	Onnen	Sarna	Valento
Heap	Marsh	Orenstein	Schafer	Vanasek
Hugoson	McDonald	Osthoff	Scheid	Voss
Jacobs	McEachern	Otis	Schoenfeld	Wagenius
Jaros	McKasy	Ozment	Schreiber	Waltman
Jefferson	McLaughlin	Pappas	Seaberg	Welle
Jennings	McPherson	Pauly	Segal	Wenzel
Jensen	Milbert	Pelowski	Shaver	Winter
Johnson, A.	Miller	Peterson	Simoneau	Wynia
Johnson, R.	Minne	Poppenhagen	Skoglund	Spk. Norton
Johnson, V.	Morrison	Price	Solberg	
Kalis	Munger	Quinn	Sparby	
Kelly	Murphy	Quist	Stanius	
Kelso	Nelson, C.	Redalen	Steensma	

The bill was passed, as amended, and its title agreed to.

H. F. No. 142, A bill for an act relating to drivers' licenses; permitting limited license for homemaker; amending Minnesota Statutes 1986, section 171.30, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 121 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Larsen	Omman	Schreiber
Anderson, R.	Gruenes	Lasley	Orenstein	Seaberg
Battaglia	Gutknecht	Lieder	Osthoff	Segal
Bauerly	Hartle	Long	Otis	Shaver
Beard	Haukoos	Marsh	Ozment	Simoneau
Begich	Heap	McDonald	Pappas	Skoglund
Bennett	Hugoson	McEachern	Pauly	Solberg
Bertram	Jacobs	McKasy	Pelowski	Sparby
Blatz	Jaros	McLaughlin	Peterson	Stanius
Brown	Jefferson	McPherson	Price	Steensma
Burger	Jennings	Milbert	Quinn	Swenson
Carlson, D.	Jensen	Miller	Redalen	Tjornhom
Carlson, L.	Johnson, A.	Minne	Reding	Tompkins
Carruthers	Johnson, R.	Morrison	Rest	Trimble
Clark	Johnson, V.	Munger	Rice	Tunheim
Clausnitzer	Kahn	Murphy	Richter	Uphus
Cooper	Kalis	Nelson, C.	Riveness	Valento
Dauner	Kelly	Nelson, K.	Rodosovich	Vanasek
DeBlicke	Kelso	Neuenschwander	Rose	Voss
Dempsey	Kinkel	O'Connor	Rukavina	Wagenius
Dorn	Kludt	Ogren	Sarna	Waltman
Forsythe	Knuth	Olsen, S.	Schafer	Wenzel
Frederick	Kostohryz	Olson, E.	Scheid	Winter
Frerichs	Krueger	Olson, K.	Schoenfeld	Wynia
				Spk. Norton

Those who voted in the negative were:

Quist

The bill was passed and its title agreed to.

H. F. No. 228 was reported to the House.

Rodosovich moved that H. F. No. 228 be returned to its author. The motion prevailed.

H. F. No. 464, A bill for an act relating to insurance; accident and health; increasing the maximum lifetime benefit for major medical coverage; amending Minnesota Statutes 1986, sections 62E.04, subdivision 4; and 62E.06, subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Lasley	Onnen	Schreiber
Anderson, R.	Gruenes	Lieder	Orenstein	Seaberg
Battaglia	Gutknecht	Long	Osthoff	Segal
Bauerly	Hartle	Marsh	Otis	Shaver
Beard	Haukoos	McDonald	Ozment	Simoneau
Begich	Heap	McEachern	Pappas	Skoglund
Bennett	Hugoson	McKasy	Pauly	Solberg
Bertram	Jacobs	McLaughlin	Pelowski	Sparby
Blatz	Jaros	McPherson	Peterson	Stanisus
Boo	Jefferson	Milbert	Price	Steensma
Burger	Jennings	Miller	Quinn	Sviggum
Carlson, D.	Jensen	Minne	Quist	Swenson
Carlson, L.	Johnson, A.	Morrison	Redalen	Thiede
Carruthers	Johnson, R.	Munger	Reding	Tjornhom
Clark	Johnson, V.	Murphy	Rest	Tompkins
Clausnitzer	Kahn	Nelson, C.	Rice	Trimble
Cooper	Kalis	Nelson, D.	Richter	Tunheim
Danner	Kelly	Nelson, K.	Riveness	Uphus
DeBlick	Kelso	Neuenschwander	Rodosovich	Valento
Dempsey	Kinkel	O'Connor	Rose	Vanasek
Dille	Kludt	Ogren	Rukavina	Wagenius
Dorn	Knuth	Olsen, S.	Sarna	Waltman
Forsythe	Kostohryz	Olson, E.	Schafer	Welle
Frederick	Krueger	Olson, K.	Scheid	Wenzel
Frerichs	Larsen	Omann	Schoenfeld	Winter
				Spk. Norton

The bill was passed and its title agreed to.

H. F. No. 521, A bill for an act relating to lake improvement districts; providing for notice of their annual meetings; amending

Minnesota Statutes 1986, section 378.545, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 378.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Anderson, G.	Gruenes	Lieder	Otis	Segal
Anderson, R.	Gutknecht	Long	Ozment	Shaver
Battaglia	Hartle	Marsh	Pappas	Simoneau
Bauerly	Haukoos	McDonald	Pauly	Skoglund
Beard	Heap	McEachern	Pelowski	Solberg
Begich	Hugoson	McKasy	Peterson	Sparby
Bennett	Jacobs	McLaughlin	Poppenhagen	Stanius
Bertram	Jaros	McPherson	Price	Steensma
Blatz	Jefferson	Milbert	Quinn	Svigum
Brown	Jennings	Miller	Quist	Swenson
Burger	Jensen	Minne	Redalen	Thiede
Carlson, D.	Johnson, A.	Morrison	Reding	Tjornhom
Carlson, L.	Johnson, R.	Munger	Rest	Tompkins
Carruthers	Johnson, V.	Murphy	Rice	Trimble
Clark	Kahn	Nelson, C.	Richter	Tunheim
Clausnitzer	Kalis	Nelson, D.	Riveness	Uphus
Cooper	Kelly	Nelson, K.	Rodosovich	Valento
Dauner	Kelso	Neuenschwander	Rose	Vanasek
DeBlicke	Kinkel	O'Connor	Rukavina	Voss
Dempsey	Kludt	Olsen, S.	Sarna	Wagenius
Dorn	Knuth	Olson, E.	Schafer	Waltman
Forsythe	Kostohryz	Omann	Scheid	Welle
Frederick	Krueger	Onnen	Schoenfeld	Wenzel
Frerichs	Larsen	Orenstein	Schreiber	Winter
Greenfield	Lasley	Osthoff	Seaberg	Spk. Norton

Those who voted in the negative were:

Olson, K.

The bill was passed and its title agreed to.

H. F. No. 654 was reported to the House.

Nelson, K., moved to amend H. F. No. 654, as follows:

Page 3, after line 8, insert:

"Sec. 2. Minnesota Statutes 1986, section 473.612, is amended to read:

473.612 [NOISE ABATEMENT PLAN.]

(a) By December 31, 1981, the commission shall submit to the legislature a noise abatement plan for the Minneapolis-St. Paul

International Airport, containing annual programmatic goals, numerical goals, and objectives until December 31, 1989, for reduction of aircraft noise within the metropolitan area. The plan shall also contain, but not be limited to, documentation of annual change in the maximum hourly noise levels, such as defined by Minnesota pollution control agency rules, Minnesota Rules, chapter 7010, based on the typically worst noise condition on an hourly basis received in residential areas representing the noise-impacted region of the metropolitan area. The pollution control agency shall participate in the selection and review of the monitoring of such residential areas.

(b) By December 31, 1982, and each year thereafter until December 31, 1989, the commission shall submit to the legislature and the pollution control agency a draft report detailing the accomplishment of programmatic goals and objectives and the annual change in noise levels as outlined in the above noise abatement plan. By December 31, 1984, and each year thereafter until December 31, 1989, the commission shall submit to the legislature a report which includes any comments provided by the pollution control agency and the commission's response to the comments. In addition, the commission shall provide as part of the annual reports its best estimate, in the form of numerical goals, of noise abatement to be achieved by December 31, 1989, in residential areas representing the noise-impacted region of the metropolitan area. The goals shall be updated annually.

(c) In the December 31, 1987, report, the commission shall describe and document the percentage reduction in average daily noise energy, produced cumulatively by all the operations of all air carrier aircraft serving the Minneapolis-St. Paul International Airport, from the level existing in August 1986.

Sec. 3. Minnesota Statutes 1986, section 473.621, subdivision 1a, is amended to read:

Subd. 1a. [RELATIONSHIP TO LEGISLATURE.] The commission shall be held accountable to the legislature in its activities, plans, policies, and programs. It shall report each session to appropriate committees of the legislature as to its activities, plans, policies, and programs and shall make other reports and recommendations which the legislature or its committees deem appropriate. The commission shall adopt a long-term comprehensive plan for the Minneapolis-St. Paul International Airport. The plan must describe, in the degree of detail that the commission deems appropriate for at least a prospective ten-year period, the following:

(1) aviation demand;

(2) airport capacity, including environmental, runway, terminal, and other factors relevant to capacity;

- (3) a plan and financial estimates for physical development;
- (4) airport operational characteristics;
- (5) compatibility with the capacity of metropolitan and local physical facility systems;
- (6) environmental effects; and
- (7) the effect on the neighboring communities.

The plan must be submitted to the legislature by December 31, 1988, and be updated at least every five years thereafter. The plan is subject to sections 473.165 and 473.611.

#### Sec. 4. [ANALYSIS OF AIRPORT CAPACITY.]

By December 31, 1988, the metropolitan council shall submit to the legislature an analysis of the physical and environmental capacity of the Minneapolis-St. Paul International Airport. The analysis must cover at least a prospective 30-year period. The analysis must assess:

- (1) the cost and long-term benefit of various capacity enhancements, like runway and other construction at the airport, fuller use of reliever airports, and improvements in air traffic control; and
- (2) the effect of various capacity enhancements on the physical and environmental capacity of the airport, the neighboring communities, and the airport's potential economic and transportation function and benefit."

Renumber the remaining section

Page 3, line 10, delete "Section 1 applies" and insert "Sections 1 to 4 apply"

Amend the title as follows:

Page 1, line 3, after the semicolon insert "requiring plans and reports on noise, capacity, and other matters at Minneapolis-St. Paul International Airport;"

Page 1, line 4, delete "section" and insert "sections"

Page 1, line 5, before the period insert "; 473.612; and 473.621, subdivision 1a"

The motion prevailed and the amendment was adopted.

H. F. No. 654, A bill for an act relating to metropolitan government; providing for the composition of the metropolitan airports commission; requiring plans and reports on noise, capacity, and other matters at Minneapolis-St. Paul International Airport; amending Minnesota Statutes 1986, sections 473.604, subdivision 1; 473.612; and 473.621, subdivision 1a.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 120 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Lieder	Osthoff	Schreiber
Anderson, R.	Gruenes	Long	Otis	Seaberg
Battaglia	Gutknecht	Marsh	Ozment	Segal
Bauerly	Hartle	McDonald	Pappas	Shaver
Beard	Haukoos	McEachern	Pauly	Simoneau
Begich	Heap	McKasy	Pelowski	Skoglund
Bennett	Hugoson	McLaughlin	Peterson	Solberg
Bertram	Jacobs	McPherson	Popenhagen	Sparby
Blatz	Jaros	Milbert	Price	Steensma
Brown	Jefferson	Miller	Quinn	Sviggum
Carlson, D.	Jennings	Minne	Quist	Swenson
Carlson, L.	Johnson, A.	Morrison	Redalen	Thiede
Carruthers	Johnson, R.	Munger	Reding	Tjornhom
Clark	Johnson, V.	Murphy	Rest	Tompkins
Clausnitzer	Kahn	Nelson, C.	Rice	Tunheim
Cooper	Kalis	Nelson, K.	Richter	Uphus
Dauner	Kelso	Neuenschwander	Riveness	Valento
DeBlicke	Kinkel	O'Connor	Rodosovich	Vanasek
Dempsey	Kludt	Olsen, S.	Rose	Voss
Dille	Knuth	Olson, E.	Rukavina	Wagenius
Dorn	Kostohryz	Olson, K.	Sarna	Waltman
Forsythe	Krueger	Omman	Schafer	Wenzel
Frederick	Larsen	Onnen	Scheid	Winter
Frerichs	Lasley	Orenstein	Schoenfeld	Spk. Norton

The bill was passed, as amended, and its title agreed to.

H. F. No. 909, A bill for an act relating to waters; changing the posting and publication of notice requirements for aeration operations by a permittee of the commissioner of natural resources; providing an exclusion from government tort liability; amending Minnesota Statutes 1986, sections 3.736, subdivision 3; and 378.22, subdivisions 2 and 3.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 113 yeas and 10 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Hartle	Marsh	Otis	Solberg
Anderson, R.	Haukoos	McDonald	Ozment	Sparby
Battaglia	Heap	McEachern	Pappas	Stanius
Bauerly	Himle	McKasy	Pauly	Steensma
Begich	Hugoson	McLaughlin	Pelowski	Sviggum
Bennett	Jacobs	McPherson	Peterson	Swenson
Bertram	Jaros	Milbert	Price	Tjornhom
Blatz	Jefferson	Miller	Quist	Tompkins
Boo	Jennings	Minne	Redalen	Trimble
Brown	Jensen	Morrison	Reding	Tunheim
Carlson, L.	Johnson, A.	Murphy	Rest	Uphus
Carruthers	Johnson, R.	Nelson, C.	Riveness	Valento
Clark	Johnson, V.	Nelson, D.	Rodosovich	Vanasek
Clausnitzer	Kalis	Nelson, K.	Rukavina	Voss
Cooper	Kelly	Neuenschwander	Sarna	Wagenius
Dauner	Kelso	O'Connor	Schafer	Waltman
DeBlicck	Kinkel	Ogren	Scheid	Welle
Dille	Knuth	Olsen, S.	Schreiber	Wenzel
Dorn	Kostohryz	Olson, E.	Seaberg	Winter
Frerichs	Krueger	Olson, K.	Segal	Wynia
Greenfield	Larsen	Omann	Shaver	Spk. Norton
Gruenes	Lasley	Orenstein	Simoneau	
Gutknecht	Lieder	Osthoff	Skoglund	

Those who voted in the negative were:

Beard	Dempsey	Kludt	Poppenhagen	Rice
Burger	Frederick	Onnen	Quinn	Schoenfeld

The bill was passed and its title agreed to.

H. F. No. 1113 was reported to the House.

Burger moved to amend H. F. No. 1113, as follows:

Page 3, line 7, after the period insert:

"Appointed agents must have training and experience in activities relating to prevention of cruelty to animals or enforcement of laws relating to cruelty to animals."

Page 3, line 10, strike "It" and insert "The federation"

The motion prevailed and the amendment was adopted.

H. F. No. 1113, A bill for an act relating to state departments and agencies; abolishing the Minnesota humane society as a state agency and authorizing its formation as a state federation of county and district societies; providing for the powers and duties of county and district societies and for the prevention of cruelty to animals; amending Minnesota Statutes 1986, sections 16B.51, subdivision 1; 43A.27, subdivision 2; 343.01; 343.06; 343.10; 343.12; 343.22, sub-

division 1; 343.29, subdivision 1; 346.37, subdivision 6; and 347.37; repealing Minnesota Statutes 1986, section 343.08.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 123 yeas and 5 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frerichs	Lieder	Otis	Shaver
Battaglia	Greenfield	Long	Ozment	Simoneau
Bauerly	Gruenes	Marsh	Pauly	Skoglund
Beard	Gutknecht	McDonald	Pelowski	Solberg
Begich	Hartle	McEachern	Peterson	Sparby
Bennett	Haukoos	McKasy	Poppenhagen	Stanisus
Bertram	Heap	McLaughlin	Price	Steensma
Bishop	Himle	McPherson	Quinn	Sviggum
Blatz	Hugoson	Milbert	Quist	Swenson
Boo	Jacobs	Miller	Redalen	Thiede
Brown	Jaros	Minne	Reding	Tjornhom
Burger	Jefferson	Morrison	Rest	Tompkins
Carlson, D.	Jennings	Murphy	Rice	Tunheim
Carlson, L.	Jensen	Nelson, C.	Richter	Uphus
Carruthers	Johnson, A.	Nelson, D.	Riveness	Valento
Clark	Johnson, R.	Nelson, K.	Rodosovich	Vanasek
Clausnitzer	Johnson, V.	Neuenschwander	Rose	Voss
Cooper	Kalis	O'Connor	Rukavina	Wagenius
Dauner	Kelso	Ogren	Sarna	Waltman
DeBlieck	Kinkel	Olsen, S.	Schafer	Welle
Dempsey	Kludt	Olson, E.	Scheid	Wenzel
Dille	Knuth	Olson, K.	Schoenfeld	Winter
Dorn	Krueger	Omann	Schreiber	Spk. Norton
Forsythe	Larsen	Onnen	Seaberg	
Frederick	Lasley	Orenstein	Segal	

Those who voted in the negative were:

Kelly	Kostohryz	Munger	Osthoff	Trimble
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The bill was passed, as amended, and its title agreed to.

H. F. No. 969, A bill for an act relating to the sentencing guidelines commission; including a crime victim as a member of the commission; providing that terms of members appointed by the governor are coterminous with the governor; changing the date on which the commission's report to the legislature is due; amending Minnesota Statutes 1986, section 244.09, subdivisions 2, 3, and 11.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 124 yeas and 0 nays as follows:



Those who voted in the affirmative were:

Anderson, R.	Gruenes	Long	Otis	Simoneau
Battaglia	Gutknecht	Marsh	Ozment	Skoglund
Bauerly	Hartle	McDonald	Pauly	Solberg
Beard	Heap	McEachern	Pelowski	Sparby
Begich	Himle	McKasy	Peterson	Stanis
Bennett	Hugoson	McLaughlin	Poppenhagen	Steensma
Bertram	Jacobs	McPherson	Price	Sviggum
Bishop	Jaros	Milbert	Quinn	Swenson
Blatz	Jefferson	Miller	Quist	Thiede
Boo	Jennings	Minne	Redalen	Tjornhom
Brown	Jensen	Morrison	Reding	Tompkins
Burger	Johnson, A.	Munger	Rest	Trimble
Carlson, L.	Johnson, R.	Murphy	Rice	Tunheim
Carruthers	Johnson, V.	Nelson, C.	Richter	Uphus
Clark	Kalis	Nelson, D.	Riveness	Valento
Clausnitzer	Kelly	Nelson, K.	Rodosovich	Vanasek
Cooper	Kelso	O'Connor	Rukavina	Voss
Dauner	Kinkel	Ogren	Sarna	Wagenius
DeBlieck	Kludt	Olsen, S.	Schafer	Waltman
Dempsey	Knuth	Olson, E.	Scheid	Welle
Dille	Kostohryz	Olson, K.	Schoenfeld	Wenzel
Forsythe	Krueger	Omann	Schreiber	Winter
Frederick	Larsen	Onnen	Seaberg	Wynia
Frerichs	Lasley	Orenstein	Segal	Spk. Norton
Greenfield	Lieder	Osthoff	Shaver	

The bill was passed and its title agreed to.

H. F. No. 1041 was reported to the House.

Wagenius moved to amend H. F. No. 1041, the first engrossment, as follows:

Page 3, line 25, after "upon" insert "legally"

Page 3, line 35, delete "an" and insert "a legally"

Page 4, line 3, after "guardianship" insert "from the child's country of origin"

Page 4, line 16, delete "an" and insert "a legal"

The motion prevailed and the amendment was adopted.

H. F. No. 1041, A bill for an act relating to adoption; requiring certain notifications to parents placing a child for adoption and to proposed adoptive parents; specifying that adoptive parents may not voluntarily terminate parental rights for any reason not available to birth parents; amending Minnesota Statutes 1986, sections 259.24, subdivision 5; 259.25, subdivision 1; and 260.221; proposing coding for new law in Minnesota Statutes, chapter 259.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frerichs	Larsen	Orenstein	Segal
Anderson, R.	Greenfield	Lasley	Osthoff	Shaver
Battaglia	Gruenes	Lieder	Otis	Simoneau
Bauerly	Gutknecht	Marsh	Ozment	Skoglund
Beard	Hartle	McDonald	Pauly	Solberg
Begich	Haukoos	McEachern	Pelowski	Sparby
Bennett	Heap	McKasy	Peterson	Stanisus
Bertram	Himle	McLaughlin	Poppenhagen	Steensma
Bishop	Hugoson	McPherson	Price	Sviggun
Blatz	Jacobs	Milbert	Quinn	Swenson
Boo	Jaros	Miller	Quist	Thiede
Brown	Jefferson	Minne	Redalen	Tjornhom
Burger	Jennings	Morrison	Reding	Tompkins
Carlson, D.	Jensen	Munger	Rest	Trimble
Carlson, L.	Johnson, A.	Murphy	Rice	Tunheim
Carruthers	Johnson, R.	Nelson, C.	Richter	Uphus
Clark	Johnson, V.	Nelson, D.	Riveness	Valento
Clausnitzer	Kahn	Nelson, K.	Rodosovich	Vanasek
Cooper	Kalis	Neuenschwander	Rose	Voss
Dauner	Kelly	O'Connor	Rukavina	Wagenius
DeBlieck	Kelso	Ogren	Sarna	Waltman
Dempsey	Kinkel	Olsen, S.	Schafer	Welle
Dille	Kludt	Olson, E.	Scheid	Wenzel
Dorn	Knuth	Olson, K.	Schoenfeld	Winter
Forsythe	Kostohryz	Omamn	Schreiber	Wynia
Frederick	Krueger	Onnen	Seaberg	Spk. Norton

The bill was passed, as amended, and its title agreed to.

H. F. No. 990, A bill for an act relating to crimes; providing that persons convicted of a crime of violence may not ship, transport, possess, or receive a firearm for ten years following restoration of civil rights, the setting aside of a conviction, or a pardon; amending Minnesota Statutes 1986, sections 609.165, by adding a subdivision; 609.168; 624.712, subdivision 5; and 638.02, subdivision 2.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Bennett	Burger	Cooper	Frederick
Anderson, R.	Bertram	Carlson, D.	DeBlieck	Frerichs
Battaglia	Bishop	Carlson, L.	Dempsey	Greenfield
Bauerly	Blatz	Carruthers	Dille	Gruenes
Beard	Boo	Clark	Dorn	Gutknecht
Begich	Brown	Clausnitzer	Forsythe	Hartle

Haukoos	Krueger	Neuenschwander	Redalen	Stanius
Heap	Larsen	O'Connor	Reding	Steensma
Himle	Lasley	Ogren	Rest	Sviggum
Hugoson	Lieder	Olsen, S.	Richter	Swenson
Jacobs	Long	Olson, E.	Riveness	Thiede
Jaros	Marsh	Olson, K.	Rodosovich	Tjornhom
Jefferson	McDonald	Omann	Rose	Trimble
Jennings	McEachern	Onnen	Rukavina	Tunheim
Jensen	McKasy	Orenstein	Sarna	Uphus
Johnson, A.	McLaughlin	Osthoff	Schafer	Valento
Johnson, R.	McPherson	Otis	Scheid	Vanasek
Johnson, V.	Milbert	Ozment	Schoenfeld	Voss
Kahn	Miller	Pappas	Schreiber	Waltman
Kalis	Minne	Pauly	Seaberg	Welle
Kelly	Morrison	Pelowski	Segal	Wenzel
Kelso	Munger	Peterson	Shaver	Winter
Kinkel	Murphy	Poppenhagen	Simoneau	Wynia
Kludt	Nelson, C.	Price	Skoglund	Spk. Norton
Knuth	Nelson, D.	Quinn	Solberg	
Kostohryz	Nelson, K.	Quist	Sparby	

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

H. F. No. 1015, A bill for an act relating to motorboat safety; providing for enforcement of sanctions for operation of a motorboat while under the influence of alcohol or a controlled substance; amending Minnesota Statutes 1986, section 361.121, subdivisions 2 and 3, and by adding subdivisions.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dempsey	Johnson, R.	Miller	Pauly
Battaglia	Dille	Johnson, V.	Minne	Pelowski
Bauerly	Dorn	Kahn	Morrison	Peterson
Beard	Forsythe	Kalis	Munger	Poppenhagen
Begich	Frederick	Kelly	Murphy	Price
Bennett	Frerichs	Kelso	Nelson, C.	Quinn
Bertram	Greenfield	Kinkel	Nelson, D.	Quist
Bishop	Gruenes	Kludt	Nelson, K.	Redalen
Blatz	Gutknecht	Kostohryz	Neuenschwander	Reding
Boo	Hartle	Krueger	Ogren	Rest
Brown	Haukoos	Larsen	Olsen, S.	Richter
Burger	Heap	Lasley	Olson, E.	Riveness
Carlson, D.	Himle	Lieder	Olson, K.	Rodosovich
Carlson, L.	Hugoson	Long	Omann	Rose
Carruthers	Jacobs	Marsh	Onnen	Rukavina
Clark	Jaros	McDonald	Orenstein	Schafer
Clausmitzer	Jefferson	McKasy	Osthoff	Scheid
Cooper	Jennings	McLaughlin	Otis	Schoenfeld
Dauner	Jensen	McPherson	Ozment	Schreiber
DeBlick	Johnson, A.	Milbert	Pappas	Seaberg

Segal  
Shaver  
Simoneau  
Skoglund  
Solberg

Sparby  
Stanius  
Steensma  
Sviggum  
Swenson

Thiede  
Tjornhom  
Tompkins  
Trimble  
Tunheim

Uphus  
Valento  
Vanasek  
Voss  
Wagenius

Waltman  
Welle  
Wenzel  
Winter  
Spk. Norton

The bill was passed and its title agreed to.

Vanasek moved that the House recess subject to the call of the Chair. The motion prevailed.

#### RECESS

#### RECONVENED

The House reconvened and was called to order by the Speaker.

#### REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Vanasek, from the Committee on Rules and Legislative Administration, pursuant to House Rule No. 1.9, designated the following bills as Special Orders to be acted upon immediately following Special Orders pending for today, Monday, April 27, 1987:

S. F. No. 89; H. F. Nos. 1281, 1412 and 463; S. F. No. 248; H. F. Nos. 853, 1230, 1103, 1263, 1312, 1327, 1507, 856, 674 and 668.

#### SPECIAL ORDERS

S. F. No. 89, A bill for an act relating to agriculture; clarifying and amending the farmer-lender mediation act; amending Minnesota Statutes 1986, sections 336.9-501; 550.365; 559.209; 581.015; 583.22, subdivisions 2 and 8, and by adding a subdivision; 583.24, subdivisions 1, 3, and by adding a subdivision; 583.26, subdivisions 1, 2, 3, 4, 5, 6, 8, 9, and by adding a subdivision; 583.27, subdivisions 1, 3, and 4; 583.28; and 583.285; proposing coding for new law in Minnesota Statutes, chapter 583.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Gruenes	Lieder	Osthoff	Segal
Anderson, R.	Gutknecht	Long	Otis	Shaver
Battaglia	Hartle	Marsh	Ozment	Simoneau
Bauerly	Haukoos	McDonald	Pappas	Skoglund
Beard	Heap	McEachern	Pauly	Solberg
Begich	Himle	McKasy	Pelowski	Sparby
Bennett	Hugoson	McLaughlin	Peterson	Stanis
Bertram	Jacobs	McPherson	Poppenhagen	Steensma
Blatz	Jaros	Milbert	Price	Sviggum
Boo	Jefferson	Miller	Quinn	Swenson
Brown	Jennings	Minne	Quist	Thiede
Burger	Jensen	Morrison	Redalen	Tjornhom
Carlson, D.	Johnson, A.	Munger	Reding	Tompkins
Carlson, L.	Johnson, R.	Murphy	Rest	Trimble
Carruthers	Johnson, V.	Nelson, C.	Rice	Tunheim
Clark	Kahn	Nelson, D.	Richter	Uphus
Clausnitzer	Kalis	Nelson, K.	Riveness	Valento
Cooper	Kelly	Neuenschwander	Rodosovich	Vanasek
Dauner	Kelso	O'Connor	Rose	Voss
DeBlicke	Kinkel	Ogren	Rukavina	Wagenius
Dille	Kludt	Olsen, S.	Sarna	Waltman
Dorn	Knuth	Olson, E.	Schafer	Welle
Forsythe	Kostohryz	Olson, K.	Scheid	Wenzel
Frederick	Krueger	Omann	Schoenfeld	Winter
Frerichs	Larsen	Onnen	Schreiber	Spk. Norton
Greenfield	Lasley	Orenstein	Seaberg	

The bill was passed and its title agreed to.

The Speaker called Simoneau to the Chair.

H. F. No. 1281 was reported to the House.

Battaglia moved to amend H. F. No. 1281, the first engrossment, as follows:

Page 1, after line 17, insert:

"Sec. 2. Minnesota Statutes 1986, section 383C.073, is amended to read:

383C.073 [CERTAIN BOARD MEMBERS; COMPENSATION.]

Notwithstanding the provisions of any law contrary thereto in St. Louis county, the members, except the members who are also members of the board of county commissioners, of all boards and commissions created by law shall receive for attending meetings of said board or commission \$20 an amount determined by the board of county commissioners of up to \$50 per day but not to exceed \$600 \$1,500 in any one year, and each shall be repaid necessary expenses for such attendance, a certified statement of which shall be filed with and approved by said board or commission."

Renumber the remaining section in sequence

Page 1, line 19, delete "upon approval by the Lake county" and insert "the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the Lake county board. Section 2 is effective the day after compliance with Minnesota Statutes, section 645.021, subdivision 3, by the St. Louis county board."

Page 1, delete line 20

Amend the title as follows:

Page 1, line 2, delete "liquor" and insert "local government"

Page 1, line 3, after "on-sale" insert "liquor"

Page 1, line 3, before the period insert "; authorizing St. Louis county to set the compensation of certain board and commission members; amending Minnesota Statutes 1986, section 383C.073"

The motion prevailed and the amendment was adopted.

H. F. No. 1281, A bill for an act relating to local government; authorizing Lake county to issue seasonal on-sale liquor licenses; authorizing St. Louis county to set the compensation of certain board and commission members; amending Minnesota Statutes 1986, section 383C.073.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dauner	Jefferson	Long	Ogren
Anderson, R.	DeBlieck	Jennings	Marsh	Olsen, S.
Battaglia	Dempsey	Jensen	McDonald	Olson, E.
Bauerly	Dille	Johnson, A.	McEachern	Olson, K.
Beard	Dorn	Johnson, R.	McKasy	Omann
Begich	Forsythe	Johnson, V.	McLaughlin	Onnen
Bennett	Frederick	Kahn	McPherson	Orenstein
Bertram	Frerichs	Kalis	Milbert	Osthoff
Blatz	Greenfield	Kelly	Miller	Otis
Boo	Gruenes	Kelso	Minne	Ozment
Brown	Gutknecht	Kinkel	Morrison	Pappas
Burger	Hartle	Kludt	Munger	Pauly
Carlson, D.	Haukoos	Knuth	Murphy	Pelowski
Carlson, L.	Heap	Kostohryz	Nelson, C.	Peterson
Carruthers	Himle	Krueger	Nelson, D.	Poppenhagen
Clark	Hugoson	Larsen	Nelson, K.	Price
Clausnitzer	Jacobs	Lasley	Neuenschwander	Quinn
Cooper	Jaros	Lieder	O'Connor	Quist

Redalen	Sarna	Simoneau	Thiede	Voss
Reding	Schafer	Skoglund	Tjornhom	Wagenius
Rest	Scheid	Solberg	Tompkins	Waltman
Rice	Schoenfeld	Sparby	Trimble	Welle
Riveness	Schreiber	Stanis	Tunheim	Wenzel
Rodosovich	Seaberg	Steensma	Uphus	Winter
Rose	Segal	Sviggum	Valento	Wynia
Rukavina	Shaver	Swenson	Vanasek	Spk. Norton

The bill was passed, as amended, and its title agreed to.

H. F. No. 1412, A bill for an act relating to state land; authorizing private sale of certain tax-forfeited land in Lake county to city of Two Harbors; providing timing for 1987 sales of lakeshore lots; amending Minnesota Statutes 1986, section 92.67, subdivision 4.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 102 yeas and 16 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Frederick	Krueger	Pappas	Sparby
Battaglia	Frerichs	Larsen	Pauly	Stanis
Beard	Greenfield	Lieder	Pelowski	Steensma
Begich	Gruenes	Long	Peterson	Sviggum
Bennett	Hartle	Marsh	Popenhagen	Swenson
Bertram	Haukoos	McDonald	Price	Thiede
Bishop	Himle	McKasy	Quinn	Tjornhom
Blatz	Hugoson	McLaughlin	Quist	Trimble
Boo	Jacobs	McPherson	Redalen	Tunheim
Brown	Jaros	Milbert	Rest	Uphus
Burger	Jefferson	Miller	Rice	Valento
Carlson, L.	Jennings	Minne	Richter	Voss
Carruthers	Jensen	Morrison	Rodosovich	Wagenius
Clark	Johnson, A.	Murphy	Rose	Waltman
Clausnitzer	Johnson, R.	Nelson, C.	Rukavina	Welle
Cooper	Johnson, V.	Nelson, D.	Schafer	Wenzel
Dauner	Kahn	Neuenschwander	Schreiber	Winter
DeBlieck	Kelly	Olson, E.	Segal	Spk. Norton
Dille	Kinkel	Omann	Shaver	
Dorn	Kludt	Orenstein	Simoneau	
Forsythe	Knuth	Ozment	Solberg	

Those who voted in the negative were:

Bauerly	Lasley	Olson, K.	Sarna
Dempsey	McEachern	Onnen	Seaberg
Gutknecht	Nelson, K.	Osthoff	Skoglund
Kalis	Olson, S.	Reding	Tompkins

The bill was passed and its title agreed to.

H. F. No. 463 was reported to the House.

There being no objection, H. F. No. 463 was continued on Special Orders for one day.

S. F. No. 248 was reported to the House.

Price moved to amend S. F. No. 248, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 40.05, subdivision 3, is amended to read:

Subd. 3. After December 31, 1972, and for the elections required by subdivision 2, all elections except that provided for the organization of the district, in subdivision 1, shall be held at the time and place of holding the state general election, as specified in section 204D.03, subdivision 2. No primary shall be held. The names of candidates for election as supervisors of the soil and water conservation district shall be placed on the "canary ballot," as described in section 204D.11, subdivision 3. Nominating petitions conforming to the rules stated in subdivision 1 shall be filed with the secretary of the soil and water conservation district at least 60 days before the time of holding the state general election. ~~At least 45 days before the state general election~~ The district secretary shall immediately submit the names of the candidates and the terms for which nominated to the appropriate county auditor. The ballots for use at the election shall be prepared by the county auditor. All laws relating to elections for county office shall govern insofar as applicable. The county auditor shall certify the result to the state soil and water conservation board, and if the soil and water conservation district embraces land in more than one county the county auditor shall forthwith certify to the state soil and water conservation board the vote, as shown by the report of the county canvassing board, for all candidates voted for in more than one county. In the latter case the state soil and water conservation board shall certify the results of the election and publish the result.

Sec. 2. Minnesota Statutes 1986, section 123.32, subdivision 4, is amended to read:

Subd. 4. At the annual election board members shall be elected to fill vacancies on the board caused by expiration of term on July 1 next following the election. Any person eligible to hold office in the district desiring to be a candidate for a district office at the election shall file with the clerk of the district a written application to be placed on the ballot for the office, or any five voters of the district may file such written application for or on behalf of any person eligible to hold office in the district that they desire shall be such candidate. The application shall be filed not more than 43 nor less than 28 days before the election.

If the annual election is held at the same time as a statewide election or an election for a county or municipality located partially



or wholly within the school district, the application must be filed not more than ten nor less than eight weeks before the annual election.

Sec. 3. Minnesota Statutes 1986, section 203B.05, subdivision 2, is amended to read:

Subd. 2. [CITY AND TOWN ELECTIONS; CERTAIN SCHOOL ELECTIONS.] For city elections not held on the same day as a statewide election and for town elections conducted under the Australian ballot system, applications for absentee ballots shall be filed with the city or town clerk and the duties prescribed by this chapter for the county auditor shall be performed by the city or town clerk unless the county auditor agrees to perform those duties on behalf of the city or town clerk. The costs incurred to provide absentee ballots and perform the duties prescribed by this subdivision shall be paid by the city or town holding the election.

Notwithstanding any other law, this chapter applies to school district elections held on the same day as a statewide election or an election for a county or municipality wholly or partially within the school district.

Sec. 4. Minnesota Statutes 1986, section 204B.35, subdivision 4, is amended to read:

Subd. 4. [ABSENTEE BALLOTS; PREPARATION; DELIVERY.] Ballots necessary to fill applications of absentee voters shall be prepared and delivered at least 30 days before the election to the officials who administer the provisions of chapter 203B.

This section applies to school district elections held on the same day as a statewide election or an election for a county or municipality located partially or wholly within the school district.

Sec. 5. Minnesota Statutes 1986, section 205.02, subdivision 2, is amended to read:

Subd. 2. [CITY ELECTIONS.] In all statutory and home rule charter cities, the primary, general and special elections held for choosing city officials and deciding public questions relating to the city shall be held as provided in this chapter, except that this section and sections 205.065, subdivisions 2 to 7; 205.07 to ~~205.13~~ 205.12 and 205.175 and 205.185 do not apply to a city whose charter provides the manner of holding its primary, general or special elections.

Sec. 6. Minnesota Statutes 1986, section 205.065, subdivision 2, is amended to read:

Subd. 2. [RESOLUTION OR ORDINANCE.] The governing body of a city of the second, third, or fourth class or a town containing a statutory city may, by ordinance or resolution adopted at least ~~six weeks three months~~ before the next municipal general election, elect to choose nominees for municipal offices by a primary as provided in subdivisions 2 to 7. The resolution or ordinance, when adopted, is effective for all ensuing municipal elections until it is revoked. Subdivisions 2 to 7 do not apply to a city the charter of which specifically prohibits or provides for a municipal primary.

Sec. 7. Minnesota Statutes 1986, section 205.065, subdivision 3, is amended to read:

Subd. 3. [DATE.] The municipal primary shall be held ~~two weeks before the municipal general election or at another~~ a time designated by the governing body in the ordinance or resolution adopting the primary system, but no later than six weeks before the general election. The clerk shall give notice of the primary in the manner provided in section 205.16.

Sec. 8. Minnesota Statutes 1986, section 205.13, subdivision 1, is amended to read:

Subdivision 1. [AFFIDAVIT OF CANDIDACY.] Not more than

(1) eight nor less than six weeks in the case of a town, or

(2) not more than ten nor less than eight weeks, in the case of a city,  
before the municipal primary, or before the municipal general election if there is no municipal primary, an individual who is eligible and desires to become a candidate for an office to be voted for at the election shall file an affidavit of candidacy with the municipal clerk. The affidavit shall be in substantially the same form as that in section 204B.06, subdivision 1. The municipal clerk shall also accept an application signed by not less than five voters and filed on behalf of an eligible voter in the municipality whom they desire to be a candidate, if service of a copy of the application has been made on the candidate and proof of service is endorsed on the application being filed. Upon receipt of the proper filing fee, the clerk shall place the name of the candidate on the official ballot without partisan designation. The filing dates contained in this subdivision do not apply to any home rule charter city whose charter provides for earlier filing dates."

Delete the title and insert:

"A bill for an act relating to elections; ensuring the availability of absentee ballots for statewide elections; amending Minnesota Statutes 1986, sections 40.05, subdivision 3; 123.32, subdivision 4;

203B.05, subdivision 2; 204B.35, subdivision 4; 205.02, subdivision 2; 205.065, subdivisions 2 and 3; and 205.13, subdivision 1."

The motion prevailed and the amendment was adopted.

S. F. No. 248, A bill for an act relating to elections; ensuring the availability of absentee ballots for statewide elections; amending Minnesota Statutes 1986, sections 40.05, subdivision 3; 203B.05, subdivision 2; 204B.09, subdivision 2; 204B.35, subdivision 4; 205.065, subdivisions 2 and 3; and 205.13, subdivision 1.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frerichs	Larsen	Onnen	Segal
Anderson, R.	Greenfield	Lasley	Orenstein	Shaver
Battaglia	Gruenes	Lieder	Osthoff	Simoneau
Bauerly	Gutknecht	Long	Otis	Skoglund
Beard	Hartle	Marsh	Ozment	Solberg
Begich	Haukoos	McDonald	Pappas	Sparby
Bennett	Heap	McEachern	Pauly	Stanis
Bertram	Himle	McKasy	Pelowski	Steensma
Bishop	Hugoson	McLaughlin	Peterson	Sviggum
Blatz	Jacobs	McPherson	Poppenhagen	Swenson
Boo	Jaros	Milbert	Price	Thiede
Brown	Jefferson	Miller	Quinn	Tjornhom
Burger	Jennings	Minne	Quist	Tompkins
Carlson, D.	Jensen	Morrison	Redalen	Trimble
Carlson, L.	Johnson, A.	Munger	Reding	Tunheim
Carruthers	Johnson, R.	Murphy	Rest	Uphus
Clark	Johnson, V.	Nelson, C.	Rice	Valento
Clausnitzer	Kahn	Nelson, D.	Richter	Vanasek
Cooper	Kalis	Nelson, K.	Rodosovich	Voss
Dauner	Kelly	Neuenschwander	Rose	Waltman
DeBlieck	Kelso	O'Connor	Rukavina	Welle
Dempsey	Kinkel	Ogren	Sarna	Wenzel
Dille	Kludt	Olsen, S.	Schafer	Winter
Dorn	Knuth	Olson, E.	Scheid	Wynia
Forsythe	Kostohryz	Olson, K.	Schreiber	Spk. Norton
Frederick	Krueger	Omann	Seaberg	

The bill was passed, as amended, and its title agreed to.

Olson, E., was excused for the remainder of today's session.

H. F. No. 853, A bill for an act relating to education; clarifying the authority of contracting school districts to select an individual to provide services as a superintendent; amending Minnesota Statutes 1986, section 123.34, subdivision 9.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 105 yeas and 22 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Krueger	Omann	Seaberg
Anderson, R.	Gruenes	Larsen	Onnen	Segal
Battaglia	Hartle	Lasley	Orenstein	Simoneau
Bauerly	Heap	Lieder	Osthoff	Skoglund
Beard	Himle	Long	Otis	Sparby
Begich	Jacobs	McEachern	Ozment	Steensma
Bertram	Jaros	McKasy	Pappas	Sviggum
Bishop	Jefferson	McLaughlin	Pauly	Swenson
Blatz	Jennings	Milbert	Pelowski	Tjornhom
Boo	Jensen	Minne	Peterson	Tompkins
Brown	Johnson, A.	Morrison	Poppenhagen	Trimble
Burger	Johnson, R.	Munger	Price	Tunheim
Carlson, L.	Johnson, V.	Murphy	Quinn	Uphus
Carruthers	Kahn	Nelson, C.	Redalen	Vanasek
Clark	Kalis	Nelson, D.	Reding	Voss
Cooper	Kelly	Nelson, K.	Rice	Waltman
Dauner	Kelso	Neuenschwander	Rodosovich	Welle
DeBleck	Kinkel	O'Connor	Rukavina	Wenzel
Dille	Kludt	Ogren	Sarna	Winter
Dorn	Knuth	Olsen, S.	Scheid	Wynia
Forsythe	Kostohryz	Olson, K.	Schreiber	Spk. Norton

Those who voted in the negative were:

Bennett	Frerichs	McDonald	Rose	Thiede
Carlson, D.	Gutknecht	McPherson	Schafer	Valento
Clausnitzer	Haukoos	Miller	Shaver	
Dempsey	Hugoson	Quist	Solberg	
Frederick	Marsh	Richter	Stanisus	

The bill was passed and its title agreed to.

H. F. No. 1230, A bill for an act relating to insurance; clarifying the authority of school districts to self-insure for property and casualty coverage; amending Minnesota Statutes. 1986, section 471.98, subdivision 2.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Beard	Bishop	Burger	Clark
Anderson, R.	Begich	Blatz	Carlson, D.	Clausnitzer
Battaglia	Bennett	Boo	Carlson, L.	Cooper
Bauerly	Bertram	Brown	Carruthers	Dauner

DeBlieck	Johnson, R.	Milbert	Pauly	Skoglund
Dempsey	Johnson, V.	Miller	Pelowski	Solberg
Dille	Kahn	Minne	Peterson	Sparby
Dorn	Kalis	Morrison	Price	Stanius
Forsythe	Kelly	Munger	Quinn	Steensma
Frederick	Kelso	Murphy	Quist	Sviggun
Frerichs	Kinkel	Nelson, C.	Redalen	Swenson
Greenfield	Kludt	Nelson, D.	Reding	Thiede
Gruenes	Knuth	Nelson, K.	Rice	Tjornhom
Gutknecht	Kostohryz	Neuenschwander	Richter	Tompkins
Hartle	Krueger	O'Connor	Rodosovich	Trimble
Haukoos	Larsen	Ogren	Rose	Tunheim
Heap	Lasley	Olsen, S.	Rukavina	Uphus
Himle	Lieder	Olson, K.	Sarna	Valento
Hugoson	Long	Omann	Schafer	Vanasek
Jacobs	Marsh	Onnen	Scheid	Voss
Jaros	McDonald	Orenstein	Schreiber	Waltman
Jefferson	McEachern	Osthoff	Seaberg	Welle
Jennings	McKasy	Otis	Segal	Wenzel
Jensen	McLaughlin	Ozment	Shaver	Winter
Johnson, A.	McPherson	Pappas	Simoneau	Spk. Norton

The bill was passed and its title agreed to.

Blatz was excused for the remainder of today's session.

H. F. No. 1103, A bill for an act relating to retirement; providing benefit portability for disability benefits, survivor annuities, and survivor benefits; establishing a combined service disability benefit and a combined service survivor benefit; proposing coding for new law in Minnesota Statutes, chapter 356.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 124 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dempsey	Johnson, A.	McKasy	Orenstein
Anderson, R.	Dille	Johnson, R.	McLaughlin	Osthoff
Battaglia	Dorn	Johnson, V.	McPherson	Otis
Bauerly	Forsythe	Kahn	Milbert	Ozment
Beard	Frederick	Kalis	Miller	Pappas
Begich	Frerichs	Kelly	Minne	Pauly
Bennett	Greenfield	Kelso	Morrison	Pelowski
Bertram	Gruenes	Kinkel	Munger	Peterson
Bishop	Gutknecht	Kludt	Murphy	Popenhagen
Brown	Hartle	Knuth	Nelson, C.	Price
Burger	Haukoos	Kostohryz	Nelson, D.	Quinn
Carlson, D.	Heap	Krueger	Nelson, K.	Quist
Carlson, L.	Himle	Larsen	Neuenschwander	Redalen
Carruthers	Hugoson	Lasley	O'Connor	Reding
Clark	Jacobs	Lieder	Ogren	Rice
Clausnitzer	Jaros	Long	Olsen, S.	Richter
Cooper	Jefferson	Marsh	Olson, K.	Rodosovich
Dauner	Jennings	McDonald	Omann	Rose
DeBlieck	Jensen	McEachern	Onnen	Rukavina

Sarna	Shaver	Steensma	Trimble	Waltman
Schafer	Simoneau	Sviggun	Tunheim	Welle
Scheid	Skoglund	Swenson	Uphus	Wenzel
Schreiber	Solberg	Thiede	Valento	Winter
Seaberg	Sparby	Tjornhom	Vanasek	Spk. Norton
Segal	Stanius	Tompkins	Voss	

The bill was passed and its title agreed to.

H. F. No. 1263, A bill for an act relating to the administration of state property; extending the period for which the commissioner of administration may lease state property; amending Minnesota Statutes 1986, section 16B.24, subdivision 5.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Lasley	Otis	Skoglund
Anderson, R.	Gruenes	Lieder	Ozment	Solberg
Battaglia	Gutknecht	Long	Pappas	Sparby
Bauerly	Hartle	Marsh	Pauly	Stanius
Beard	Haukoos	McDonald	Pelowski	Steensma
Begich	Heap	McEachern	Peterson	Sviggun
Bennett	Himle	McKasy	Poppenhagen	Swenson
Bertram	Hugoson	McLaughlin	Price	Thiede
Bishop	Jacobs	McPherson	Quinn	Tjornhom
Boo	Jaros	Milbert	Quist	Tompkins
Brown	Jefferson	Miller	Redalen	Trimble
Burger	Jennings	Minne	Reding	Tunheim
Carlson, D.	Jensen	Morrison	Rest	Uphus
Carlson, L.	Johnson, A.	Munger	Rice	Valento
Carruthers	Johnson, R.	Murphy	Richter	Vanasek
Clark	Johnson, V.	Nelson, C.	Riveness	Voss
Clausnitzer	Kahn	Nelson, D.	Rodosovich	Wagenius
Cooper	Kalis	Nelson, K.	Rose	Waltman
Dauner	Kelly	Neuenschwander	Rukavina	Welle
DeBlieck	Kelso	O'Connor	Sarna	Wenzel
Dempsey	Kinkel	Ogren	Schafer	Winter
Dille	Kludt	Olsen, S.	Schreiber	Wynia
Dorn	Knuth	Olson, K.	Seaberg	Spk. Norton
Forsythe	Kostohryz	Omann	Segal	
Frederick	Krueger	Onnen	Shaver	
Frerichs	Larsen	Orenstein	Simoneau	

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

H. F. No. 1312, A bill for an act relating to peace officers; requiring licensure as a prerequisite to exercising the authority of a peace officer unless otherwise authorized by law; prohibiting persons from

misrepresenting themselves as peace officers or part-time peace officers; prescribing penalties; amending Minnesota Statutes 1986, sections 169.98, by adding subdivisions; 367.41, subdivision 1; and 626.84; proposing coding for new law in Minnesota Statutes, chapter 626.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 71 yeas and 55 nays as follows:

Those who voted in the affirmative were:

Beard	Johnson, R.	McKasy	Otis	Sparby
Bishop	Kahn	McLaughlin	Ozment	Swenson
Brown	Kelly	Milbert	Pappas	Tompkins
Carlson, L.	Kelso	Morrison	Price	Trimble
Carruthers	Kinkel	Munger	Reding	Tunheim
Clark	Kludt	Murphy	Rest	Vanasek
Clausnitzer	Knuth	Nelson, C.	Rice	Voss
Cooper	Kostohryz	Nelson, D.	Riveness	Wagenius
Dempsey	Krueger	Nelson, K.	Rodosovich	Welle
Greenfield	Larsen	O'Connor	Scheid	Wynia
Gruenes	Lasley	Ogren	Seaberg	Spk. Norton
Jacobs	Lieder	Olsen, S.	Segal	
Jaros	Long	Onnen	Simoneau	
Jefferson	Marsh	Orenstein	Skoglund	
Johnson, A.	McEachern	Osthoff	Solberg	

Those who voted in the negative were:

Anderson, G.	Dille	Jennings	Pauly	Schreiber
Anderson, R.	Dorn	Jensen	Pelowski	Stanius
Battaglia	Forsythe	Johnson, V.	Peterson	Steensma
Bauerly	Frederick	Kalis	Poppenhagen	Sviggum
Begich	Frerichs	McDonald	Quist	Thiede
Bertram	Gutknecht	McPherson	Redalen	Tjornhom
Boo	Hartle	Miller	Richter	Uphus
Burger	Haukoos	Minne	Rose	Valento
Carlson, D.	Heap	Neuenschwander	Sarna	Waltman
Dauner	Himle	Olson, K.	Schafer	Wenzel
DeBlieck	Hugoson	Omann	Schoenfeld	Winter

The bill was passed and its title agreed to.

## GENERAL ORDERS

Vanasek moved that the bills on General Orders for today be continued one day. The motion prevailed.

## MOTIONS AND RESOLUTIONS

Anderson, R., moved that his name be stricken as an author on H. F. No. 521. The motion prevailed.

Rodosovich moved that H. F. No. 781 be recalled from the Committee on Appropriations and be re-referred to the Committee on Governmental Operations. The motion prevailed.

Cooper moved that H. F. No. 777 be recalled from the Committee on Commerce and be re-referred to the Committee on Agriculture. The motion prevailed.

Kahn moved that H. F. No. 397 be returned to its author. The motion prevailed.

Gutknecht, Kelly, Clausnitzer, Pauly and Tjornhom introduced:

House Resolution No. 42, A House resolution directing the correction of the surveying and mapping errors that have continually resulted in the omission of the town of Lake Wobegon and Mist County from maps of Minnesota.

The resolution was referred to the Committee on Rules and Legislative Administration.

#### ADJOURNMENT

Vanasek moved that when the House adjourns today it adjourn until 9:00 a.m., Wednesday, April 29, 1987. The motion prevailed.

McLaughlin moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 9:00 a.m., Wednesday, April 29, 1987.

EDWARD A. BURDICK, Chief Clerk, House of Representatives