

## FIFTY-THIRD DAY

St. Paul, Minnesota, Monday, May 14, 1979

The Senate met at 1:30 o'clock p.m. and was called to order by the President.

## CALL OF THE SENATE

Mr. Coleman imposed a call of the Senate. The following Senators answered to their names:

Anderson	Engler	Kirchner	Olhoff	Sikorski
Bang	Frederick	Kleinbaum	Penny	Spear
Benedict	Gearty	Knaak	Peterson	Staples
Bernhagen	Gunderson	Laufenburger	Pillsbury	Stokowski
Brataas	Hanson	Lessard	Purfeerst	Strand
Chmielewski	Hughes	McCutcheon	Rued	Ulland, J.
Coleman	Humphrey	Menning	Schmitz	Willet
Davies	Jensen	Merriam	Setzepfandt	
Dunn	Johnson	Nelson	Sieloff	

The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Wayne Kendrick.

The roll was called, and the following Senators answered to their names:

Anderson	Frederick	Knoll	Olson	Sillers
Ashbach	Gearty	Knutson	Penny	Solon
Bang	Gunderson	Laufenburger	Perpich	Spear
Benedict	Hanson	Lessard	Peterson	Staples
Bernhagen	Hughes	Luther	Pillsbury	Stokowski
Brataas	Humphrey	McCutcheon	Purfeerst	Strand
Chenoweth	Jensen	Menning	Renneke	Stumpf
Chmielewski	Johnson	Merriam	Rued	Tennessen
Coleman	Keefe, J.	Moe	Schaaf	Ueland, A.
Davies	Keefe, S.	Nelson	Schmitz	Ulland, J.
Dieterich	Kirchner	Nichols	Setzepfandt	Vega
Dunn	Kleinbaum	Ogdahl	Sieloff	Wegener
Engler	Knaak	Olhoff	Sikorski	Willet

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

## MEMBERS EXCUSED

Mr. Schrom was excused from the Session of today. Mr. Sillers was excused from the Session of today until 3:00 o'clock p.m.

**EXECUTIVE AND OFFICIAL COMMUNICATIONS**

The following communications were received and referred to the committee indicated.

April 27, 1979

The Honorable Edward J. Gearty  
President of the Senate

Dear Sir:

The following appointments to the State Council on Affairs of Spanish-Speaking People are hereby respectfully submitted to the Senate for confirmation as required by law:

JoAnn Cardenas de Enos, 149 Exeter Place, St. Paul, Ramsey County, has been appointed by me, effective May 3, 1979, for a term expiring June 30, 1981.

Fidelina Lopez de Fischer, 745 14th Avenue South, St. Cloud, Stearns County, has been appointed by me, effective May 3, 1979, for a term expiring June 30, 1981.

Alex Frank Gallegos, 1252 Ashland Street, St. Paul, Ramsey County, has been appointed by me, effective May 3, 1979, for a term expiring June 30, 1981.

Efren Tovar, 414½ NW Third Street, East Grand Forks, Polk County, has been appointed by me, effective May 3, 1979, for a term expiring June 30, 1981.

(Referred to the Committee on General Legislation and Administrative Rules.)

Sincerely,

Albert H. Quie, Governor

May 10, 1979

The Honorable Edward J. Gearty  
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S. F. Nos. 466, 668 and 1388.

Sincerely yours,

Albert H. Quie, Governor

May 10, 1979

The Honorable Rod Searle  
Speaker of the House of Representatives

The Honorable Edward J. Gearty  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1979 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S. F. No.	H. F. No.	Session Laws Chapter No.	Date Approved 1979	Date Filed 1979
	67	75	May 10	May 10
	1214	76	May 10	May 10
	1436	77	May 10	May 10
466		78	May 10	May 10
668		79	May 10	May 10
1388		80	May 10	May 10

Sincerely,  
Joan Anderson Growe,  
Secretary of State

#### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S. F. Nos. 491, 601, 923, 871, 1158 and 1436.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 11, 1979

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 719: A bill for an act relating to education; permitting a school district to sell certain buildings at auction; setting conditions for the sale.

Senate File No. 719 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 11, 1979

#### CONCURRENCE AND REPASSAGE

Mr. Jensen moved that the Senate concur in the amendments by the House to S. F. No. 719 and that the bill be placed on its repassage as amended. The motion prevailed.

S. F. No. 719 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Frederick	Knaak	Penny	Staples
Ashbach	Gearty	Knoll	Perpich	Stokowski
Bang	Gunderson	Knutson	Peterson	Strand
Benedict	Hanson	Laufenburger	Pillsbury	Stumpf
Bernhagen	Hughes	Lessard	Purfeerst	Tennessee
Brataas	Humphrey	Luther	Rued	Ueland, A.
Chenoweth	Jensen	Menning	Schaaf	Ulland, J.
Chmielewski	Johnson	Merriam	Schmitz	Vega
Coleman	Keefe, J.	Moe	Setzepfandt	Wegener
Davies	Keefe, S.	Nelson	Sieloff	Willet
Dunn	Kirchner	Nichols	Sikorski	
Engler	Kleinbaum	Olhoft	Spear	

So the bill, as amended, was repassed and its title was agreed to.

#### MESSAGES FROM THE HOUSE—CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 801: A bill for an act relating to non-alcoholic beverages; requiring laboratory examination of certain beverages; deleting registration exemption for identified beverages; amending Minnesota Statutes 1978, Section 34.05, Subdivision 1; repealing Minnesota Statutes 1978, Section 34.05, Subdivision 2.

Senate File No. 801 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 11, 1979

Mr. Knutson moved that S. F. No. 801 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S. F. No. 856: A bill for an act relating to public health; authorizing waiver of minimum health maintenance organization requirements for demonstration projects; amending Minnesota Statutes 1978, Chapter 62D, by adding a section.

Senate File No. 856 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 11, 1979

Mrs. Staples moved that the Senate do not concur in the amendments by the House to S. F. No. 856 and that a Conference

Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to the following House File:

H. F. No. 772: A bill for an act relating to highways; allowing private landowners to install drainage tiles in highway right-of-way; amending Minnesota Statutes 1978, Section 160.20, by adding a subdivision.

Four members of the House have been appointed to a Conference Committee on the part of the House as follows: Kvam, Ludeman, Fudro and McEachern.

House File No. 772 is herewith transmitted to the Senate with the request that the Senate appoint a Conference Committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 11, 1979

Mr. Penny moved that the Senate accede to the request of the House for a Conference Committee on H. F. No. 772, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to the following House File:

H. F. No. 260: A bill for an act relating to health; providing for health planning; requiring certificates of need for construction or modification of certain health care facilities and services; repealing Minnesota Statutes 1978, Sections 145.71 to 145.831.

Four members of the House have been appointed to a Conference Committee on the part of the House as follows: Carlson, L.; Berglin; Heinitz and Kaley.

House File No. 260 is herewith transmitted to the Senate with the request that the Senate appoint a Conference Committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 11, 1979

Mrs. Staples moved that the Senate accede to the request of the House for a Conference Committee on H. F. No. 260, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to the following House File:

H. F. No. 261: A bill for an act relating to municipal industrial development; amending the definition of project; requiring a notice and hearing; amending Minnesota Statutes 1978, Sections 474.01, Subdivision 7a, and by adding a subdivision; 474.02, Subdivision 1c, and by adding a subdivision; and 474.12.

Six members of the House have been appointed to a Conference Committee on the part of the House as follows: Schreiber, Pleasant, Haukoos, Kroening, Casserly and Waldorf.

House File No. 261 is herewith transmitted to the Senate with the request that the Senate appoint a Conference Committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 11, 1979

Mr. Humphrey moved that the Senate accede to the request of the House for a Conference Committee on H. F. No. 261, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H. F. Nos. 368, 1050, 277, 257, 877 and 1495.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 11, 1979

#### FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H. F. No. 368: A bill for an act relating to community social services; establishing a formula for allocating state and federal funds to counties for the administration and provision of community social services; providing for community social service tax levies; prescribing the duties of county boards and the commissioner of public welfare; establishing an experimental program of services for chronically mentally ill persons; appropriating money; amending Minnesota Statutes 1978, Sections 245.61; 245.62; 245.63; 245.64; 245.66; 245.68; 245.69; 245.84, Subdivisions 1 and 5; 245.85; 245.-87; 252.21; 252.22; 252.24, Subdivisions 1, 3 and 4; 252.25; 252.26; 252.261; 253A.02, by adding a subdivision; 253A.07, Subdivisions 1 and 7; 253A.09, Subdivision 1; 253A.10, Subdivision 4; 253A.14, Subdivision 1; 253A.15, Subdivisions 6, 11, 12 and 13; 254A.05, Subdivision 1; 254A.07, Subdivisions 1 and 2; 254A.08, Subdivision 1; 254A.12; 254A.14; and 254A.16, Subdivision 2; repealing Minnesota

Statutes 1978, Sections 245.65; 245.651; 245.691; 254A.07, Subdivision 3; 254A.08, Subdivision 3; and 254A.17.

Referred to the Committee on Finance.

H. F. No. 1050: A bill for an act relating to the department of veterans affairs; increasing the bed capacity at the Hastings veterans home; eliminating the requirement of certain informational reports relating to the interment of deceased veterans; amending Minnesota Statutes 1978, Section 198.31; repealing Minnesota Statutes 1978, Section 149.07.

Referred to the Committee on Veterans' Affairs.

H. F. No. 277: A bill for an act relating to shade tree disease control; authorizing grants for municipal shade tree removal and reforestation programs; amending Minnesota Statutes 1978, Sections 18.023, Subdivisions 1 and 3a; and 275.50, Subdivision 6.

Referred to the Committee on Rules and Administration for comparison with S. F. No. 519, now in the Subcommittee on Bill Scheduling.

H. F. No. 257: A bill for an act relating to taxation; providing standards and procedures for tax increment financing; authorizing the issuance of bonds; authorizing tax increment financing for the payment of principal and interest on such bonds; providing limitation on extent of districts to which tax increment financing applies; amending Minnesota Statutes 1978, Sections 362A.05; 458.192, Subdivision 11; 462.545, Subdivision 5; 462.585, Subdivisions 2, 3 and 4; 472A.06; 472A.07, by adding a subdivision; 473F.02, Subdivision 3; 473F.05; 473F.08, Subdivisions 2, 4 and 6; 474.10, Subdivisions 2 and 3; and Chapter 273, by adding sections; repealing Minnesota Statutes 1978, Sections 458.192, Subdivision 12; 472A.02, Subdivision 3; 472A.07, Subdivision 4; and 472A.08.

Referred to the Committee on Taxes and Tax Laws.

H. F. No. 877: A bill for an act relating to insurance premium finance companies; authorizing finance charges at rates permitted by the general usury provisions; amending Minnesota Statutes 1978, Section 59A.09, by adding a subdivision.

Referred to the Committee on Rules and Administration for comparison with S. F. No. 1339 now on Special Orders.

H. F. No. 1495: A bill for an act relating to taxation; providing for an ad valorem tax on railroads in lieu of the gross earnings tax; repealing limited market value; changing homestead base value; decreasing classification ratios on certain property; establishing a new category for certain residential nonhomestead property; increasing homestead credit percentages and maximum amounts; increasing agricultural aid credit; extending 3cc classification to qualifying mobile homeowners; extending 3cc classification to the surviving spouse of certain deceased veterans, blind

and disabled persons; changing income sources and requirements for owners of 3cc property; allowing homestead owned by joint tenant to qualify for 3cc classification; providing for deferred assessment of value added by historical preservation; providing an exclusion of \$12,000 for pension income; excluding pensions of nonresidents from gross income; expanding the taxable net income brackets for individuals, estates and trusts; increasing personal, dependent, special credits and credits for certain low income taxpayers; providing for inflation adjustment to income tax and property tax refund brackets and credits; providing residential energy credit; allowing use of lump sum distribution tax computation for certain severance pay; altering the definition of gross income for income tax purposes for individuals, trusts and estates; placing restrictions on certain deductions; making certain changes in the minimum tax and in the treatment of small business corporations; allowing a ten year carryback of products liability losses; allowing adjustments to basis; allowing deductions for employer contributions to simplified employee plans; excluding from income certain payments to members of the armed services; increasing the maximum income tax credit for political contributions; providing an income tax deduction for certain political contributions; conforming individual deductions for business expenses, taxes, disaster losses, medical expenses and charitable contributions to federal deductions; removing certain limitations on the dependent care credit; standardizing the personal, dependent and special credits; increasing the standard deduction; updating the definition of income for property tax refund purposes; expanding inheritance and gift tax exemptions and credits; establishing a presumption of contribution by a spouse in property held jointly with the decedent; adjusting homestead exemption for inheritance tax purposes; providing a tax credit for feedlot and pollution control equipment; providing an income tax credit to a Minnesota resident for income taxes paid to a province or territory of Canada; reducing the income tax rate applicable to corporations; clarifying the purposes for which an additional property tax levy by governmental subdivisions is authorized; authorizing an additional property tax levy by governmental subdivisions in certain cases; providing for the calculation of tax levy limitations for governmental subdivisions; clarifying the taxable status of Title II property owned by a non-profit entity; providing that the commissioner of revenue shall administer and enforce the Minnesota unfair cigarette sales act; reducing the sales tax on newsprint and ink; excluding certain feminine hygiene products from the sales tax; exempting from the sales tax the furnishing of water and sewer services for residential use; providing for municipal regulation of subdivisions; providing penalties; appropriating money; amending Minnesota Statutes 1978, Sections 270.06; 272.02, Subdivision 1; 273.11; 273.122; 273.13, Subdivisions 4, 6, 6a, 7, 14a and 19; 273.132; 273.17, Subdivision 1; 275.11, Subdivision 2; 275.50, Subdivisions 5 and 6; 275.51, by adding a subdivision; 275.52, Subdivisions 2 and 5; 290.01; 290.21, Subdivision 3a; 290.971, Subdivision 5; 295.01, Subdivisions 2 and 3; 295.02; 295.03; 295.04; 295.05; 295.12; 295.13; 295.14; and 462.352, Subdivision 4.

Mr. Coleman moved that H. F. No. 1495 be laid on the table. The motion prevailed.

#### REPORTS OF COMMITTEES

Mr. Coleman moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Moe from the Committee on Finance, to which was referred

H. F. No. 451: A bill for an act relating to parking privileges for handicapped persons; defining terms; extending the uses, in relation to parking privileges, of the special license plates issued to physically handicapped persons and clarifying the meaning of unauthorized use of those plates; recognizing parking certificates, insignia or license plates issued to handicapped persons by other jurisdiction; modifying the criteria for posted signs designating handicapped parking spaces; imposing penalties; amending Minnesota Statutes 1978, Sections 168.021, Subdivisions 3 and 5, and by adding a subdivision; 169.345; and 169.346, Subdivisions 1, 2 and 3.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1978, Section 168.021, is amended by adding a subdivision to read:

*Subd. 1a. [SCOPE OF PRIVILEGE.] If any physically handicapped person parks a vehicle displaying license plates described in this section or any person parks such a vehicle while transporting a physically handicapped person, that person shall be entitled to courtesy in the parking of the vehicle and be relieved of any liability with respect to parking except as provided in sections 169.32 and 169.34; provided that any municipal governing body may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours and the privileges extended to handicapped persons shall not apply on streets or highways where and at the time parking is prohibited. The license plates specified in this section shall also serve to identify vehicles properly parked in designated handicapped parking spaces, as provided in section 169.346.*

Sec. 2. Minnesota Statutes 1978, Section 168.021, Subdivision 3, is amended to read:

*Subd. 3. [UNAUTHORIZED USE OF PLATE.] A person who appropriates or uses the plate provided in this section upon a motor vehicle other than as authorized by this section is guilty of a gross misdemeanor. This subdivision does not preclude a person who is not physically handicapped from operating a vehicle upon which these plates are displayed where he is the owner of the vehicle and permits its operation by a physically handicapped person, or where he operates the vehicle with the consent of the*

owner who is physically handicapped. *A non-handicapped driver is not entitled to the parking privileges provided in this section and in section 169.346 unless he is accompanied by and driving under the direction of a physically handicapped person.*

Sec. 3. Minnesota Statutes 1978, Section 168.021, Subdivision 5, is amended to read:

Subd. 5. [DEFINITIONS.] For the purposes of this section, a "physically handicapped person" is hereby defined as means a person who has sustained an amputation or suffered the permanent loss of use of one leg or both legs material disability of either or both arms or legs, or who has been otherwise disabled in any manner, rendering it difficult and burdensome for the person to walk.

Sec. 4. Minnesota Statutes 1978, Section 169.345, is amended to read:

169.345 [PARKING PRIVILEGES FOR PHYSICALLY HANDICAPPED.] Subdivision 1. [SCOPE OF PRIVILEGE.] Any physically handicapped person who displays prominently upon the automobile vehicle parked by him or under his direction and for his use, the distinguishing certificate or insignia specified in this section shall be entitled to courtesy in the parking of such automobile the vehicle and be relieved of any liability with respect to parking except as provided in sections 169.32, and 169.34; provided that any municipal governing body may, by ordinance, prohibit parking on any street or highway for the purpose of creating a fire lane, or to provide for the accommodation of heavy traffic during morning and afternoon rush hours and the privileges extended to such handicapped persons shall not apply on streets or highways where and at such time parking is prohibited. *The certificate specified in this section shall also serve to identify vehicles properly parked in designated handicapped parking spaces as provided in section 169.346.*

Subd. 2. [DEFINITIONS.] *For the purpose of this section physically handicapped as employed herein shall include means any person who has sustained an amputation or material disability of either or both arms or legs, or who has been otherwise disabled in any manner rendering it difficult and burdensome for him to walk.*

Subd. 3. [IDENTIFYING CERTIFICATE.] The motor vehicles division of driver and vehicle services in the department of public safety shall issue without charge a special identifying certificate or insignia for a marked motor vehicle to any physically handicapped applicant upon submission by the applicant of a certificate by a qualified physician to the division that he is a physically handicapped person within the meaning of subdivision 2.

The commissioner of public safety shall determine the form, size and promulgate rules and regulations governing their issuance and use necessary to carry out the provisions of this section. The physician's certificate shall specify whether the disability is permanent or temporary, and if temporary, the opinion of the physi-

cian as to the duration of the disability. The commissioner may issue special identifying certificates or insignia to temporarily physically handicapped persons for limited periods of time.

Subd. 4. [REVOCATION, PENALTY.] If the police of the state or any city, or other local government shall find that such the certificate or insignia is being improperly used, they may report to the motor vehicles division of driver and vehicle services in the department of public safety any such violation and the commissioner of public safety may, in his discretion, remove the privilege.

It is unlawful and punishable as hereinafter provided for any person who is not physically handicapped to exercise the privilege granted a physically handicapped person under subdivision 1.

Sec. 5. Minnesota Statutes 1978, Section 169.346, Subdivision 1, as amended by Laws 1979, Chapter 31, Section 3, is amended to read:

169.346 [PARKING FOR PHYSICALLY HANDICAPPED; PROHIBITIONS; PENALTIES.] Subdivision 1. No person shall park a motor vehicle in a parking space designated and reserved for the physically handicapped, on either private or public property, unless:

(a) That person is a physically handicapped in a manner rendering it difficult, dangerous or impossible for the person to walk; the person was operating the vehicle under the direction of a person who is physically handicapped in this manner person as defined in section 169.345, subdivision 2, or the person was operating the vehicle while is transporting such a physically handicapped persons person ; and

(b) The vehicle visibly displays the certificate or insignia license plate issued to physically handicapped persons or the certificate issued to persons transporting physically handicapped persons by the department of public safety pursuant to sections 169.345, subdivision 3, or 168.021 or if the vehicle visibly displays an equivalent certificate, insignia or license plate issued by another state or one of its political subdivisions .

Sec. 6. Minnesota Statutes 1978, Section 169.346, Subdivision 2, is amended to read:

Subd. 2. Handicapped parking spaces shall be designated and identified by the posting of signs incorporating the international symbol of access in white on blue and indicating that the parking space is reserved for the handicapped with vehicles displaying the required certificate license plates or insignia . The posting of signs shall be in accordance with the state building code established by rule of the commissioner of administration pursuant to section 16.85, when the location of the parking spaces on public or private lands is within the purview of the state building code, and in accordance with the manual on uniform traffic control devices adopted by the commissioner of transportation pursuant to section 169.06, when the parking spaces are on streets and highways. Spaces which have been clearly identified for handicapped parking by signs which are not in compliance with the design standards as

*set forth in this subdivision shall also be deemed designated and reserved for the physically handicapped for the purposes of this section. A sign posted for the purpose of this section shall be visible from inside a vehicle parked in the space and shall be kept clear of snow or other obstructions which block its visibility.*

Sec. 7. Minnesota Statutes 1978, Section 169.346, Subdivision 3, is amended to read:

Subd. 3. Any person who violates the provisions of subdivision 1 shall be fined \$10. This subdivision shall be enforced in the same manner as parking ordinances or regulations are enforced in the governmental subdivision in which the violation occurs. A handicapped person charged with violating subdivision 1 because he parked in a handicapped parking space without the required certificate or insignia shall not be convicted if he produces in court or prior to the court appearance the required certificate or insignia and demonstrates that he was entitled to the certificate or insignia at the time of arrest or tagging.

Sec. 8. [EFFECTIVE DATE.] *This act is effective the day following final enactment.*

Amend the title as follows:

Page 1, line 15, after "1," insert "as amended,"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. McCutcheon from the Committee on Taxes and Tax Laws, to which was referred

S. F. No. 1101: A bill for an act relating to taxation; altering the penalty to be imposed upon assessment districts having large coefficients of dispersion; delaying the effective date of imposition of the penalty; amending Minnesota Statutes 1978, Section 477A.04, Subdivisions 1 and 2.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1978, Section 477A.04, is amended to read:

477A.04 [ASSESSMENT DISPERSION PENALTY.] Subdivision 1. To encourage the proper assessment of property an assessment dispersion penalty shall be imposed on assessment districts as provided in subdivision 2. Each city or town which employs a local assessor, either singly or jointly with other cities or towns, shall be considered an assessment district for purposes of this section. Any two or more cities or towns which enter into an agreement pursuant to section 471.59, for the assessment of property in the contracting units, shall for purposes of this section be a single assessment district. The balance of each county, including any city or town which contracts with the county for assessment

of property therein, shall be deemed a single assessment district for purposes of this section. *Any city or town located within a county where a county-wide assessing system has been adopted pursuant to section 273.052 or Laws 1974, Chapter 435, Article 3, Section 3.06, shall for the purposes of this section be considered a single assessment district.*

The coefficient of dispersion for each assessment district shall be determined by the equalization aid review committee of the department of revenue, *based on a comparison of estimated market values and sales prices over an 18-month period*. The coefficient of dispersion shall be determined on the assessor's market value before the limitation provided in section 273.11, subdivision 2. The population shall be the number of persons residing in the assessment district according to the 1970 most recent federal census.

Subd. 2. Beginning in calendar year ~~1980~~ 1981 and subsequent years, an assessment district *penalty* shall be ~~penalized~~ *calculated* according to the following schedule:

(a) \$1 per capita, *not to exceed five percent of the local government aid payment amount for which the assessment district would otherwise qualify under section 477A.01*, if the coefficient of dispersion in assessments for the preceding year is more than 10 20 percent but less than ~~12.5~~ 25 percent;

(b) \$3 per capita, *not to exceed ten percent of the local government aid payment amount for which the assessment district would otherwise qualify under section 477A.01*, if the coefficient of dispersion in assessments for the preceding year is at least ~~12.5~~ 25 percent but no more than 15 30 percent;

(c) \$5 per capita, *not to exceed fifteen percent of the local government aid payment amount for which the assessment district would otherwise qualify under section 477A.01*, if the coefficient of dispersion in assessments for the preceding year is greater than 15 30 percent.

Subd. 3. The amount of assessment district ~~penalty resulting from this section~~ *determined according to subdivision 2* shall be deducted from the local government aid payments *to the assessment district as provided in section 477A.01*, except that for any assessment district located in any county where a county-wide assessing system has been adopted pursuant to section 273.052 or Laws 1974, Chapter 435, Article 3, Section 3.06, an amount equivalent to the assessment district penalty shall be deducted from the county aid portion of the local government aid provided in section 477A.01; if no aid or an insufficient amount of aid is provided to the county pursuant to section 477A.01, then an amount equivalent to the assessment district penalty shall be deducted from the county share of payments made to the county auditor pursuant to section 273.13, subdivision 15a."

Amend the title as follows:

Page 1, line 6, after "477A.04" delete the comma and insert a period

Page 1, delete line 7

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. McCutcheon from the Committee on Taxes and Tax Laws, to which was referred

H. F. No. 1167: A bill for an act relating to taxation; lowering the excise tax on natural and artificial sparkling wines on a temporary basis.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. McCutcheon from the Committee on Taxes and Tax Laws, to which was referred

S. F. No. 736: A bill for an act relating to taxation; providing for the distribution of proceeds of taxation of electric transmission and distribution lines; eliminating certain annual payments by utilities; amending Minnesota Statutes 1978, Section 273.42; repealing Minnesota Statutes 1978, Section 116C.635.

Reports the same back with the recommendation that the bill be amended as follows:

Pages 1 and 2, delete section 1 and insert:

"Section 1. Minnesota Statutes 1978, Section 273.36, is amended to read:

273.36 [ELECTRIC LIGHT AND POWER COMPANIES.] Personal property of electric light and power companies having a fixed situs in any city in this state, *except property assessed pursuant to section 273.38*, shall be listed and assessed where situated, without regard to where the principal or other place of business of the company is located.

Sec. 2. Minnesota Statutes 1978, Section 273.38, is amended to read:

273.38 [PERCENTAGE OF ASSESSMENTS; EXCEPTIONS.] The commissioner of revenue shall assess at five percent of market value distribution lines, and the attachments and appurtenances thereto, used primarily for supplying electricity to farmers at retail, and which shall be taxed at the average rate of taxes levied for all purposes throughout the county, and which shall be entered, *on the tax lists by the county auditor against the owner thereof, certified to the county treasurer at the same time and in the same manner that other taxes are certified, and, when paid, shall be credited as provided in section 273.42 to the general revenue fund of the county.* It is further provided that the distribution lines and the attachments and appurtenances thereto of cooperative associations organized under the provisions of Laws 1923, Chapter 326, and laws amendatory thereof and supplemental thereto, and engaged in the electrical heat, light and power business, upon a mutual, non-profit and cooperative plan, shall be assessed and taxed as provided in sections 273.40 and 273.41."

Page 2, line 12, delete "*Subd. 2*" and insert:

"Sec. 3. Minnesota Statutes 1978, Chapter 273, is amended by adding a section to read:

[273.424] [PROPERTY TAX CREDIT.]"

Page 2, line 24, delete "*and distribution*"

Page 2, line 25, delete "273.42" and insert "273.36"

Page 2, line 33, after the period insert "*The auditor of the county in which the affected parcel is located shall calculate the amount of the credit due for each parcel and transmit that information to the county treasurer. The county auditor, in computing the credits received pursuant to sections 273.13 and 273.135, shall reduce the gross tax by the amount of the credit received pursuant to this section.*"

Sec. 4. Minnesota Statutes 1978, Chapter 273, is amended by adding a section to read:

[273.425] [ADJUSTMENT OF LEVY.] *When preparing tax lists pursuant to section 275.28 for each levy year for which credits will be payable under section 1, the county auditor shall deduct from the assessed valuation of the property within the county an amount equal to ten percent of the assessed valuation of transmission lines with respect to which a credit is to be paid. The mill rate necessary to be applied to this reduced total valuation in order to raise the required amount of tax revenue for the local taxing authorities shall be applied to the value of all taxable property in the county, including the entire valuation of those transmission lines. The proceeds of the tax levied against the excluded ten percent of the value of those transmission lines shall be available for purposes of funding of the credit provided in section 1. If the amount of that portion of the levy exceeds the amount necessary to fund the credits, the excess shall be distributed to the taxing districts within which the affected property is located in proportion to their respective mill rates, to be used for general levy purposes."*

Page 3, line 1, after "[REPEALER.]" insert "*Subdivision 1.*"

Page 3, after line 2, insert:

"*Subd 2. Minnesota Statutes 1978, Sections 273.37 and 273.42 are repealed.*"

Page 3, line 3, delete "*Section 1*" and insert "*Sections 1 to 4 and section 5, subdivision 2,*"

Page 3, line 6, delete "*2*" and insert "*5, subdivision 1,*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, delete "*Section 273.42*" and insert "*Sections 273.-36; and 273.38; and Chapter 273, by adding sections*"

Page 1, line 7, delete "*Section*" and insert "*Sections*" and after "*116C.635*" insert "*; 273.37; and 273.42*"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Coleman from the Committee on Rules and Administration, to which was referred

H. F. No. 1364 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H. F. No.	S. F. No.	H. F. No.	S. F. No.	H. F. No.	S. F. No.
1364	1343				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Mr. Coleman from the Committee on Rules and Administration, to which were referred

H. F. Nos. 1198, 567, 970 and 907 for comparison with companion Senate Files, reports the following House Files were found not identical with their companion Senate Files as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H. F. No.	S. F. No.	H. F. No.	S. F. No.	H. F. No.	S. F. No.
1198	1292				
567	838				
970	1314				
907	959				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H. F. No. 1198 be amended as follows:

Page 1, after line 10 insert:

"Section 1. Minnesota Statutes 1978, Section 97.50, Subdivision 1, is amended to read:

97.50 [POLICE POWERS.] Subdivision 1. The commissioner, director, game refuge patrolmen, and conservation officers are hereby authorized and empowered to execute and serve all warrants and processes issued by any justice of the peace or magistrate or by any court having jurisdiction under any law relating to wild animals, wild rice, use of water, conservation, protection or control of public waters, state-owned dams or other works affecting public waters or water pollution, in the same manner as any constable or sheriff may do so, and to arrest, without a warrant, any person detected in the actual violation of any provisions of chapters 84, 97 to 102, 105 and 106, and ~~section sections~~ 609.66 and 609.68, and acts amendatory thereof, and to take such person

before any court in the county in which the offense was committed and make proper complaint.

When a person is arrested for any violation of the provisions of the above named chapters, punishable as a misdemeanor, and is not taken into custody and immediately taken before a court or magistrate, the arresting officer shall prepare, in quadruplicate, written notice to appear before a court or magistrate. This notice has the effect of, and serves as, a summons and complaint. The notice shall be in the form of a summons and complaint and shall contain the name and address of the person arrested, the offense charged, and the time and the place he is to appear before the court or magistrate. This place must be before a court or magistrate who has jurisdiction within the county in which the offense charged is alleged to have been committed.

In order to secure release, without being taken into custody and immediately taken before the court or magistrate, the arrested person must give his written promise so to appear before the court or magistrate by signing, in quadruplicate, the written notice prepared by the arresting officer. The officer shall retain the original of the notice and deliver the copy thereof marked "summons" to the person arrested. Thereupon the officer shall release the person from custody.

On or before the return day the officer shall make a return thereof to the court or magistrate before whom the notice or summons is returnable. If the person so summoned fails to appear on the return day the court or magistrate shall issue a warrant for his arrest, and upon his arrest proceedings shall be had as in other cases."

Page 3, delete lines 15 to 33

Page 4, delete lines 1 to 24 and insert:

"Sec. 5. Minnesota Statutes 1978, Section 100.29, Subdivision 30, is amended to read:

Subd. 30. *Unless authorized by commissioner's order, it shall be unlawful to use a snowmobile or any type of all-terrain vehicle during the season open for the taking of beaver or otter and for two days thereafter, for the purpose of transporting or checking beaver or otter traps or transporting beaver or otter carcasses or pelts. However, the commissioner may issue a special permit to use a snowmobile or all-terrain vehicle to transport or check beaver or otter traps, or to transport beaver or otter carcasses or pelts, to any licensed trapper having any of the physical disabilities described in section 98.48, subdivision 12. The permit shall be issued in the same manner as provided in section 98.48, subdivision 12.*

Sec. 6. [EFFECTIVE DATE.] *This act is effective the day following final enactment.*"

Renumber the sections accordingly

Further, amend the title as follows:

Page 1, delete lines 5 to 8 and insert:

"amending Minnesota Statutes 1978, Section 97.50, Subdivision 1; 98.45, Subdivision 1; 100.27, Subdivision 4; and 100.29, Subdivisions 7 and 30."

And when so amended H. F. No. 1198 will be identical to S. F. No. 1292, and further recommends that H. F. No. 1198 be given its second reading and substituted for S. F. No. 1292, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H. F. No. 567 be amended as follows:

Page 1, line 21, delete "*notice of such monitoring*" and insert "*monitoring shall be accompanied by a beep or electronic tone at 15 second intervals to inform parties of the monitoring. Notice of the purpose and effect of the beep or electronic tone shall be published in each telephone directory.*"

Delete page 1, line 22, to page 2, line 4

Page 2, after line 27, insert

*"The monitoring or observation of a telephone communication as authorized by this clause shall be accompanied by a beep or an electronic tone at 15 second intervals to inform parties of the interception, unless a party to the communication is a transportation common carrier, or an agent or employee thereof, engaged in providing reservation or informational services."*

And when so amended H. F. No. 567 will be identical to S. F. No. 838, and further recommends that H. F. No. 567 be given its second reading and substituted for S. F. No. 838, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H. F. No. 970 be amended as follows:

Page 2, line 2, delete the colon

Page 2, line 3, delete "*minor*"

Page 2, line 8, delete "*such*" and insert "*the*"

Page 2, after line 9 insert:

*"This clause shall be effective when the individual has been paid four times the individual's weekly benefit amount in the current benefit year."*

Page 2, line 10, after "Sec. 2." insert "[EFFECTIVE DATE.]"

Page 2, line 11, delete "*and*" and insert "*or*"

Further, amend the title as follows:

Page 1, lines 3 and 4, delete "*and relatives of certain businesses*" and insert "*of employing units*"

And when so amended H. F. No. 970 will be identical to S. F. No. 1314, and further recommends that H. F. No. 970 be given

its second reading and substituted for S. F. No. 1314, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H. F. No. 907 be amended as follows:

Page 2, line 14, delete "*this act*" and insert "*sections 3 to 6*"

Page 2, line 18, delete "*this act*" and insert "*sections 3 to 6*"

Page 2, line 26, delete "*this act*" and insert "*sections 3 to 6*"

Page 2, lines 30 and 31, delete "*this act*" and insert "*sections 3 to 6*"

Page 3, line 7, delete "*this act*" and insert "*sections 3 to 6*"

Page 3, line 8, delete "*this act*" and insert "*sections 3 to 6*"

Page 3, line 22, delete "*this act*" and insert "*sections 3 to 6*"

Page 3, line 25, delete "*this act*" and insert "*sections 3 to 6*"

Page 3, line 30, delete "*this act*" and insert "*sections 3 to 6*"

Page 4, lines 1 and 2, delete "*Sections 1 and 2 are effective August 1, 1979. Sections 3, 4, 5 and 6 are*" and insert "*This act shall be*"

And when so amended H. F. No. 907 will be identical to S. F. No. 959, and further recommends that H. F. No. 907 be given its second reading and substituted for S. F. No. 959, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

#### SECOND READING OF SENATE BILLS

S. F. Nos. 1101 and 736 were read the second time and referred to the Subcommittee on Bill Scheduling of the Committee on Rules and Administration.

#### SECOND READING OF HOUSE BILLS

H. F. Nos. 1364, 1198, 567, 970 and 907 were read the second time.

H. F. Nos. 451 and 1167 were read the second time and referred to the Subcommittee on Bill Scheduling of the Committee on Rules and Administration.

#### MOTIONS AND RESOLUTIONS

Mr. Tennesen moved that the name of Mr. Sikorski be added as co-author to S. F. No. 636. The motion prevailed.

Mr. Chmielewski, for Mr. Schrom, moved that House Concurrent Resolution No. 5 be taken from the table. The motion prevailed.

Mr. Coleman moved that House Concurrent Resolution No. 5 be referred to the Committee on Rules and Administration. The motion prevailed.

### RECESS

Mr. Coleman moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

Pursuant to Rule 10, Mr. Coleman, Chairman of the Subcommittee on Bill Scheduling, designated the General Orders Calendar a Special Orders Calendar to be heard immediately.

### SPECIAL ORDER

S. F. No. 758: A bill for an act relating to motor vehicles; providing for special license plates for former prisoners of war; prescribing penalties; amending Minnesota Statutes 1978, Chapter 168, by adding a section.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 43 and nays 6, as follows:

Those who voted in the affirmative were:

Anderson	Gunderson	Lessard	Purfeerst	Staples
Ashbach	Hanson	Luther	Renneke	Stokowski
Benedict	Hughes	McCutcheon	Rued	Ueland, A.
Bernhagen	Johnson	Menning	Schaaf	Ulland, J.
Brataas	Keefe, J.	Moe	Schmitz	Vega
Chmielewski	Kirchner	Nelson	Setzepfandt	Wegener
Dunn	Knaak	Nichols	Sieloff	Willet
Engler	Knoll	Olhoft	Sikorski	
Gearty	Laufenburger	Penny	Solon	

Those who voted in the negative were:

Davies	Merriam	Spear	Stumpf	Tennessen
Keefe, S.				

So the bill passed and its title was agreed to.

### SPECIAL ORDER

H. F. No. 624: A bill for an act relating to counties; fixing the amounts that may be spent for Memorial Day observances; amending Minnesota Statutes 1978, Sections 375.34; and 375.35.

Mr. Stumpf moved to amend H. F. No. 624 as follows:

Page 2, after line 5, insert:

"Sec. 3. Laws 1974, Chapter 435, Section 2.021, added by Laws 1977, Chapter 291, Section 2, is amended to read:

2.021 [TERM.] ~~In Ramsey county,~~ *In Ramsey county, In 1980 commissioners shall be elected from districts 3, 5 and 7. In 1982 commissioners shall*

*be elected from districts 1, 2, 4 and 6. Each county commissioner shall be elected at the general election for a term of four years. If there is a redistricting of commissioner districts that requires that terms of incumbents be shortened, the terms of their successors shall be fixed so that four or three are regularly elected at successive general elections after the general election following the redistricting."*

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "providing for elections of commissioners in Ramsey County;"

Page 1, line 4, delete "and"

Page 1, line 5, before the period insert "; and Laws 1974, Chapter 435, Section 2.021, as amended"

The motion prevailed. So the amendment was adopted.

H. F. No. 624 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 54 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Gunderson	Laufenburger	Perpich	Spear
Bang	Hanson	Lessard	Peterson	Stokowski
Benedict	Humphrey	Luther	Pillsbury	Strand
Bernhagen	Johnson	McCutcheon	Purfeerst	Stumpf
Brataas	Keefe, J.	Menning	Renneke	Tennessen
Chenoweth	Keefe, S.	Merriam	Rued	Ueland, A.
Chmielewski	Kirchner	Moe	Schaaf	Ulland, J.
Davies	Kleinbaum	Nelson	Schmitz	Vega
Dunn	Knaak	Nichols	Setzepfandt	Wegener
Engler	Knoll	Olhoff	Sikorski	Willet
Gearty	Knutson	Penny	Solon	

Messrs. Ashbach and Hughes voted in the negative.

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

H. F. No. 340: A bill for an act relating to the town of Leota in Nobles county; authorizing the establishment of a detached banking facility.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 42 and nays 12, as follows:

Those who voted in the affirmative were:

Ashbach	Gunderson	Luther	Purfeerst	Staples
Bang	Hughes	McCutcheon	Renneke	Stokowski
Bernhagen	Humphrey	Menning	Rued	Ueland, A.
Chenoweth	Johnson	Merriam	Schaaf	Ulland, J.
Chmielewski	Keefe, S.	Nelson	Setzepfandt	Vega
Davies	Kleinbaum	Nichols	Sieloff	Wegener
Dunn	Knaak	Olhoft	Sikorski	
Engler	Knoll	Perpich	Solon	
Gearty	Knutson	Peterson	Spear	

Those who voted in the negative were:

Benedict	Kirchner	Penny	Schmitz	Tennessee
Brataas	Laufenburger	Pillsbury	Strand	Willet
Keefe, J.	Lessard			

So the bill passed and its title was agreed to.

### SPECIAL ORDER

S. F. No. 975: A bill for an act relating to cemeteries; providing for the preservation of burial grounds; imposing penalties; appropriating money; amending Minnesota Statutes 1978, Section 307.08.

Mr. Chmielewski moved to amend S. F. No. 975 as follows:

Page 4, after line 18, insert:

"Sec. 2. [REPEALER.] *Minnesota Statutes 1978, Section 149.07, is repealed.*"

Amend the title as follows:

Page 1, line 3, after the semicolon insert "eliminating obsolete provisions;"

Page 1, line 5, after "307.08" insert "; repealing Minnesota Statutes 1978, Section 149.07"

The motion prevailed. So the amendment was adopted.

S. F. No. 975: A bill for an act relating to cemeteries; providing for the preservation of burial grounds; eliminating obsolete provisions; imposing penalties; appropriating money; amending Minnesota Statutes 1978, Section 307.08; repealing Minnesota Statutes 1978, Section 149.07.

Was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Davies	Gearty	Humphrey
Ashbach	Chenoweth	Dieterich	Gunderson	Johnson
Bang	Chmielewski	Dunn	Hanson	Keefe, J.
Benedict	Coleman	Engler	Hughes	Keefe, S.

Kirchner	Menning	Perpich	Setzepfandt	Tennessee
Kleinbaum	Merriam	Peterson	Sieloff	Ueland, A.
Knaak	Moe	Pillsbury	Sikorski	Uiland, J.
Knoll	Nelson	Purfeerst	Solon	Vega
Knutson	Nichols	Renneke	Spear	Wegener
Lessard	Ogdahl	Rued	Staples	Willet
Luther	Olhoff	Schaaf	Stokowski	
McCutcheon	Penny	Schmitz	Strand	

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

H. F. No. 99: A bill for an act relating to criminal procedure; providing immunity from liability for peace officers who make good faith domestic assault arrests; amending Minnesota Statutes 1978, Section 629.341.

Mr. Davies moved to amend H. F. No. 99 as follows:

Page 1, line 14, after "person" insert "(1)"

Page 1, line 14, reinstate the stricken language

Page 1, line 14, before "if" insert "; or (2) *when the person is threatening to return to his place of residence,*"

The motion prevailed. So the amendment was adopted.

### CALL OF THE SENATE

Mr. McCutcheon imposed a call of the Senate for the balance of the proceedings on H. F. No. 99. The following Senators answered to their names:

Anderson	Engler	Knoll	Peterson	Staples
Aashbach	Gearty	Laufenburger	Pillsbury	Stokowski
Bang	Gunderson	Lessard	Purfeerst	Strand
Benedict	Hanson	Luther	Renneke	Stumpf
Bernhagen	Hughes	McCutcheon	Rued	Tennessee
Brataas	Humphrey	Menning	Schaaf	Ueland, A.
Chenoweth	Jensen	Merriam	Schmitz	Uiland, J.
Chmielewski	Johnson	Moe	Setzepfandt	Vega
Coleman	Keefe, J.	Nelson	Sieloff	Wegener
Davies	Keefe, S.	Ogdahl	Sikorski	Willet
Dieterich	Kirchner	Penny	Solon	
Dunn	Knaak	Perpich	Spear	

The Sergeant at Arms was instructed to bring in the absent members.

Mr. Jensen moved to amend H. F. No. 99 as follows:

Page 1, line 11, delete "*Subdivision 1.*"

Pages 1 and 2, delete subdivision 2

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 22 and nays 38, as follows:

Those who voted in the affirmative were:

Aashbach	Benedict	Dunn	Frederick	Keefe, J.
Bang	Dieterich	Engler	Jensen	Keefe, S.

Kirchner	Ogdahl	Renneke	Sillers	Ueland, A.
Knaak	Perpich	Sieloff	Spear	Ulland, J.
Luther	Pillsbury			

Those who voted in the negative were:

Anderson	Humphrey	Merriam	Rued	Strand
Bernhagen	Johnson	Moe	Schaaf	Stumpf
Coleman	Kleinbaum	Nelson	Schmitz	Tennessen
Davies	Knoll	Nichols	Setzepfandt	Vega
Gearty	Laufenburger	Olhoff	Sikorski	Wegener
Gunderson	Lessard	Penny	Solon	Willet
Hanson	McCutcheon	Peterson	Staples	
Hughes	Menning	Purfeerst	Stokowski	

The motion did not prevail. So the amendment was not adopted.

H. F. No. 99 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 46 and nays 14, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Luther	Purfeerst	Strand
Benedict	Hughes	McCutcheon	Rued	Stumpf
Bernhagen	Humphrey	Merriam	Schaaf	Tennessen
Chmielewski	Johnson	Moe	Schmitz	Vega
Coleman	Kirchner	Nelson	Setzepfandt	Wegener
Davies	Kleinbaum	Nichols	Sikorski	Willet
Dieterich	Knaak	Olhoff	Sillers	
Dunn	Knoll	Penny	Solon	
Gearty	Laufenburger	Peterson	Staples	
Gunderson	Lessard	Pillsbury	Stokowski	

Those who voted in the negative were:

Ashbach	Frederick	Keefe, S.	Renneke	Ueland, A.
Bang	Jensen	Ogdahl	Sieloff	Ulland, J.
Engler	Keefe, J.	Perpich	Spear	

So the bill, as amended, passed and its title was agreed to.

### CALL OF THE SENATE

Mr. Luther imposed a call of the Senate for the proceedings on S. F. No. 1010. The following Senators answered to their names:

Anderson	Gearty	Knoll	Peterson	Stokowski
Ashbach	Gunderson	Laufenburger	Pillsbury	Strand
Bang	Hanson	Luther	Purfeerst	Stumpf
Benedict	Hughes	McCutcheon	Renneke	Tennessen
Bernhagen	Humphrey	Merriam	Rued	Ueland, A.
Chmielewski	Jensen	Moe	Schmitz	Ulland, J.
Coleman	Johnson	Nelson	Setzepfandt	Vega
Davies	Keefe, J.	Nichols	Sieloff	Wegener
Dieterich	Keefe, S.	Ogdahl	Sikorski	Willet
Dunn	Kirchner	Olhoff	Sillers	
Engler	Kleinbaum	Penny	Solon	
Frederick	Knaak	Perpich	Spear	

The Sergeant at Arms was instructed to bring in the absent members.

**RECONSIDERATION**

Mr. Luther moved that the vote whereby S. F. No. 1010, as amended, failed to pass the Senate on May 11, 1979, be now reconsidered.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 42 and nays 17, as follows:

Those who voted in the affirmative were:

Anderson	Gunderson	Luther	Schaaf	Strand
Benedict	Hanson	Menning	Schmitz	Stumpf
Chenoweth	Hughes	Merriam	Setzepfandt	Tennessen
Chmielewski	Humphrey	Moe	Sieloff	Ulland, J.
Coleman	Johnson	Nelson	Sikorski	Vega
Dieterich	Keefe, J.	Nichols	Solon	Willet
Engler	Keefe, S.	Olhoft	Spear	
Frederick	Knaak	Penny	Staples	
Gearty	Knoll	Peterson	Stokowski	

Those who voted in the negative were:

Ashbach	Jensen	Ogdahl	Renneke	Wegener
Bernhagen	Kirchner	Perpich	Rued	
Davies	Laufenburger	Pillsbury	Sillers	
Dunn	Lessard	Purfeerst	Ueland, A.	

The motion prevailed. So the vote was reconsidered.

S. F. No. 1010: A bill for an act relating to elections; regulating the financing of political campaigns and disclosure of economic interests by certain candidates and elected officials in Hennepin County; imposing duties on the ethical practices board, county election officials, city clerks; superseding other special laws, home rule charters and local ordinances; imposing late filing fees and criminal penalties; repealing Laws 1977, Chapter 131.

Was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 36 and nays 24, as follows:

Those who voted in the affirmative were:

Anderson	Hanson	Menning	Schaaf	Strand
Benedict	Hughes	Merriam	Setzepfandt	Stumpf
Chenoweth	Humphrey	Moe	Sieloff	Ulland, J.
Chmielewski	Johnson	Nelson	Sikorski	Vega
Coleman	Keefe, J.	Nichols	Solon	
Dieterich	Keefe, S.	Olhoft	Spear	
Gearty	Knoll	Penny	Staples	
Gunderson	Luther	Peterson	Stokowski	

Those who voted in the negative were:

Bang	Frederick	Lessard	Purfeerst	Tennessen
Bernhagen	Kirchner	McCutcheon	Renneke	Ueland, A.
Davies	Kleinbaum	Ogdahl	Rued	Wegener
Dunn	Knaak	Perpich	Schmitz	Willet
Engler	Laufenburger	Pillsbury	Sillers	

So the bill, as amended, passed and its title was agreed to.

**MOTIONS AND RESOLUTIONS—CONTINUED**

Mr. McCutcheon moved that H. F. No. 1495 be taken from the table. The motion prevailed.

**SUSPENSION OF RULES**

Mr. McCutcheon moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H. F. No. 1495 and that the rules of the Senate be so far suspended as to give H. F. No. 1495 its second and third reading and place it on its final passage. The motion prevailed.

H. F. No. 1495 was read the second time.

Mr. McCutcheon moved to amend H. F. No. 1495 as follows:

Delete everything after the enacting clause and insert:

**“ARTICLE I: INCOME TAX**

Section 1. Minnesota Statutes 1978, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. [GROSS INCOME.] 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; except that gross income shall not include “exempt function income” of a “homeowners association” as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended.

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term “gross income” in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, the term “gross income” in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes 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 section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(v) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H. R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of chapter 290 at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for non-recognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

*The amendments made to sections 219(c) (3) and 220(c) (4) (extending the time for which a taxpayer is deemed to have made a contribution to an individual retirement account for the taxable year) by section 157(a) of P.L. 95-600 shall be effective for taxable years beginning after December 31, 1977.*

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24; and

(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101; and

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

*(12) To the extent deducted in computing the taxpayer's federal adjusted gross income for the taxable year, losses realized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;*

(13) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976, if the nonprofit corporation is domiciled outside of Minnesota;

(14) Exempt-interest dividends, as defined in section 852(b) (5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b) (5)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, except for that

portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(15) The amount of any excluded gain realized by a trust on the sale or exchange of property as defined in section 641(c)(1).

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

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

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes;

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of 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, 404, 405, 408 or 409 of the Internal Revenue Code

of 1954, as amended through December 31, 1977. The maximum amount of this subtraction shall be \$7,200 ~~\$10,000 less the sum of (a) social security retirement benefits received during the taxable year, (b) railroad retirement benefits received during the taxable year, and (c) the amount by which the individual's federal adjusted gross income exceeds \$13,000~~ **\$15,000** . In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be ~~\$7,200 less the sum of social security retirement benefits and railroad retirement benefits~~ **\$10,000** ; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of ~~\$13,000~~ **\$15,000** ;

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

*(8) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain realized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;*

(9) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later; and

(10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed after December 31, 1977 and before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60;

*(11) To the extent it is included in the federal adjusted gross income of the taxpayer, gain from the sale or exchange of property which has been owned and used by the taxpayer during the five-year period ending on the date of the sale or exchange as his principal residence for periods aggregating three years or more; provided that (i) the amount of the gain excluded from gross income under this clause shall not exceed \$100,000 or \$50,000 in the case of a separate return filed by a married individual; and (ii) this clause shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under this clause with respect to any other sale or exchange is in effect. If the basis of the property sold or exchanged is determined in whole or in part under subsection (b) of section 1033 of the Internal Revenue Code of 1954, as amended through December, 31, 1978, relating to basis of property acquired through involuntary conversion, then the holding and use by the taxpayer of*

*the converted property shall be treated as holding and use by the taxpayer of the property sold or exchanged; and*

*(12) The first \$3,000 of compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 of compensation per personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota.*

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954. In the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account

of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(2) in computing Minnesota inheritance tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07, and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 2. Minnesota Statutes 1978, Section 290.012, Subdivision 3, is amended to read:

Subd. 3. "Dependent" means an individual dependent upon and receiving his chief support from the claimant. Payments for support of minor children as provided in section 290.872, subdivision 3 under a temporary or final decree of dissolution or legal separation, shall be considered as payments by the claimant for the support of a dependent. For the purposes of section 290.06, subdivision 3d, a spouse except a divorced or separated spouse shall be considered to be a dependent.

Sec. 3. Minnesota Statutes 1978, Section 290.06, Subdivision 3c, is amended to read:

Subd. 3c. [CREDITS AGAINST TAX.] Notwithstanding the provisions of subdivision 3a for taxable years which begin after December 31, 1977 1978 and before January 1, 1980, the taxes due under the after December 31, 1977, the taxes due under the computation in accordance with section 290.06 shall be credited with the following amounts:

(1) In the case of an unmarried individual ; and, except as provided in paragraph 6, in the case of the estate of a decedent, \$40 \$65, and in the case of a trust, \$5;

(2) In the case of a married individual, living with husband or wife, and in the case of a head of a household, \$80 a spouse, \$130. If such husband and wife make the spouses file separate, combined or joint returns the personal exemption credits may be taken by either or divided between them;

(3) In the case of an individual, \$40 \$65 for each person (other than husband or wife a spouse) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be

allowed this credit with respect to any given dependent. In the case of the head of a household, a credit for one dependent shall be disallowed. A payment to a divorced or separated wife spouse, other than a payment of the kind referred to in section 200.072, subdivision 3 for support of minor children under a temporary order or final decree of dissolution or legal separation, shall not be considered a payment by the husband other spouse for the support of any dependent.

(4) (a) In the case of an unmarried individual who has attained the age of 65 before the close of his taxable year, an additional \$20 \$65 ;

(b) In the case of an unmarried individual who is blind at the close of the taxable year, an additional \$20 \$65 ;

(c) In the case of a married individual, living with husband or wife a spouse, an additional \$20 \$65 for each spouse who has attained the age of 65 before the close of the individual's taxable year, and an additional \$20 \$65 for each spouse who is blind at the close of the individual's taxable year. If such husband and wife make separate, combined or joint returns, these credits may be taken by either or divided between them;

(d) In the case of an individual, another \$65 for each person, other than a spouse, who is blind and dependent upon and receiving his chief support from the taxpayer;

(e) For the purposes of sub-paragraphs (b) and, (c) and (d) of paragraph (4), an individual is blind if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(e) (f) In the case of an unmarried individual who is deaf at the close of the taxable year, an additional \$20 \$65.

(f) (g) In the case of a married individual, an additional \$20 \$65 for each spouse who is deaf at the close of the taxable year. If the husband and wife make spouses file separate, combined or joint returns, these credits may be taken by either or divided between them.

(g) (h) In the case of an individual, an additional \$20 \$65 for each person (other than a spouse) who is deaf and dependent upon and receiving his chief support from the taxpayer.

(h) (i) For the purposes of subparagraphs (e), (f) and, (g) and (h) of paragraph (4), an individual is deaf if the average loss in the speech frequencies (500-2000 Hertz) in the better ear, unaided, is 92 decibels, American National Standards Institute, or worse.

(5) (a) If an unmarried individual qualifies for two or more additional credits under the provisions of clauses (4) (a), (4) (b) and (4) (e), the total amount of his credit shall be increased by \$10 for each additional credit in excess of one.

(b) If a married individual qualifies for more than one additional credit for either spouse under the provisions of clauses (4) (c) and (4) (f), the total amount of his credit shall be increased by \$10 for each additional credit in excess of one per spouse.

(a) In the case of an unmarried individual who is a quadriplegic at the close of the taxable year, an additional \$65;

(b) In the case of a married individual, living with a spouse, an additional \$65 for each spouse who is a quadriplegic at the close of the taxable year; and

(c) In the case of an individual, another \$65 for each person, other than a spouse, who is dependent upon and receiving his chief support from the taxpayer, and who is a quadriplegic at the close of the taxable year.

(6) In the case of an insurance company, it shall receive a credit on the tax computed as above equal in amount to any taxes based on premiums paid by it during the period for which the tax under Extra Session Laws 1967, Chapter 32, is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by Extra Session Laws 1933, Chapter 53, as amended;

(7) In the case of a non-resident individual, credits under paragraphs 1, 2, 3, 4 and 5 shall be apportioned in the proportion of the gross income from sources in Minnesota to the gross income from all sources, and in any event a minimum credit of \$5 shall be allowed.

Sec. 4. Minnesota Statutes 1978, Section 290.06, is amended by adding a subdivision to read:

Subd. 3f. [CREDITS AGAINST TAX.] Notwithstanding the provisions of subdivision 3a, and subject to the provisions of subdivision 3g for taxable years which begin after December 31, 1979, the taxes due under the computation in accordance with section 290.06 shall be credited with the following amounts:

(1) In the case of an unmarried individual and in the case of the estate of a decedent, \$87, and in the case of a trust, \$5;

(2) In the case of a married individual, living with a spouse, \$174. If the spouses file separate, combined or joint returns the personal credits may be taken by either or divided between them;

(3) In the case of an individual, \$87 for each person (other than a spouse) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be allowed this credit with respect to any given dependent. A payment to a divorced or separated spouse, other than a payment for support of minor children under a temporary order or final decree of dissolution or legal separation, shall not be considered a payment by the other spouse for the support of any dependent.

(4) (a) In the case of an unmarried individual who has attained the age of 65 before the close of his taxable year, an additional \$87;

(b) In the case of an unmarried individual who is blind at the close of the taxable year, an additional \$87;

(c) In the case of a married individual, living with a spouse, an additional \$87 for each spouse who has attained the age of 65 before the close of the individual's taxable year, and an additional \$87 for each spouse who is blind at the close of the individual's taxable year. If the spouses file separate, combined or joint returns, these credits may be taken by either or divided between them;

(d) In the case of an individual, another \$87 for each person, other than a spouse, who is blind and dependent upon and receiving his chief support from the taxpayer;

(e) For the purposes of sub-paragraphs (b), (c) and (d) of paragraph (4), an individual is blind if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(f) In the case of an unmarried individual who is deaf at the close of the taxable year, an additional \$87.

(g) In the case of a married individual, an additional \$87 for each spouse who is deaf at the close of the taxable year. If the spouses file separate, combined or joint returns, these credits may be taken by either or divided between them.

(h) In the case of an individual, an additional \$87 for each person (other than a spouse) who is deaf and dependent upon and receiving his chief support from the taxpayer.

(i) For the purposes of subparagraphs (f), (g) and (h) of paragraph (4), an individual is deaf if the average loss in the speech frequencies (500-2000 Hertz) in the better ear, unaided, is 92 decibels, American National Standards Institute, or worse.

(5) (a) In the case of an unmarried individual who is a quadriplegic at the close of the taxable year, an additional \$87;

(b) In the case of a married individual, living with a spouse, an additional \$87 for each spouse who is a quadriplegic at the close of the taxable year; and

(c) In the case of an individual, another \$87 for each person, other than a spouse, who is dependent upon and receiving his chief support from the taxpayer, and who is a quadriplegic at the close of the taxable year.

(6) In the case of an insurance company, it shall receive a credit on the tax computed as above equal in amount to any taxes based on premiums paid by it during the period for which the tax under Extra Session Laws 1967, Chapter 32, is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by Extra Session Laws 1933, Chapter 53, as amended;

*(7) In the case of a non-resident individual, credits under paragraphs 1, 2, 3, 4 and 5 shall be apportioned in the proportion of the gross income from sources in Minnesota to the gross income from all sources, and in any event a minimum credit of \$5 shall be allowed.*

Sec. 5. Minnesota Statutes 1978, Section 290.06, is amended by adding a subdivision to read:

*Subd. 3g. [INFLATION-ADJUSTMENT OF CREDITS.] For taxable years beginning after December 31, 1980, the credits provided for individuals in subdivision 3f shall be adjusted for inflation. The commissioner of revenue shall determine the percentage increase for each year in the revised consumer price index for all urban consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States department of labor with 1967 as a base year. The commissioner shall determine the percentage increase from August, 1979 to, in 1980, August, 1980 and in each subsequent year, to August of that year, and shall announce the percentage figure by October 1 each year. The dollar amount of each inflation adjusted credit for the prior year in subdivision 3f shall be multiplied by that percentage. The product of the calculation shall be added to the inflation adjusted credit for the prior year to produce the inflation adjusted individual credits for each succeeding year. If the product exceeds a whole dollar amount, it shall be raised to the next highest whole dollar. The commissioner of revenue shall adjust the withholding tax tables annually to take account of the changes in anticipated tax liability which will result from the adjustment provided in this subdivision. The revised tables shall be made available to employers no later than November 30 of 1980 and each year thereafter.*

Sec. 6. Minnesota Statutes 1978, Section 290.06, Subdivision 3d, is amended to read:

*Subd. 3d. [CREDITS AGAINST TAX.] The taxes due as computed in accordance with section 290.06, subdivisions 2c, 3c, and 3e shall be credited with the following amounts:*

*(1) (A) For taxable years beginning after December 31, 1978 and before January 1, 1980, a credit equal to his tax liability in the case of:*

*(a) An unmarried claimant with an income of \$4,800 \$5,500 or less;*

*(b) A claimant with one dependent, with an income of \$5,800 \$7,000 or less;*

*(c) A claimant with two dependents, with an income of \$6,900 \$8,000 or less;*

*(d) A claimant with three dependents, with an income of \$7,800 \$8,900 or less;*

*(e) A claimant with four dependents, with an income of \$8,400 \$9,600 or less; and*

(f) A claimant with five or more dependents, with an income of ~~\$8,000~~ \$10,000 or less.

*(B) For taxable years beginning after December 31, 1979, a credit equal to his tax liability in the case of:*

*(a) An unmarried claimant with an income of \$6,000 or less;*

*(b) A claimant with one dependent, with an income of \$8,000 or less;*

*(c) A claimant with two dependents, with an income of \$9,000 or less;*

*(d) A claimant with three dependents, with an income of \$10,000 or less;*

*(e) A claimant with four dependents, with an income of \$10,500 or less; and*

*(f) A claimant with five or more dependents, with an income of \$11,000 or less.*

(2) In the case of a claimant with an income in excess of that set forth in the appropriate category of clause (1), he may pay a tax equal to 15 percent of that portion of his income that is in excess of the amount set forth in the appropriate category of clause (1), or his tax obligation as it would have been in the absence of section 290.012 and this subdivision, whichever is less.

(3) The total income of the claimant and his spouse, if any, shall be the figure employed for the purposes of this subdivision. No individual dependent upon and receiving his chief support from any other individual may be a claimant under section 290.012 and this subdivision. The commissioner of revenue shall prescribe the additional forms or alterations in existing forms as necessary to comply with the provisions of section 290.012 and this subdivision. All claimants shall submit their returns on these forms.

The commissioner of revenue shall provide alternative tax tables which will include these credits.

Sec. 7. Minnesota Statutes 1978, Section 290.06, Subdivision 3e, is amended to read:

Subd. 3e. [PARENTS' CREDIT.] A credit of \$50 may be deducted from the tax due from the taxpayer and his spouse, if any, under this chapter if either the taxpayer or his spouse devotes his time to caring for his children and their home and is not employed outside of the home. A taxpayer would qualify for the credit if

(a) he has a child who is twelve years of age or younger residing in his home at any time during the taxable year; and

(b) if the taxpayer is married, either the taxpayer or his spouse remains unemployed throughout the taxable year for the purpose of caring for the child in the home; and

(c) the combined federal adjusted gross income of the taxpayer and his spouse, if any, is not in excess of \$25,000.

A married claimant shall file his income tax return for the year for which he claims the credit either jointly or separately on one form with his spouse. In the case of the married claimant, only one spouse may claim the credit.

Sec. 8. Minnesota Statutes 1978, Section 290.081, is amended to read:

**290.081 [INCOME OF NONRESIDENTS, RECIPROCITY.]**

(a) The compensation received for the performance of personal or professional services within this state by an individual who resides and has his place of abode and place to which he customarily returns at least once a month 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 his residence; provided that such state allows a similar exclusion of compensation received by residents of Minnesota for services performed therein, or

(b) Whenever a nonresident taxpayer has become liable for income taxes to the state where he resides upon his net income for the taxable year derived from the performance of personal or professional services within this state and subject to taxation under this chapter, there shall be allowed as a credit against the amount of income tax payable by him under this chapter, such proportion of the tax so paid by him to the state where he resides as his gross income subject to taxation under this chapter bears to his entire gross income upon which the tax so paid to such other state was imposed; provided, that such credit shall be allowed only if the laws of such state grant a substantially similar credit to residents of this state subject to income tax under such laws, or

(c) 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 of Canada upon, if the taxpayer is an individual or a resident estate or resident trust, any income, or if it is a corporation, upon income derived from the performance of personal or professional services within such other state or province of Canada and subject to taxation under this chapter he or it 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 of Canada bears to his 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 of Canada on the gross income earned within such other state and subject to taxation under this chapter, and (2) that such credit shall not be allowed if such other state or province of Canada allows residents of this state a credit against the taxes imposed by such state or province of Canada for taxes payable under this chapter substantially similar to the credit provided for by paragraph (b) of this section, and (3) 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 of Canada had been excluded in computing net income under this chapter.

(d) The commissioner shall by regulation 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.

(e) "Tax So Paid" as used in this section means taxes on or measured by net income payable to another state or province 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.

(f) 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.

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 chairman. 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 he 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. 9. Minnesota Statutes 1978, Section 290.09, Subdivision 15, is amended to read:

Subd. 15. [STANDARD DEDUCTION.] In lieu of all deductions provided for in this chapter other than those enumerated in section 290.18, subdivision 2, and in lieu of the credits enumerated

in section 290.21, subdivision 3, an individual may claim or be allowed a standard deduction as follows:

(a) If his adjusted gross income is \$10,000 or more, the standard deduction shall be \$1,000.

(b) If his adjusted gross income is less than \$10,000 Subject to modification pursuant to clause (b), the standard deduction shall be an amount equal to ten percent thereof of the adjusted gross income of the taxpayer, up to a maximum deduction of \$2,000; in the case in which a standard deduction tax table is provided by the commissioner of revenue pursuant to the provisions of section 290.06, subdivision 2, the standard deduction shall be available to individuals with adjusted gross income of less than \$20,000 only through the use of such table.

In the case of a husband and wife living together, the standard deduction shall not be allowed to either if the net income of one of the spouses is determined without regard to the standard deduction. *The combined maximum standard deduction available to a husband and wife shall not exceed \$2,000. The maximum amount available to them may be taken by either of them or divided between them, provided that neither spouse may take a standard deduction which exceeds ten percent of his own adjusted gross income.* For the purposes of this paragraph the determination of whether an individual is living with his spouse shall be made as of the last day of the taxable year unless the spouse dies during the taxable year in which case such determination shall be made as of the date of such spouse's death.

(b) For each taxable year beginning after December 31, 1980, the maximum amount of the standard deduction shall be adjusted for inflation. That amount shall be multiplied each year by the percentage increase in the revised consumer price index for all urban consumers for the Minneapolis-St. Paul metropolitan area used for purposes of section 290.06, subdivision 3g. The product of the calculation shall be added to the dollar amount of the maximum standard deduction established in clause (a) to produce the inflation-adjusted maximum standard deduction for each succeeding year.

Sec. 10. Minnesota Statutes 1978, Section 290.14, is amended to read:

290.14 [GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.] 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 the cost to the taxpayer of such property, with the following exceptions:

(1) If the property should have been included in the last inventory, it shall be the last inventory value thereof;

(2) If the property was acquired by gift, it shall be the same as it would be if it were being sold or otherwise disposed of by the last preceding owner not acquiring it by gift; if the facts required

for this determination cannot be ascertained, it shall be the fair market value as of the date, or approximate date, of acquisition by such last preceding owner, as nearly as the requisite facts can be ascertained by the commissioner;

(3) If the property was acquired by gift through an inter vivos transfer in trust, it shall be the same as it would be if it were being sold or otherwise disposed of by the grantor;

(4) Except as otherwise provided in this clause (4), the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged or otherwise disposed of before the decedent's death by such person, be the fair market value of the property at the date of decedent's death.

For the purposes of the preceding paragraph, the following property shall be considered to have been acquired from or to have passed from the decedent:

(a) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;

(b) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

(c) Property transferred by decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(d) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(e) In the case of a decedent's dying after December 31, 1956, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's gross estate for Minnesota inheritance tax purposes. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under the first paragraph of this clause reduced by the amount allowed to the taxpayer as deductions in computing taxable net income under this chapter or prior Minnesota income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to annuities described in section 290.08; and property described in paragraphs (a), (b), (c) and (d) of this clause (4).

Clause (4) shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 290.077. Nor shall it apply to restricted stock options described in section 290.078 which the employee has not exercised at death.

(5) If the property was acquired after December 31, 1932, upon an exchange described in section 290.13, subdivision 1, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 290.13, subdivision 1, to be received without the recognition of gain or loss, and in part of other property, the basis provided in this clause shall be allocated between the properties, other than money, received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This clause shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration, in whole or in part, for the transfer of the property to it;

(6) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 290.09, subdivision 5, the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stock or securities over the repurchase price of such property;

(7) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in section 290.13, subdivision 5, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law applicable to the year in which such conversion was made, determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of a lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludable from gross income under section 290.08, subdivision 14.

If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1,

1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

*(9) If the property was acquired by the taxpayer as a transfer of property in exchange for the release of the taxpayer's marital rights, the basis of the property shall be the same as it would be if it were being sold or otherwise disposed of by the person who transferred the property to the taxpayer.*

Sec. 11. Minnesota Statutes 1978, 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, or to an employee stock ownership trust as defined in section 290.01, subdivision 25. Where the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the deduction shall be reduced by the product of multiplying said amount by their percentage interest in the trust,

(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 (c) 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, provided, however, that for an individual taxpayer, the credit shall be allowed in an amount equal to the ratio of the taxpayer's gross income from sources within the state assignable to Minnesota to the taxpayer's gross income from all sources,

(e) to a political party, as defined in section 200.02, subdivision 7, or a political candidate, as defined in section 210A.01, or

a political cause when sponsored by any party or association or committee, as defined in section 210A.01, in a maximum amount not to exceed the following:

(1) contributions made by individual natural persons, \$100,

(2) contributions made by a national committeeman, national committeewoman, state chairman, or state chairwoman of a political party, as defined in section 200.02, subdivision 7, \$1,000,

(3) contributions made by a congressional district committeeman or committeewoman of a political party, as defined in section 200.02, subdivision 7, \$350,

(4) contributions made by a county chairman or a county chairwoman of a political party, as defined in section 200.02, subdivision 7, \$150;

(f) in the case of an individual, the total credit against taxable net income allowable hereunder shall not exceed 30 percent of the taxpayer's Minnesota gross income as follows:

(i) the aggregate of contributions made to organizations specified in (a), (b) and (d) shall not exceed ten percent of the taxpayer's Minnesota gross income,

(ii) the total credits under this subparagraph for any taxable year shall not exceed 20 percent of the taxpayer's Minnesota gross income. For purposes of this subparagraph, the credits under this section shall be computed without regard to any deduction allowed under subparagraph (i) but shall take into account any contributions described in subparagraph (i) which are in excess of the amount allowable as a credit under subparagraph (i); the sum of:

(i) 20 percent of the taxpayer's Minnesota gross income in the case of contributions described in clauses (c) and (e); and

(ii) 50 percent of the taxpayer's Minnesota gross income in the case of contributions or gifts described in clauses (a), (b) and (d), reduced by the amount of the credit allowable under subparagraph (i),

(g) in the case of an individual, if the amount of the contributions or gifts described in clauses (a), (b) and (d), when added to the amount of contributions described in clauses (c) and (e), payment of which is made in a taxable year, hereinafter referred to in this subdivision as the "contribution year," exceeds 50 percent of the taxpayer's Minnesota gross income for that year, the excess shall be treated as a gift or contribution pursuant to this subdivision, paid in each of the five succeeding taxable years in order of time, but with respect to any succeeding taxable year, only to the extent of the lesser of the following amounts:

(i) the amount by which 50 percent of the taxpayer's Minnesota gross income for such succeeding taxable year exceeds the sum of the contribution and gifts described in this subdivision, payment of which is actually made by the taxpayer within such succeeding taxable year, and the contributions and gifts described

*in clauses (a), (b) and (d), payment of which was made in taxable years before the contribution year and which are treated pursuant to this clause as having been paid in such succeeding taxable year; or*

*(ii) in the first succeeding taxable year, the amount of such excess, and in the second, third, fourth and fifth succeeding taxable years, the portion of such excess not treated under this clause as a contribution or gift described in clauses (a), (b) and (d) paid in a taxable year between the contribution year and such succeeding taxable year; or*

*(iii) if, in a contribution year, the taxpayer's Minnesota gross income exceeds \$100,000, clause (g) shall not apply and no contributions or gifts covered by clause (g) shall be carried forward to a subsequent year,*

~~(g)~~ *(h) in the case of a corporation, the total credit against net income hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the credits allowable under this section other than those for contributions or gifts,*

~~(h)~~ *(i) 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 regulations prescribe,*

~~(i)~~ *(j) in the case of a contribution or property placed in trust as described in section 170(f)(2) of the Internal Revenue Code of 1954, as amended through December 31, 1976, a credit shall be allowed under this subdivision to the extent that a deduction is allowable for federal income tax purposes.*

Sec. 12. Minnesota Statutes 1978, Section 290.23, is amended by adding a subdivision to read:

*Subd. 16. [INCOME FROM OUT-OF-STATE PROPERTY.] There shall be allowed as a deduction in computing the taxable net income of a trust or an estate the amount of income or gains from tangible personal or real property having a situs outside this state allocated to this state according to the provisions of section 290.17, subdivision 1.*

Sec. 13. *The withholding of tax on wages pursuant to Minnesota Statutes, Section 290.92 shall be suspended for a period of one month. No employer shall withhold any tax from wages paid with respect to any payroll period ending after September 30, 1979 and prior to November 1, 1979.*

Sec. 14. *[REPEALER.] Minnesota Statutes 1978, Section 290.06, Subdivision 12, is repealed.*

Sec. 15. [EFFECTIVE DATE.] *Sections 1, 7, 8, 9, 10, 11, 12 and 14 are effective for taxable years beginning after December 31, 1978. Section 2 is effective for taxable years beginning after December 31, 1977.*

## ARTICLE II: PROPERTY TAX

Section 1. Minnesota Statutes 1978, Section 124.212, Subdivision 10, is amended to read:

Subd. 10. (a) The equalization aid review committee, consisting of the commissioner of education, the commissioner of administration, 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. When such reviews disclose reasonable evidence that the assessed valuation of any district furnished by any county auditor is not based upon the market value of taxable property in such district, then said committee shall call upon the department of revenue to ascertain the market value of such property, and adjust such values as required by law to determine the adjusted assessed valuation. 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 services performed at his request in ascertaining such adjusted valuation. On or before March 15, annually, the department of revenue shall submit 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 he 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 district is located.

(b) For purposes of determining the adjusted assessed value of agricultural lands for the calculation of 1977 1978 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 ten percent. Value determined pursuant to this clause shall be based on comparison of income and assessments from only the most recent applicable year, and shall not be subject to a three-year series of comparisons.

Sec. 2. *The 1978 adjusted assessed values determined under the provisions of section 124.212 shall be computed using the assessment ratios for taxes payable in 1980 provided by sections 6 to 10. In the case of adjusted assessed values which are limited under the provisions of section 124.212, subdivision 11, clause (a), the*

*recomputation provided in this section shall be made on the limited value.*

Sec. 3. Minnesota Statutes 1978, Section 256.82, is amended to read:

256.82 [PAYMENTS BY STATE.] Based upon estimates submitted by the county agency to the state agency, which shall state the estimated required expenditures for the succeeding month, upon the direction of the state agency payment shall be made monthly in advance by the state to the counties of all federal funds available for that purpose for such succeeding month, together with an amount of state funds equal to 60 80 percent of the difference between the total estimated cost and the federal funds so available *for payments made after December 31, 1979 and before January 1, 1981, and 90 percent of the difference for payments made after December 31, 1980.* Adjustment of any overestimate or underestimate made by any county shall be made upon the direction of the state agency in any succeeding month.

Sec. 4. Minnesota Statutes 1978, Section 256D.03, Subdivision 2, is amended to read:

Subd. 2. *After December 31, 1979, and before January 1, 1981, state aid shall be paid to local agencies for 50 80 percent and, after December 31, 1980, for 90 percent of all general assistance grants up to the standards of section 256D.01, subdivision 1, according to procedures established by the commissioner. Any local agency may, from its own resources, make payments of general assistance at a standard higher than that established by the commissioner, without reference to the standards of section 256D.01, subdivision 1.*

Sec. 5. Minnesota Statutes 1978, Section 256D.36, Subdivision 1, is amended to read:

256D.36 [1973 CATEGORICAL AID RECIPIENTS; PROVISIONS FOR SUPPLEMENTAL AID.] Subdivision 1. Commencing January 1, 1974, the commissioner shall certify to each local agency the names of all county residents who were eligible for and did receive aid during December, 1973 pursuant to a categorical aid program of old age assistance, aid to the blind, or aid to the disabled. From and after January 1, 1974 1980, until January 1, 1981, the state shall pay 80 percent and the county shall each pay one half 20 percent of the supplemental aid calculated for each county resident certified under this section who is an applicant for or recipient of supplemental security income. *After December 31, 1980, the state shall pay 90 percent and the county shall pay ten percent of the aid.* The amount of supplemental aid for each individual eligible under this section shall be calculated pursuant to the formula prescribed in Title II, Section 212 (a) (3) of Public Law 93-66, as amended.

Sec. 6. Minnesota Statutes 1978, Section 273.11, Subdivision 2, is amended to read:

Subd. 2. ~~(a)~~ *For assessments of property for the purpose of determining taxes to be levied in 1979, payable in 1980, the assessor, after determining the value of any property, shall compare the value with that determined in the preceding assessment. Notwithstanding the provisions of section 273.17, the amount of the increase entered in the current assessment shall not exceed ten percent of the value in the preceding assessment or one fourth one-half of the total amount of the increase in valuation whichever is greater; the excess, together with any increase in value which has occurred since the previous assessment, shall be entered in a subsequent year or years; provided, however, that if the amount of the increase in market value is*

*(i) more than ten percent but no more than 20 percent, the excess shall be entered in the following year;*

*(ii) more than 20 percent but no more than 40 percent, ten percent shall be entered in each subsequent year until the amount remaining to be entered is less than 10 percent in which case the amount remaining will be entered in the next subsequent year; or*

*(iii) more than 40 percent, the excess shall be entered equally in the three subsequent years added to the market value of the property which shall be used for the purpose of determining taxes to be levied in 1980, payable in 1981. In all subsequent assessments, all real property shall be assessed at its full market value.*

*(b) In the case of property described in section 273.13, subdivisions 6, 7, 7b, 10, 12, 17, 17b and 19, plus all agricultural property and all real estate devoted to temporary and seasonal residential occupancy for recreational purposes which was not subject to the five percent limitation in valuation increase for the 1973 or the 1974 assessment that was previously provided pursuant to Minnesota Statutes 1974, Section 273.11, Subdivision 2, the value to be used for levying the 1976 taxes payable in 1977 shall be set at the average percent of market value used for the respective class of property in the 1976 tax levies in its assessment district if the market value as determined by the assessor pursuant to section 273.11, subdivision 1 exceeds by more than ten percent the limited market value established for that class of property. Such property shall subsequently increase in value for property tax purposes as prescribed in clause (a).*

Sec. 7. Minnesota Statutes 1978, Section 273.13, Subdivision 4, is amended to read:

Subd. 4. [CLASS 3.] (a) Tools, implements and machinery of an electric generating, transmission or distribution system or a pipeline system transporting or distributing water, gas, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures, all agricultural land, except as provided by classes 1, 3b, 3e, all buildings and structures assessed as personal property and situated upon land of the state of Minnesota or the United States government which is rural in character and devoted or adaptable to rural but not necessarily agricultural use shall constitute class 3

and shall be valued and assessed at 33 $\frac{1}{3}$  percent of the market value thereof, except as provided in clause (b). Except as provided in subdivision 5a, all real property devoted to temporary and seasonal residential occupancy for recreational purposes, and which is not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, shall be class 3 property and assessed accordingly. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for such use.

(b) For taxes assessed in 1977 1979 , payable in 1978 1980 and thereafter , agricultural land and real property devoted to temporary and seasonal residential occupancy for recreation purposes which is classified as class 3 shall be assessed at 31 27 percent of its market value , and ~~for taxes assessed in 1978, payable in 1979 and thereafter, it shall be assessed at 30 percent of its market value.~~

Sec. 8. Minnesota Statutes 1978, Section 273.13, Subdivision 5a, is amended to read:

Subd. 5a. [CLASS 3A.] Class 3a shall constitute commercial use real property which 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, which includes a portion used as a homestead by the owner, with the following limitations: the area of the property which shall be included in class 3a shall not exceed 100 feet of lakeshore footage for each cabin located on the property, up to a total of 800 feet, and 500 feet in depth measured away from the lakeshore. Class 3a shall be assessed at 18 14 percent of the market value thereof in 1977 1979, for taxes payable in 1978 1980 , and at 16 percent thereafter. The remainder of the parcel shall be classified and assessed according to the provisions of subdivision 4.

Sec. 9. Minnesota Statutes 1978, Section 273.13, Subdivision 6, is amended to read:

Subd. 6. [CLASS 3B.] Agricultural land, except as provided by class 1 hereof, and which is used for the purposes of a homestead shall constitute class 3b and shall be valued and assessed at 18 14 percent of the its market value thereof in 1977 1979 , for taxes payable in 1978, 1980 and at 16 percent thereafter. The property tax to be paid on class 3b property as otherwise determined by law not exceeding 120 acres less any reduction received pursuant to section 273.135, regardless of whether or not the market value is in excess of the homestead base value, shall be reduced by 45 50 percent of the tax; provided that the amount of said reduction shall not exceed \$325 \$500 . Valuation subject ~~to relief in 1977 for taxes payable in 1978 shall be limited to 120 acres of land, most contiguous surrounding, or bordering the house occupied by the owner as his dwelling place, and, such other structures as may be included thereon utilized by the owner in an agricultural pursuit. For taxes levied in 1978 payable 1979 and subsequent years, Valuation subject to relief shall be limited to 160~~

acres of land, most contiguous surrounding, ~~or~~ bordering, or closest to the house occupied by the owner as his dwelling place, and such other structures as may be included thereon utilized by the owner in an agricultural pursuit. If the market value is in excess of the homestead base value, the amount in excess of that sum shall be valued and assessed at ~~31~~ 27 percent of its market value in ~~1977~~ 1979, for taxes payable in ~~1978~~ 1980, and at ~~30~~ percent thereafter. The first \$12,000 market value of each tract of real estate which is rural in character and devoted or adaptable to rural but not necessarily agricultural use, used for the purpose of a homestead shall be exempt from taxation for state purposes; except as specifically provided otherwise by law.

Agricultural land as used herein, and in section 273.132, shall mean contiguous acreage of ten acres or more, primarily used during the preceding year for agricultural purposes. Agricultural use may include pasture, timber, waste, unusable wild land and land included in federal farm programs.

Real estate of less than ten acres used principally for raising poultry, livestock, fruit, vegetables or other agricultural products, shall be considered as agricultural land, if it is not used primarily for residential purposes.

Sec. 10. Minnesota Statutes 1978, Section 273.13, Subdivision 7, is amended to read:

Subd. 7. [CLASS 3C, 3CC.] All other real estate and class 2a property, except as provided by classes 1 and 3cc, which is used for the purposes of a homestead, shall constitute class 3c, and shall be valued and assessed at ~~22~~ 19 percent of the market value thereof in ~~1977~~ 1979, for taxes payable in ~~1978~~, 1980 and at ~~20~~ percent thereafter. The property tax to be paid on class 3c property as otherwise determined by law, less any reduction received pursuant to section 273.135, regardless of whether or not the market value is in excess of the homestead base value, shall be reduced by ~~45~~ 50 percent of the amount of such tax; provided that the amount of said reduction shall not exceed \$~~325~~ \$500. If the market value is in excess of the sum of the homestead base value, the amount in excess of that sum shall be valued and assessed at ~~36~~ 32 percent of market value in ~~1977~~ 1979, for taxes payable in ~~1978~~, 1980 and at ~~33~~ $\frac{1}{2}$  percent thereafter. The first \$12,000 market value of each tract of such real estate used for the purposes of a homestead shall be exempt from taxation for state purposes; except as specifically provided otherwise by law. Class 3cc property shall include only real estate which is used for the purposes of a homestead by (a) any blind person, if such blind person is the owner thereof or if such blind person and his or her spouse are the sole owners thereof; or (b) any person (hereinafter referred to as veteran) who: (1) served in the active military or naval service of the United States and (2) 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 (3) 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 (c) any person who: (1) is permanently and totally disabled and (2) is receiving (i) aid from any state as a result of that disability, or (ii) supplemental security income for the disabled, or (iii) workers' compensation based on a finding of total and permanent disability, or (iv) social security disability, or (v) aid under the federal railroad retirement act of 1937, 45 United States Code Annotated, Section 228b(a)5; which aid is at least 90 percent of the total income of such disabled person from all sources. Class 3cc property shall be valued and assessed at five percent of the market value thereof. 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 him an income. The property tax to be paid on class 3cc property as otherwise determined by law, less any reduction received pursuant to section 273.135, regardless of whether or not the market value is in excess of the homestead base value, for all purposes shall be reduced by 45 50 percent of the amount of such tax; provided that the amount of said reduction shall not exceed \$325 \$500. If the market value is in excess of the sum of \$28,000, the amount in excess of that sum shall be valued and assessed at 31 27 percent in 1977, 1979 for taxes payable in 1978 1980 and 30 percent thereafter, in the case of agricultural land used for a homestead and 36 32 percent in the case of all other real estate used for a homestead for taxes payable in 1978 1980 and 33 1/2 percent for taxes payable in 1979 and subsequent years.

Sec. 11. Minnesota Statutes 1978, Section 273.13, Subdivision 14a, is amended to read:

Subd. 14a. [BUILDINGS AND APPURTENANCES ON LAND NOT OWNED BY OCCUPANT.] The property tax to be paid in respect of the value of all buildings and appurtenances thereto owned and used by the occupant as a permanent residence, which are located upon land subject to property taxes and the title to which is vested in a person or entity other than the occupant, for all purposes shall be reduced by 45 50 percent of the amount of the tax in respect of said value as otherwise determined by law, but not by more than \$325 \$500.

Sec. 12. Minnesota Statutes 1978, Section 273.17, Subdivision 1, is amended to read:

273.17 [ASSESSMENT OF REAL PROPERTY.] Subdivision 1. In every year, on January 2, the assessor shall also assess all real property that may have become subject to taxation since the last previous assessment, including all real property platted since the last real estate assessment, and all buildings or other structures of any kind, whether completed or in process of construction, of over \$1,000 in value, the value of which has not been previously

added to or included in the valuation of the land on which they have been erected. The newly assessed property shall be valued initially at a value not exceeding the average percent of market value used in the tax levies for its respective class of property in its assessment district if the market value as determined by the assessor pursuant to section 273.11, subdivision 1 exceeds by more than ten percent the limited market value established for that class of property. The assessment shall be increased to market value in annual increments as provided in section 273.11, subdivision 2 until such time as the property is reassessed. He shall make return thereof to the county auditor, with his return of personal property, showing the tract or lot on which each structure has been erected and the market value added thereto by such erection. Every assessor shall list, without revaluing, in each year, on a form to be prescribed by the commissioner of revenue, all parcels of land that shall have become homesteads or shall have ceased to be homesteads for taxation purposes since the last real estate assessment, and other parcels of land when the use of the land requires a change in classification or the land has been incorrectly classified in a previous assessment.

The county auditor shall note such change in the assessed valuation upon the tax lists, caused by a change in classification, and shall calculate the taxes for such year on such changed valuation. In case of the destruction by fire, flood, or otherwise of any building or structure, over \$100 in value, which has been erected previous to the last valuation of the land on which it stood, or the value of which has been added to any former valuation, the assessor shall determine, as nearly as practicable, how much less such land would sell for at private sale in consequence of such destruction, and make return thereof to the auditor.

Sec. 13. Minnesota Statutes 1978, Section 275.125, Subdivision 6a, is amended to read:

Subd. 6a. (1) In addition to the excess levy authorized in subdivision 6, in 1976 any district within a city of the first class which was authorized in 1975 to make a retirement levy under sections 275.127 and 422A.01 to 422A.25 may levy an amount per pupil unit which is equal to the amount levied in 1975 payable 1976, under sections 275.127 and 422A.01 to 422A.25, divided by the number of pupil units in the district in 1976-1977.

(2) In 1977 1979 and each year thereafter, any district which qualified in 1976 for an extra levy under clause (1) shall be allowed to levy the same amount per pupil unit allowed by that clause, as levied for retirement in 1978 under this clause reduced each year by ten percent of the difference between the amount levied for retirement in 1971 under Minnesota Statutes 1971, Sections 275.127 and 422.01 to 422.54 and the amount levied for retirement in 1975 under Minnesota Statutes 1974, Sections 275.127 and 422A.01 to 422A.25.

Sec. 14. Minnesota Statutes 1978, Section 290A.03, Subdivision 3, is amended to read:

Subd. 3. [INCOME.] "Income" means the sum of the following:

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1976; 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 Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a) (1), (a) (2), (a) (3), (a) (10), (a) ~~(13)~~ (14), and (a) ~~(14)~~ (15);

(ii) all nontaxable income;

(iii) recognized net long term capital gains;

(iv) dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954;

(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, supplemental security income, and veterans disability pensions), 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) nontaxable interest received from the state or federal government or any instrumentality or political subdivision thereof;

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits; and

(xi) 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. 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. "Income" does not include

(a) amounts excluded pursuant to the Internal Revenue Code, Section 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) gifts from nongovernmental sources;

(d) surplus food or other relief in kind supplied by a governmental agency; or

(e) relief granted under sections 273.012, subdivision 2 or 290A.01 to 290A.21 ; or

(f) *child support payments received under a temporary or final decree of dissolution or legal separation.*

Sec. 15. Minnesota Statutes 1978, Section 290A.03, Subdivision 11, is amended to read:

Subd. 11. [RENT CONSTITUTING PROPERTY TAXES.] "Rent constituting property taxes" means ~~22~~ 23 percent of the gross rent actually paid in cash, or its equivalent, or that portion of gross rent which is paid in lieu of property taxes, in 1977 or any subsequent calendar year by a claimant solely for the right of occupancy of his Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under sections 290A.01 to 290A.21 by the claimant.

Sec. 16. Minnesota Statutes 1978, Section 290A.04, Subdivision 2, is amended to read:

Subd. 2. The refund shall be paid to claimants whose property taxes payable exceed the following percentages of their income, up to the designated maximum credit amounts:

For claimants earning:

\$0 to \$2,999, 0.5 percent, up to ~~\$475~~ \$650 ;  
3,000 to 3,999, 0.6 percent, up to ~~\$475~~ \$650 ;  
4,000 to 4,999, 0.7 percent, up to ~~\$475~~ \$650 ;  
5,000 to 5,999, 0.8 percent, up to ~~\$475~~ \$650 ;  
6,000 to 6,999, 0.9 percent, up to ~~\$475~~ \$650 ;  
7,000 to 7,999, 1.0 percent, up to ~~\$475~~ \$650 ;  
8,000 to 8,999, 1.1 percent, up to ~~\$475~~ \$650 ;  
9,000 to 9,999, 1.2 percent, up to ~~\$475~~ \$650 ;  
10,000 to 10,999, 1.3 percent, up to ~~\$475~~ \$650 ;  
11,000 to 11,999, 1.4 percent, up to ~~\$475~~ \$650 ;  
12,000 to 19,999, 1.5 percent, up to ~~\$475~~ \$650 ;  
20,000 to 22,999, 1.6 percent, up to ~~\$475~~ \$650 ;  
23,000 to 25,999, 1.8 percent, up to ~~\$425~~ \$600 ;  
26,000 to 30,999, 2.0 percent, up to ~~\$375~~ \$550 ;  
31,000 to 35,999, 2.2 percent, up to ~~\$350~~ \$525 ;  
36,000 to 40,999, 2.4 percent, up to ~~\$325~~ \$500 ;  
41,000 to 44,999, 2.6 percent, up to ~~\$325~~ \$500 ;  
45,000 to 52,999, 2.8 percent, up to ~~\$325~~ \$500 ;

53,000 to 65,999, 3.0 percent, up to ~~\$325~~ \$500 ;

66,000 to 81,999, 3.2 percent, up to ~~\$325~~ \$500 ;

82,000 to 99,999, 3.5 percent, up to ~~\$325~~ \$500 ;

100,000 and over, 4.0 percent, up to ~~\$325~~ \$500 ;

provided that maximum credits for incomes above \$20,000 decline according to the following schedule:

between \$20,000 and \$26,000 decline \$16.67 per \$1,000;  
between \$26,000 and \$36,000 decline \$5 per \$1,000.

The payment made to a claimant shall be the amount of refund calculated pursuant to this subdivision, but not exceeding \$675 \$850 , less the homestead credit given pursuant to section 273.13, subdivisions 6 and 7.

Sec. 17. Minnesota Statutes 1978, Section 290A.04, Subdivision 2a, is amended to read:

Subd. 2a. An additional refund shall be allowed each claimant who was not disabled or who had not attained the age of 65 by June 1 of the year in which the taxes were payable and whose claim is based on taxes paid on the home he owns in an amount equal to 25 50 percent of the amount by which property taxes payable and or rent constituting property taxes exceed the sum of (a) the refund calculated pursuant to subdivision 2 and (b) the percentage of the claimant's household income specified in subdivision 2. The sum of the refunds provided in subdivision 2 and this subdivision shall not exceed the maximum amounts provided below.

For claimants earning:

~~\$0 to 19,999, up to \$800 ;~~

20,000 to 25,999, up to ~~\$800~~ \$975 ;

26,000 to 35,999, up to ~~\$650~~ \$825 ;

36,000 and over, up to ~~\$325~~ 500 ;

provided that maximum refunds for incomes above \$20,000 decline according to the following schedule:

between \$20,000 and \$26,000 decline \$25 per \$1,000; between \$26,000 and \$36,000 decline \$32.50 per \$1,000. A claimant who owns his own homestead part of the year and rents part of the year may add his rent constituting property taxes to the qualifying tax on his homestead and receive the additional refund provided in subdivision 2a.

Sec. 18. Minnesota Statutes 1978, Section 290A.04, Subdivision 2b, is amended to read:

Subd. 2b. An additional refund shall be allowed each claimant who is disabled or has attained the age of 65 by June 1 of the year in which the taxes were payable in an amount equal to 50 percent of the amount by which property taxes payable or rent

constituting property taxes exceed the sum of (a) the refund calculated pursuant to subdivision 2 and (b) the percentage of the claimant's household income specified in subdivision 2. The sum of the refunds provided in subdivision 2 and this subdivision shall not exceed the maximum amounts provided below.

For claimants earning:

\$0 to 19,999 up to \$800;

20,000 to 22,999, up to \$800 \$975 ;

23,000 to 25,999, up to \$763 \$938 ;

26,000 to 35,999, up to \$725 \$900 ;

36,000 and over, up to \$525 \$700 ;

provided that maximum refunds for incomes above \$20,000 decline according to the following schedule:

between \$20,000 and \$26,000 decline \$12.50 per \$1,000; between \$26,000 and \$36,000 decline \$20 per \$1,000.

In the case of a claimant who was disabled on or before June 1 or who attained the age of 65 on the date specified in subdivision 1, the refund shall not be less than the refund which the claimant's household income as defined in section 290A.03, and property tax or rent constituting property tax would have entitled him to receive under Minnesota Statutes 1974, Section 290.0618.

Sec. 19. Minnesota Statutes 1978, Section 290A.04, Subdivision 3, is amended to read:

Subd. 3. The commissioner of revenue shall construct and make available to taxpayers a comprehensive table showing the property taxes to be paid and credit allowed to various levels of income and assessment. The table shall follow the schedule of income percentages, maximums and other provisions specified in ~~subdivision~~ subdivisions 2, 2a, and 2b, except that the commissioner may graduate the transition between income brackets.

For homestead property owners who are disabled or are 65 or older, as provided in subdivision 1, the commissioner shall base his determination of the credit on the gross qualifying tax reduced by the average statewide effective homestead credit percentage for taxes payable in 1975 calculated under section 273.13, subdivisions 6 and 7.

Sec. 20. [APPROPRIATION.] *There is appropriated from the general fund to the commissioner of public welfare a sum sufficient to make the increased distribution required under sections 3, 4 and 5.*

Sec. 21. [REPEALER.] *Minnesota Statutes 1978, Section 273.11, Subdivision 2, is repealed.*

Sec. 22. [EFFECTIVE DATE.] *Sections 6 to 12 are effective for taxes levied in 1979, payable in 1980 and thereafter. Section*

14 is effective for low income credits claimed for taxable years beginning after December 31, 1977 and for property tax refund claims based on rent paid in 1978 and property taxes payable in 1977. Sections 15 to 19 are effective for claims based on rent paid in 1979 and property taxes payable in 1980. Section 21 is effective for taxes levied in 1980, payable in 1981 and thereafter.

### ARTICLE III: INHERITANCE TAX

Section 1. Minnesota Statutes 1978, Section 291.005, Subdivision 1, is amended to read:

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

(1) "Probate assets" means and includes property owned by a decedent at the time of his death required by section 524.3-706 to be listed on a personal representative's inventory and appraisal.

(2) "Non-probate assets" means and includes all property of every kind transferred from a decedent or at or by reason of the decedent's death which is subject to the inheritance tax imposed by this chapter (without regard to deductions or exemptions) and which does not consist of probate assets.

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

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

(3) "Resident decedent" means an individual whose residence at the time of his death was in Minnesota.

(4) "Nonresident decedent" means an individual who at the time of his death was not a resident.

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

(3) (6) "Commissioner" means and refers to the commissioner of revenue of this state or any person or body within the state department of revenue to whom he may have delegated his functions under this chapter.

(4) "Dependent child" means a natural child of the decedent, or a child adopted by the decedent who is incapable of furnishing his own support by reason of a physical or mental ailment, illness or deformity. The commissioner may request verification of the physical or mental condition of the child before allowing the exemptions and rates applicable to a dependent child under this chapter.

(5) "Stepchild" means a child who is not the decedent's natural or adopted child but is the natural or adopted child of the decedent's surviving or deceased spouse.

(7) "Internal Revenue Code" means the United States Internal Revenue Code of 1954 as amended through December 31, 1978.

Sec. 2. Minnesota Statutes 1978, Section 291.01, is amended to read:

291.01 [TAX IMPOSED.] Subdivision 1. A tax shall be and is hereby imposed upon any the transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation, except county, town or municipal corporation within the state, for strictly county, town or municipal purposes, in the following cases:

(1) When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of this state;

(2) When a transfer is by will or intestate law, of property within the state or within its jurisdiction and the decedent was a nonresident of the state at the time of his death;

(3) When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death; any transfer of the material part of the property of a deceased in the nature of a final disposition or distribution thereof, made within three years prior to death, without adequate and full consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death; but no such transfer made prior to such three year period shall be deemed or held to have been made in contemplation of death; and

(4) Nothing in this chapter shall be construed as imposing a tax upon any transfer, as defined in this chapter, of intangibles, however used or held, whether in trust or otherwise, by a person, or by reason of the death of a person, who was not a resident of this state at the time of his death.

Subd. 2. Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this chapter.

Subd. 3. A taxable transfer under the provisions of this chapter shall be deemed to have been made:

(1) To the extent of any property with respect to which the decedent has at the time of his death general power of appointment, created on or before October 21, 1942, is exercised by the decedent

(A) by will, or

(B) by disposition which is of such nature that if it were a transfer of property owned by the decedent, such transfer would be taxable under the provisions of this chapter;

but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof. If a general power of appointment created on or before October 21, 1942, has been partially released so that it is no longer a general power of appointment, the exercise of such power shall not be deemed to be the exercise of a general power of appointment if

(a) such partial release occurred before November 1, 1950, or

(b) the donee of such power was under a legal disability to release such power on October 21, 1942, and such partial release occurred not later than six months after the termination of such legal disability.

(2) To the extent of any property with respect to which the decedent has at the time of his death a general power of appointment created after October 21, 1942, or with respect to which the decedent has at any time exercised or released such a power of appointment by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such transfer would be taxable under the provisions of this chapter. A disclaimer or renunciation of such a power of appointment shall not be deemed a release of such power. For purposes of this paragraph (2), the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

(3) To the extent of any property with respect to which the decedent:

(A) by will, or

(B) by a disposition which is of such nature that if it were a transfer of property owned by the decedent such transfer would be taxable under the provisions of this chapter,

exercises a power of appointment created after October 21, 1942, by creating another power of appointment which can be validly exercised so as to postpone the vesting of any estate or interest in such property, or suspend the absolute ownership or power

of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power.

(4) The term "general power of appointment" means a power which is exercisable in favor of the decedent, his estate, his creditors or the creditors of his estate, except that:

(A) A power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent shall not be deemed a general power of appointment;

(B) A power of appointment created on or before October 21, 1942, which is exercisable by the decedent only in conjunction with another person shall not be deemed a general power of appointment.

(C) In the case of a power of appointment created after October 21, 1942, which is exercisable by the decedent only in conjunction with another person:

(a) If the power is not exercisable by the decedent except in conjunction with the creator of the power, such power shall not be deemed a general power of appointment.

(b) If the power is not exercisable by the decedent except in conjunction with a person having a substantial interest in the property, subject to the power, which is adverse to exercise of the power in favor of the decedent, such power shall not be deemed a general power of appointment. For the purposes of this clause a person who, after the death of the decedent, may be possessed of a power of appointment (with respect to the property subject to the decedent's power) which he may exercise in his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the decedent's power.

(c) If, after the application of clauses (a) and (b), the power is a general power of appointment and is exercisable in favor of such other person, in such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such persons, including the decedent, in favor of whom such power is exercisable. For purposes of clauses (b) and (c), a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

(5) The lapse of a power of appointment created after October 21, 1942, during the life of the individual possessing the power shall be considered a release of such power. The preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property, which could have been appointed by exercise of such lapsed powers, exceeded in value, at the time of such lapse, the greater of the following amounts:

(a) \$5,000 or

(b) Five percent of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied.

(6) For purposes of this subdivision, a power of appointment created by a will executed on or before October 12, 1942, shall be considered a power created on or before such date if the person exercising such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

Subd. 4. Whenever any property, real or personal is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositories in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance tax imposed by this chapter, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than an adequate and full consideration in money or money's worth; in which case there shall be excepted only such part as is proportionate to the consideration furnished by the survivor or survivors. Provided, where any property has been acquired prior to April 20, 1935, by the decedent and spouse, as joint tenants, not in excess of one-half of the value thereof shall be taxable. Provided, further, where property has been acquired at any time by gift, bequest, devise, or inheritance, by the decedent and any other person or persons, as joint tenants, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value of the property by the number of joint tenants.

Where personal property is held in joint names, such property shall be deemed to be transferred to the survivors as provided in this subdivision unless it is established to the satisfaction of the commissioner that the decedent intended a different disposition. Upon the showing of evidence of that intent to the commissioner, the right of survivorship shall not be deemed to be a transfer to the named survivors subject to the inheritance tax, provided the survivors make the disposition according to the evidenced intention of the decedent and present to the commissioner statements signed by the transferees acknowledging receipt of the property from the named survivor; the disposition by the survivors to the transferees shall be deemed a transfer from the decedent to the transferees and shall be subject to the inheritance tax imposed by this chapter. This paragraph shall not apply to cases where the aggregate value of joint tenancy assets exceeds \$30,000.

Subd. 5. (1) The proceeds of all life or accident insurance policies whether now in force or hereafter issued, payable on account of the decedent's death shall be subject to the tax herein imposed, as follows:

(a) To the extent of the amount receivable by the executor of the decedent as insurance under policies on the life of the decedent.

(b) To the extent of the amount receivable by all other beneficiaries as insurance under policies on the life of the decedent with respect to which the decedent possessed at his death any of the incidents of ownership, exercisable either alone or in conjunction with any other person. For purposes of the preceding sentence, the term "incident of ownership" includes a reversionary interest (whether arising by the express terms of the policy or other instrument or by operation of law) only if the value of such reversionary interest exceeded five percent of the value of the policy immediately before the death of the decedent. As used in this paragraph, the term "reversionary interest" includes a possibility that the policy, or the proceeds of the policy, may return to the decedent or his estate, or may be subject to a power of disposition by him. The value of a reversionary interest at any time shall be determined (without regard to the fact of the decedent's death) by usual methods of valuation, including the use of tables of mortality and actuarial principles, pursuant to regulations prescribed by the commissioner of internal revenue or his delegates. In determining the value of a possibility that the policy or proceeds thereof may be subject to a power of disposition by the decedent, such possibility shall be valued as if it were a possibility that such policy or proceeds may return to the decedent or his estate.

(2) Such proceeds shall be deemed a transfer within the meaning of that term as used in this chapter and a part of decedent's estate, and shall be taxable to the person or persons entitled thereto.

(3) Every corporation, partnership, association, individual, order or society authorized to transact life, accident, fraternal, mutual benefit, or death benefit insurance business which shall pay to any person, association, or corporation any insurance or death benefit in excess of \$1,000 or shall transfer any unpaid balance of, or any interest in, any annuity contract or deposit, upon the death of a resident of this state, shall give notice of such payment or transfer to the commissioner within ten days from the date thereof. Such notice shall be given on the forms prescribed by the commissioner and such notice shall set forth such information as the commissioner shall prescribe the Minnesota taxable estate of every decedent as prescribed by chapter 291.

Sec. 3. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.015] [DETERMINATION OF MINNESOTA TAXABLE ESTATE.] *The Minnesota taxable estate of a decedent shall be his federal gross estate as defined in Section 2031 of the Internal Revenue Code less the sum of:*

(1) *The value of any gifts of real property located outside this state which are otherwise includable in the federal gross estate under section 2035(a) of the Internal Revenue Code;*

(2) *The value of property owned by the decedent at the time of his death which has its situs outside Minnesota;*

(3) *The exemptions and deductions allowed pursuant to sections 291.05, 291.051, 291.065, 291.07, and 291.08; and*

(4) *The sum of \$200,000, provided that, in the case of a non-resident decedent, this amount shall be reduced by that proportion of the value of the decedent's federal gross estate which has its situs outside of this state.*

Sec. 4. Minnesota Statutes 1978, Section 291.03, is amended to read:

291.03 [RATES.] *When the property or any beneficial interest therein passes by any such transfer where the amount of the property shall exceed in value the exemption or exemptions hereinafter specified; where applicable, The tax hereby imposed shall be :*

(1) *Where the person entitled to any beneficial interest in such property shall be the surviving spouse, minor or dependent child of the decedent, or any minor or dependent legally adopted child at computed by applying to the Minnesota taxable estate the following prescribed rates:*

1- $\frac{1}{2}$  7 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 291.05, clauses (3) through (7) \$100,000.

2 8 percent on the next \$25,000 \$100,000 or part thereof.

3 9 percent on the next \$50,000 \$100,000 or part thereof.

4 10 percent on the next \$50,000 \$200,000 or part thereof.

5 11 percent on the next \$50,000 \$500,000 or part thereof.

6 percent on the next \$100,000 or part thereof.

7 percent on the next \$100,000 or part thereof.

8 percent on the next \$100,000 or part thereof.

9 percent on the next \$500,000 or part thereof.

10 12 percent on the excess over \$1,000,000.

(2) *Where the person or persons entitled to any beneficial interest in such property shall be the adult child or other lineal descendant of the decedent, adult legally adopted child or issue, lineal ancestor of the decedent, stepchild as defined in section 291.005, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent; provided, such mutually acknowledged relationship began at or before the child's fifteenth birthday and was continuous for said ten years thereafter, or any lineal issue of such mutually acknowledged child, at the following prescribed rates:*

2 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 291.05, clauses (3) through (7).

4 percent on the next \$25,000 or part thereof.

- 6 percent on the next \$50,000 or part thereof.
- 7 percent on the next \$100,000 or part thereof.
- 8 percent on the next \$200,000 or part thereof.
- 9 percent on the next \$600,000 or part thereof.
- 10 percent on the excess over \$1,000,000.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or a husband or widower of a daughter of the decedent, at the following prescribed rates:

6 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 201.05, clauses (3) through (7).

- 8 percent on the next \$25,000 or part thereof.
- 10 percent on the next \$50,000 or part thereof.
- 12 percent on the next \$50,000 or part thereof.
- 14 percent on the next \$50,000 or part thereof.
- 16 percent on the next \$100,000 or part thereof.
- 18 percent on the next \$100,000 or part thereof.
- 20 percent on the next \$100,000 or part thereof.
- 22 percent on the next \$500,000 or part thereof.
- 25 percent on the excess over \$1,000,000.

(4) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the following prescribed rates:

8 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 201.05, clauses (3) through (7).

- 10 percent on the next \$25,000 or part thereof.
- 12 percent on the next \$50,000 or part thereof.
- 14 percent on the next \$50,000 or part thereof.
- 16 percent on the next \$50,000 or part thereof.
- 18 percent on the next \$100,000 or part thereof.
- 20 percent on the next \$100,000 or part thereof.
- 22 percent on the next \$100,000 or part thereof.
- 26 percent on the next \$500,000 or part thereof.

**30 percent on the excess over \$1,000,000.**

*Provided that the amount of tax imposed by this chapter on the transfer of any estate shall not be less than the maximum tax credit allowable for state death taxes against the federal estate tax imposed with respect to that part of the decedent's estate which has a taxable situs in this state.*

Sec. 5. Minnesota Statutes 1978, Section 291.05, is amended to read:

**291.05 [EXEMPTIONS.]** The following exemptions from the tax are hereby allowed:

(1) Any devise, bequest, gift, or transfer : (a) to or for the use of the United States of America or any state or any political subdivision thereof for public purposes exclusively, and any ~~devise, bequest, gift, or transfer~~ ; (b) to or for the use of any corporation fund, foundation, trust, or association operated within this state for religious, charitable, scientific, literary, education or public cemetery purposes exclusively, including the encouragement of art and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or individual, and any ~~bequest or transfer~~ or to a trustee or trustees exclusively for such purposes, shall be exempt. ~~Any devise, bequest, gift, or transfer~~ ; (c) to an employee stock ownership trust as defined in section 290.01, subdivision 25, shall be exempt. *Where provided that, if the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the exemption shall be reduced by the product of multiplying said amount by their percentage interest in the trust.*

~~Any devise, bequest, gift, or transfer, not to exceed \$1,000 made;~~ (d) to a clergyman, *in an amount not exceeding \$1,000*, the proceeds of which are to be used for religious purposes or rites designated by the testator ; shall be exempt. ~~Any devise, bequest, gift, or transfer~~ ; and (e) to or for the use of any corporation, fund, foundation, trust, or association operated for religious, charitable, scientific, literary, education, or public cemetery purposes exclusively, including the encouragement of art, and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or any individual, and any ~~bequest or transfer~~ or to a trustee or trustees exclusively for such purposes, shall be exempt, if, at the date of the decedent's death, the laws of the state under the laws of which the transferee was organized or existing, either (1) did not impose a death tax of any character, in respect of property transferred to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of this state, or (2) contained a reciprocal provision under which transfers to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of another state were exempted from death taxes of every character if such other state allowed a similar exemption to a similar corporation, fund, foundation, trust, or association, organized under the laws of such state.

(2) The homestead of a decedent, and the proceeds thereof if sold during administration, transferred to the spouse or to any minor or dependent child of the decedent, or to any minor or dependent legally adopted child of the decedent, shall be exempt to the extent of \$45,000 of the appraised value thereof. In no case shall the quantity of land considered to be the homestead of a decedent for the purpose of this exemption exceed 120 acres if the land is not included in the laid out or platted portion of a city. If the land is within a laid out or platted portion of a city, its area shall not exceed one-half of an acre. In the case of a decedent's estate wherein no property or beneficial interest therein passing by reason of death is eligible for the homestead exemption because the decedent did not have an interest in property constituting a homestead at the time of his death, there shall be allowed an exemption in lieu of the homestead exemption, in the amount of \$10,000. The exemption shall be allocated among the surviving spouse and the decedent's natural or adopted minor or dependent children in proportion to the total amount of property or any interest therein passing to such spouse and children.

Proceeds of any insurance policy issued by the United States and generally known as war risk insurance, United States government life insurance or national service life insurance payable upon the death of any person dying on or after June 24, 1950, shall be exempt.

Proceeds of life insurance issued pursuant to Public Law 89-214 and generally known as servicemen's group life insurance payable upon the death of any person on or after September 1, 1965, shall be exempt. Claims for refunds of inheritance tax paid on such proceeds shall be accepted by the commissioner if filed with him by December 31, 1970, or within 18 months after such payment, whichever is later.

*Proceeds of payments made by the United States government as compensation for the decedent's service as a member of the armed forces of the United States during a period while he was classified as missing in action prior to being declared dead, shall be exempt. The commissioner shall make refunds for inheritance taxes paid which are attributable to payments exempt pursuant to this paragraph upon the filing of a claim by each beneficiary of the estate for his portion of the inheritance tax paid. Claims for refund must be filed with the commissioner no later than July 1, 1982.*

(3) Proceeds of payments from the United States railroad retirement fund; or from the United States as social security benefit or veterans burial benefit, shall be exempt.

(3) (i) Property or any beneficial interest therein of the clear value of \$60,000 transferred to the surviving spouse, shall be exempt.

(ii) Provided, where the amount of family maintenance allowed by the probate court is less than the maximum deductible under the provisions of section 201-10, or if no such maintenance is allowed, there shall be allowed to the surviving spouse an additional

exemption equal in amount to the difference between the maximum deduction as provided by section 201.10 and the amount of such family maintenance allowed by the probate court. Further provided, where no probate proceedings are had there shall be allowed to the surviving spouse an additional exemption equal to the maximum deduction allowed for family maintenance under the provisions of section 201.10.

(4) (i) Property or any beneficial interest therein of the clear value of \$30,000 transferred to each minor or dependent child of the decedent, or any minor or dependent legally adopted child of the decedent, shall be exempt.

(ii) Provided, where the decedent left no surviving spouse entitled to the exemption allowed by clause (3) of this section the exemption allowed by subparagraph (ii) of clause (3) shall be allowed to beneficiaries entitled to exemption under the provisions of this clause. In no event shall the aggregate amount of exemption so allowed be in excess of the additional amount that would have been allowed under subparagraph (ii) of clause (3) had such paragraph been applicable.

(5) Property or any beneficial interest therein of the clear value of \$6,000 transferred to any adult child or other lineal descendant of the decedent, any adult legally adopted child, stepchild as defined in section 201.005, or any child to whom the decedent, for not less than ten years prior to his death, stood in the mutually acknowledged relation of a parent, provided, such mutually acknowledged relationship began at or before the child's fifteenth birthday, and was continuous for ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, or any lineal ancestor of the decedent, shall be exempt.

(6) Property or any beneficial interest therein of the clear value of \$1,500 transferred to any brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or a husband or widower of a daughter of the decedent, shall be exempt.

(7) Property or any beneficial interest therein of the clear value of \$500 transferred to any person in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate not exempt under this chapter, shall be exempt.

Sec. 6. Minnesota Statutes 1978, Section 291.051, is amended to read:

291.051 [MARITAL DEDUCTION] Subdivision 1. For the purposes of this section, the terms defined in this subdivision shall have the meaning given them herein.

"Marital exemption" means 50 percent, but not more than \$250,000, of the net taxable value passing to the surviving spouse of a decedent domiciled in Minnesota at the time of his death.

"Net taxable value" means the gross value passing to the surviving spouse, reduced by the value of real property outside Minnesota and tangible personal property permanently located outside Min-

nesota included in the gross value passing to the surviving spouse, and reduced by the deductions attributable to such gross value pursuant to section 291.07, except subdivision 1, clause (5), but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2), and (3), and 291.10.

"Marital exemption tax" means a tax imposed at the rates provided by this chapter on the value of property passing to the surviving spouse less the marital exemption, but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2) and (3) and 291.10.

Subd. 2. If the marital exemption tax on the property passing to the surviving spouse is less than a tax computed on that property under the other provisions of this chapter, the marital exemption tax shall be imposed in lieu of the tax computed under the other provisions. For the purpose of section 3, clause (3), the value of the Minnesota taxable estate shall, except as limited by subsection (b) of Section 2056 of the Internal Revenue Code and by subdivision 2, be determined by deducting from the value of the federal gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse, but only to the extent that the interest has a taxable situs in this state and is included in determining the value of the federal gross estate. An interest in property shall be considered as passing from the decedent to his surviving spouse if it is considered as passing from the decedent to the surviving spouse under Section 2056(d) of the Internal Revenue Code.

Subd. 2. [LIMITATION.] The amount of the deduction allowed under this section for a resident decedent shall not exceed the greater of:

(a) \$250,000, or

(b) 50 percent of the value of the federal adjusted gross estate as defined in Section 2056(c)(2)(A) of the Internal Revenue Code,

reduced by an amount equal to the adjustment made, if any, for federal estate tax purposes with respect to any gift or gifts made by the decedent to his spouse after December 31, 1976 under Section 2056(c)(1)(B) of the Internal Revenue Code, and further reduced by the value of any property passing from the decedent to his surviving spouse which is exempt from estate tax under section 291.065 and is included in determining the value of the federal gross estate. In the case of a nonresident decedent, the amount of the deduction allowed under this section shall be determined without reference to subpart (a) of this subdivision.

Sec. 7. Minnesota Statutes 1978, Section 291.06, is amended to read:

291.06 [CREDIT FOR PREVIOUSLY PAID TAXES.] Where property is transferred to any person described in section 291.03, clauses (1) and (2), which can be identified as having been trans-

ferred to the decedent *at death* from a person who died within five years prior to the death of the decedent, and such transfer to the decedent was within the class of transfer described in said section 291.03, clauses (1) and (2); such property shall be exempt to the extent of the value thereof at the date of death of the prior decedent but not to exceed the value at the date of death of the second decedent. Provided, (1) no such exemption shall be allowed unless an inheritance tax was determined and paid to this state on the transfer thereof from the said prior decedent; (2) the exemption shall be limited to the value of property which is in excess of the amount of the exemption provided in section 291.05 allowed on the transfer to the decedent; (3) unless such previously transferred property is specifically devised or bequeathed, the exempt property for purposes of taxation shall be considered as belonging to the residue of the estate; (4) property exempt under this section shall not be included in computing the rate applicable to other transfers to the beneficiary receiving such exempt property or can be identified as having been acquired in exchange for property so received, a credit for any transfer taxes paid pursuant to the provisions of this act or any inheritance tax paid pursuant to the provisions of Minnesota Statutes, Chapter 291 in effect prior to the effective date of this act upon that property during the preceding five years shall be allowed upon the transfer tax at his death. This credit shall not exceed the allocable portion of the tax due with respect to that property for estate tax purposes.

Sec. 8. Minnesota Statutes 1978, Section 291.065, is amended to read:

291.065 [EMPLOYEE RETIREMENT PLANS, EXEMPTION.] *To the extent included in the federal gross estate*, the value of an annuity or other payment receivable by a surviving spouse or minor or dependent child of the decedent or a trust for their benefit after December 21, 1956, shall be exempt from inheritance estate tax if received under (1) an employees' trust (or under a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit sharing plan, which at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of section 401(a) of the Internal Revenue Code of 1954, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue; (2) a retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan, which at the time of the decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of paragraph (3) of section 401(a) of such code, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue; or (3) a retirement annuity contract purchased by an employer which is an organization referred to in section 503(b) (1) (2) or (3) of such code and which is exempt from tax under section 501(a) of such code, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue any plan, which at the time of the decedent's separation from employment, whether by death or otherwise, or at the time of termination of the

plan if earlier, qualified under section 401, 403, 404, 405, 408 or 409 of the Internal Revenue Code; (2) a benefit plan for employees of the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions or any other state or its political or governmental subdivisions; or (3) for members of a Minnesota volunteer firefighters' relief association. If such amounts payable after the death of the decedent under a plan described in clause (1) (2) or (3) are attributable to any extent to payments or contributions made by the decedent, no exemption shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of the preceding sentence, contributions or payments made by the decedent's employer or former employer under a trust or plan described in clause (1) (2) or (3) shall not be considered to be contributed by the decedent.

Sec. 9. Minnesota Statutes 1978, Section 291.07, Subdivision 1, is amended to read:

291.07 [DEDUCTIONS.] Subdivision 1. In determining the tax imposed by section 291.01, where, a personal representative has been appointed for the estate, or where a decree of descent for the estate has been entered under section 525.31 or where there have been summary proceedings for the estate if under section 525.51, the following deductions shall be allowed:

(1) funeral expenses;

(2) probate reasonable legal, accounting, fiduciary and administration expenses and fees with respect to both probate and non-probate assets, including but not limited to expenses incurred during administration in converting real and personal property held by the estate into cash ;

(3) expenses of last illness unpaid at death;

(4) valid claims against and debts of the decedent, unpaid at death, which have been properly paid;

(5) family maintenance to the extent provided by section 291.10

(6) value of personal property to the extent of the amount allowed under the provisions of section 525.15

(7) federal estate taxes determined as follows:

(a) the value of the net estate taxable in Minnesota reduced by the deduction allowable for transfer for public, charitable and religious use as prescribed by Internal Revenue Code, Section 2055 and by the marital deduction as prescribed by Internal Revenue Code, Section 2056, shall be the numerator of a fraction;

(b) the denominator of the fraction shall be the value of the net estate everywhere reduced by the same class of deductions allowable in subparagraph (a) above;

~~(c)~~ the ratio of the fraction so derived shall be multiplied by the federal estate tax due and payable to the United States Treasury.

~~(d)~~ for purposes of this clause, the net estate is defined as the gross value of the estate on the applicable valuation date reduced by any unpaid mortgages on, or any indebtedness in respect of, property where the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate.

~~(8)~~ other taxes which have accrued and are a lien on property in the estate at the time of death

~~(9)~~ reasonable fees for legal or fiduciary services incident to non-probate assets

~~(10)~~ (5) Minnesota and federal income taxes on "income in respect of a decedent," as computed under subdivision 3.

(6) federal estate taxes allocable to the Minnesota taxable estate. The portion of federal estate taxes allocable to the Minnesota taxable estate shall be equal to the amount obtained by multiplying the total federal estate tax by a fraction, the numerator of which is the Minnesota taxable estate plus the amount of the federal estate tax on the estate of the decedent and the denominator of which is the federal taxable estate for federal estate tax purposes;

(7) real estate taxes due and payable prior to or in the year of the decedent's death with respect to real estate subject to taxation under chapter 291 and other taxes which have accrued and are a lien on property in the estate at the time of death;

(8) liens and mortgages on property subject to taxation under chapter 291 which are not deductible as claims or debts of the decedent.

Sec. 10. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.075] [ALTERNATE VALUATION OF QUALIFIED PROPERTY.] *When property subject to the tax imposed by chapter 291 qualifies for valuation based on its use pursuant to section 2032A of the Internal Revenue Code, it shall have the same value for Minnesota estate tax purposes as it has for federal estate tax purposes.*

Sec. 11. Minnesota Statutes 1978, Section 291.08, is amended to read:

291.08 [NONRESIDENT ESTATES: ALLOWANCE OF DEDUCTIONS AND EXEMPTIONS.] ~~(a)~~ Where any a tax is due on the transfer of any property or interest therein owned by a non-resident, the following deductions and exemptions shall be allowed as provided in clauses ~~(b)~~ and ~~(c)~~ below:

~~(b)~~ Deductions.

- (1) Funeral expenses to the extent incurred in Minnesota;
- (2) Minnesota probate administration expense;
- (3) Family maintenance to the extent provided by section 291.10, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;
- (4) Value of personal property to the extent of the amount allowed under section 525.15, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;
- (5) Reasonable legal, accounting, fiduciary and administration fees and expenses allocable to both probate and nonprobate property included in the Minnesota gross estate;
- (3) Federal estate taxes subject to the limitations imposed by as computed in section 291.07;
- (6) Other (4) Real estate taxes which have accrued and are a lien on Minnesota property at the time of death, or which are owed to Minnesota in respect of taxable income, due and payable prior to or in the year of the decedent's death.
- (5) Liens and mortgages on property included in the Minnesota gross estate.
- (7) Reasonable fees for legal or fiduciary services incident to nonprobate assets taxable in Minnesota.
- (e) Exemptions. The exemptions applicable to the person entitled to a beneficial interest shall be allowed as in the case of residents under section 291.05, reduced by the maximum exemption allowed or allowable under the laws of the state of residence of the decedents.

Sec. 12. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

*Subd. 1a. In all instances in which a resident decedent dies after December 31, 1979 and before January 1, 1981 leaving a federal gross estate in excess of \$161,000 and in all instances in which a resident decedent dies after December 31, 1980 leaving a federal gross estate in excess of \$175,000, and the decedent has an interest in property with a situs in Minnesota, and in all instances in which a non-resident decedent has a liability under chapter 291, the personal representative shall submit to the commissioner, on a form prescribed by the commissioner, a Minnesota estate tax return. The return shall be accompanied by a federal estate tax return and shall contain a computation of the Minnesota estate tax due. The return shall be signed by the personal representative.*

Sec. 13. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

*Subd. 2a. The commissioner may designate on the return the documents that are required to be filed together with the return*

*in order to determine the proper valuation of assets and computation of tax. The commissioner shall not be bound by any item on the return unless he has received all required documents and unless all items of information on the return have been completed.*

Sec. 14. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

*Subd. 3a. (a) The commissioner may challenge matters of valuation or taxability of any assets reported on the return, or any deductions claimed, or the computation of tax, only if within 90 days of receipt of the return and all documents required to be filed with the return, the commissioner mails or delivers a written notice to the personal representative objecting to the return as filed and specifying the reasons for the objection.*

*(b) If the personal representative disagrees with the objection or does not wish to fully comply with the objection, he may request that the commissioner hold a hearing on the objection. Within 30 days of receipt of a request, the commissioner shall set a time and place for hearing. Unless otherwise agreed upon, the hearing date shall not be earlier than 30 days nor later than 60 days from the date of the notice setting the hearing. The notice of hearing shall set forth the rights available to the personal representative under chapter 15. Not later than 30 days after the commissioner receives the report and recommendation of the hearing examiner, or a written waiver of his hearing rights by the personal representative, the commissioner shall issue an order determining the tax. Any such determination made by the commissioner may be appealed to the tax court as provided in section 271.09.*

*(c) At any time together with or after the objection, the commissioner, on his own initiative, may set a time and place for a hearing in accordance with (b) above.*

*(d) In his objection, or at any time thereafter, the commissioner may assess any additional tax as the facts may warrant, subject to the right of the personal representative to demand a hearing under chapter 15. If the personal representative does not demand a hearing within 90 days of the date of the assessment, the tax so assessed shall be legally due and the commissioner may proceed to collect any unpaid tax after one year from the date of death. If the commissioner later finds the tax assessment to be erroneous, he may adjust the assessment prior to collection.*

*(e) The commissioner shall not be required to object to any subsequent original, amended or supplemental return in order to preserve his rights. The commissioner shall not be precluded from objecting to a subsequent original, amended or supplemental return even though an original return was accepted as filed. If the commissioner had accepted an original return showing no tax due and a subsequent original, amended or supplemental return discloses additional assets not disclosed on the original return,*

*the commissioner may object to any matter of valuation, taxability, deduction or computation of tax on the original return within 90 days of receipt of the subsequent original, amended or supplemental return.*

*(f) Subject to the provisions of section 291.11, the Minnesota estate tax liability shall be considered as finally determined on the date notification of acceptance is issued to the personal representative or, if no objection is filed, on the 91st day after the return, together with all other documents required to be filed with the return, is received.*

*(g) Subject to the time limits imposed elsewhere in this chapter, the commissioner may refund an overpayment of tax penalty or interest even though the personal representative has not made an application for refund.*

Sec. 15. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

*Subd. 4a. If any estate tax return required to be filed pursuant to the provisions of this section has not been filed, the commissioner may make and file a return including a computation of the tax resulting from the transfers therein reported. At the time of the filing the commissioner shall mail copies of the return to the personal representative, if any, and to each person from whom any portion of the tax is due. The return may be objected to and a hearing held on the objections in the manner provided in subdivision 3a.*

Sec. 16. Minnesota Statutes 1978, Section 291.09, Subdivision 5, is amended to read:

*Subd. 5. Notwithstanding other provisions of this chapter, when agreed in writing between the commissioner and the representative, values for purposes of the inheritance estate tax on both probate and non-probate assets shall be the same as those finally determined for purposes of the federal estate tax on a decedent's estate.*

Sec. 17. Minnesota Statutes 1978, Section 291.09, Subdivision 7, is amended to read:

*Subd. 7. The inheritance estate tax return, except as otherwise provided in this chapter, shall be filed with the commissioner within 12 months after the decedent's death.*

Sec. 18. Minnesota Statutes 1978, Section 291.11, Subdivision 1, is amended to read:

**291.11 [TIME EFFECTIVE.] Subdivision 1. [UPON DEATH; TIME OF ASSESSMENT.]** (a) All taxes imposed by this chapter shall take effect at and upon the death of the person from whom the transfer is made whose estate is subject to taxation and shall be due and payable at the expiration of 12 months from such death, except as otherwise provided in this chapter. Provided, that any taxpayer who owes at least \$5,000 in taxes may choose to pay these taxes in five equal installments over a

period of time not to exceed five years from the death of the person from whom the transfer is made *whose estate is subject to taxation* or five years from the expiration of the extension granted by the commissioner pursuant to section 291.132, whichever is later. When a taxpayer elects to pay the tax in installments, he shall notify the commissioner in writing no later than 12 months after the death of the person from whom the transfer is made *whose estate is subject to taxation*. If the taxpayer fails to pay an installment on time, the election shall be revoked and the entire amount of unpaid tax shall be due and payable 90 days after the date on which the installment was payable.

(b) (A) False return—in the case of a false or fraudulent return with the intent to evade tax, any additional tax resulting therefrom may be assessed at any time.

(B) No return—in the case of failure to file a return, the tax may be assessed at any time.

(C) Omissions—in the case where there is omitted from the estate items subject to tax under this chapter the tax on such omitted items may be assessed at any time.

In determining the items omitted, there shall not be taken into account any item which has been disclosed in the return or in a statement attached to the return in a manner adequate to apprise the commissioner of the nature and amount of such item.

(c) Where, before the expiration of the time prescribed in this chapter for the determination or adjustment of the tax, the commissioner and the taxpayer shall consent in writing to the extension of time for such determination or adjustment the tax may be determined at any time prior to the expiration agreed upon and in the manner agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(d) The estate tax prescribed in section 291.34, notwithstanding the period of limitations prescribed for determination of the inheritance tax in this chapter shall be determined by the commissioner not later than 90 days following the filing of the Minnesota estate tax return with the commissioner, together with a copy of the federal audit report or the closing letter accepting the federal return as originally filed.

Sec. 19. Minnesota Statutes 1978, Section 291.111, Subdivision 1, is amended to read:

291.111 [TAXATION OF DISCLAIMED INTERESTS.] Subdivision 1. Transfers of any interest in real or personal property and all rights and powers relating to the same which have been duly disclaimed pursuant to the provisions of sections 501.211 and 525.532, or in any manner provided in subdivision 2 shall be subject to the inheritance *estate* tax imposed by this chapter, and acts amendatory thereof only if, and to the same extent and in the same manner as, the same would have been subject to

said tax if said interests, rights or powers had been originally created in favor of and transferred to the same persons and in the same shares in which they are effectively distributed or otherwise disposed of, after giving full effect to such disclaimers, pursuant to the governing instrument, if any, and sections 501.211 and 525.532 and all other applicable law.

Sec. 20. Minnesota Statutes 1978, Section 291.132, is amended to read:

291.132 [EXTENSION TO FILE OR PAY.] *Subdivision 1.* The commissioner may extend the time for filing returns or making payment of the tax, without penalty, for a period not to exceed six months. In lieu of the six month extension, the commissioner may extend the time for payment of the tax, without penalty, for a period not to exceed two years if the payment of the tax would result in an undue hardship on the estate. The written request for the undue hardship extension shall be made to the commissioner no later than 12 months after the death of the person from whom the transfer is made. The taxpayer may elect to pay the taxes in installments as specified in section 291.11, subdivision 1, provided that the period of time for the payment of the taxes shall not exceed five years from the expiration of the extension granted by the commissioner. Where an extension of time has been granted, interest shall be payable 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.

*Subd. 2.* In lieu of an extension provided pursuant to subdivision 1 or payment of the estate tax in installments pursuant to section 291.11 on the property which qualifies under this subdivision, the commissioner may extend the time for payment of the tax on property which qualifies for valuation under section 10. The personal representative of an estate containing such property may elect to pay all or part of the tax imposed by chapter 291 in two or more, but not to exceed ten, equal installments, provided that the maximum amount of tax which may be paid in installments pursuant to this subdivision shall be an amount which bears the same ratio to the estate's tax liability under chapter 291 as the value of property determined pursuant to section 12 bears to the amount of the taxable estate. The first installment shall be paid on or before the date selected by the personal representative. The date may be no more than five years after the date prescribed by section 291.11, subdivision 1, for payment of the estate tax. Each succeeding installment shall be paid on or before that same date each year. An election under this subdivision shall be made not later than the time prescribed by section 291.11 for filing of the estate tax return and shall be made in the manner as the commissioner shall prescribe by rule.

*Subd. 3.* If the time for payment of estate tax has been extended under subdivision 2, interest shall be payable as provided in this subdivision.

(a) Interest payable under section 291.15 on any unpaid portion of the amount attributable to the first five years after the

*date prescribed by section 291.11 for payment of the tax shall be paid annually.*

*(b) Interest payable under section 291.15 on any unpaid portion of the amount attributable to any period after the five year period referred to in clause (a) shall be paid annually at the same time as, and as part of, each installment payment of the tax.*

*(c) If the executor has selected a period shorter than five years under subdivision 2 the shorter period shall be substituted for five years in clauses (a) and (b).*

Sec. 21. Minnesota Statutes 1978, Section 291.14, is amended to read:

291.14 [PERSONAL LIABILITY OF PERSONAL REPRESENTATIVE AND TRANSFEREE.] Subdivision 1. Every tax imposed by this chapter shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy, or gift until paid; and The personal representative and person to whom such property which is subject to taxation under chapter 291 is transferred shall be personally liable for such tax, until its payment, to the extent of the value of such the property. No such lien shall be enforced against real property, included in the probate estate, unless the state shall assert the same by filing a statement of its lien in the office of the county recorder or registrar of titles in the county wherein such real estate may be situated, within ten years after the date of any deed of distribution or decree of distribution which may be entered in the estate involved.

Subd. 1a. (1) Where an order approving distribution of property is not issued by the court, any tax due on the transfer of such property or interest to a devisee or to heirs who are entitled under the statutes of intestate succession shall be a lien upon such property until the tax imposed by this chapter is paid.

(2) The lien shall not be enforced against real property subject to the provisions of clause (1) unless the state asserts it by filing a statement of lien in the office of the county recorder or the registrar of titles in the county where the real estate is situated within ten years from the date of recording a copy of the death record of the testate or intestate decedent, as the case may be, together with a statement by the commissioner acknowledging receipt of an inventory and appraisal listing the real property.

(3) When the tax on property subject to the provisions of this subdivision has been paid, or if there be deposited with the commissioner a sum of money in an amount equal to the tax which, in the judgment of the commissioner may be due upon the transfer of the property, or if there is no tax required to be paid, the commissioner shall certify on an affidavit prescribed by him or instrument of conveyance that the lien for inheritance tax has been satisfied or has been waived, as the case may be. The affidavit or instrument of conveyance so certified may be recorded as are other instruments affecting the title to real estate.

Subd. 2. (1) Except as provided in clause (4) of this subdivision, where a lien for inheritance tax imposed under this chapter may be enforced against real property transferred to surviving joint tenants, or upon property transferred by a decedent during such decedent's lifetime, the surviving joint tenants or the transferees of the property so transferred by the decedent shall file on a form prescribed by the commissioner a schedule of non-probate assets listing the property or interest taxable. Any tax due on the transfer of such property or interest to the surviving joint tenants or to the transferees of the property so transferred by the decedent shall be reported on an inheritance tax return filed with the commissioner pursuant to section 201-09, and shall be a lien upon the interest of the surviving joint tenants or the transferees, until paid, and the surviving joint tenants or the transferees shall be personally liable for such tax to the extent of the value of such property.

(2) No lien shall be enforced against real property subject to the provision of clause (1) of this subdivision unless the state shall assert the same by filing a statement of such lien in the office of the county recorder or registrar of titles in the county wherein such real estate may be situated within ten years from the date of recording a copy of the death record of the deceased joint tenant or deceased transferor, together with a copy of the schedule of non-probate assets required to be filed with the commissioner pursuant to clause (1) of this subdivision, which copy shall have been duly acknowledged by the commissioner.

(3) Where the tax on property subject to the provisions of clause (1) of this subdivision has been paid, or if there is deposited with the commissioner cash in an amount equal to the tax which, in the judgment of the commissioner, may be due upon the transfer of such property, or if there is no tax required to be paid, the commissioner shall certify on an affidavit of survivorship remainderman, described by the commissioner, that the lien has been satisfied or waived as the case may be. The affidavit so certified may be recorded as are other instruments affecting the title to real estate.

(4) (a) (i) When the decedent's death occurred subsequent to April 20, 1939, the provisions of this clause shall apply to the spouse, minor or dependent natural or adopted child of the decedent, or to the combination of classes of persons included herein;

(ii) When decedent's death occurred in the period beginning on April 21, 1939, and ending April 25, 1940, the provisions of this clause shall apply to the spouse, minor or dependent natural or adopted child or any other issue of the decedent, or to any combination of classes of persons included in this subparagraph (ii);

(b) Where the homestead is held in joint tenancy with the right of survivorship by the decedent and persons meeting the conditions described in (a) above, an affidavit in the form and manner prescribed by the commissioner, may be delivered to the county recorder or the registrar of titles. Such affidavit shall declare

(i) that the surviving joint tenant or tenants were members of the classes described in (a) above at the date of decedent's death (if any of the surviving joint tenants were minors, state date of such minor's birth);

(ii) that the property described as the homestead was owned and occupied by the decedent as his principal dwelling place at date of death;

(iii) that the quantity of land included in such property is not in excess of 120 acres, and not included in the laid out or platted portion of any city. If the land is within a laid out or platted portion of a city, its area shall not exceed one-half of an acre;

(iv) that the gross market value of such property at date of death was not in excess of \$45,000;

(v) the affidavit to be delivered to the county recorder or registrar of titles shall have attached thereto a certified copy of the death certificate with respect to the death of the deceased joint tenant;

The affidavit shall be in lieu of an affidavit of survivorship certified by the commissioner and shall extinguish the lien imposed on such property by clause (2) of this subdivision, and shall be recorded or filed as a document affecting the title to the real estate. The county recorder or registrar of titles shall not be required to verify the declarations made in such affidavit.

(c) A copy of the affidavit (which need not bear a copy of the death certificate) shall be supplied to the county recorder or registrar of titles; he will forward this copy to the commissioner at his office in St. Paul, Minnesota.

(d) Where it appears that a schedule of non-probate assets would otherwise not be required to be filed, the property, the lien on which has been extinguished in accordance with the provisions of paragraph (a) above, need not be reported on a schedule of non-probate assets.

Subd. 4. The lien of the state for inheritance taxes payable by a personal representative shall not extend to any right acquired by a bona fide purchaser, mortgagee, or lessee through any conveyance made by such personal representative, provided that such personal representative delivers to the county recorder or registrar of titles, as the case may be, a declaration that the property described therein has been sold to a bona fide purchaser, or has been mortgaged or leased, as the case may be. The declaration so submitted shall have attached thereto a certified copy of letters evidencing the appointment of such personal representative. The county recorder or registrar of titles shall submit a copy of such declaration to the commissioner at his office in St. Paul, Minnesota, without any requirement that the statements made therein by such personal representative have been verified. The lien so extinguished with respect to such bona fide purchaser, mortgagee or lessee shall not be reinstated or challenged by the commissioner.

Sec. 22. Minnesota Statutes 1978, Section 291.19, Subdivision 3, is amended to read:

Subd. 3. Any personal representative, trustee, heir or legatee of a nonresident decedent desiring to transfer property having its situs in this state may make application to the commissioner of revenue for the determination of whether there is any tax due to the state on account of the transfer of the decedent's property and such applicant shall furnish to the commissioner of revenue therewith an affidavit setting forth a description of all property owned by the decedent at the time of his death and having its situs in the state of Minnesota, the value of such property at the time of said decedent's death; also when required by the commissioner of revenue, a description of and statements of the true value of all the property owned by the decedent at the time of his death and having its situs outside the state of Minnesota, and also a schedule or statement of the valid claims against the estate of the decedent, including the expenses of his last sickness and funeral and the expenses of administering his estate, to the extent that such claims were incurred within this state. Such person shall also, on request of the commissioner of revenue, furnish to the latter a certified copy of the last will of the decedent in case he died testate, or an affidavit setting forth the names, ages and residences of the heirs at law of the decedent in case he died intestate and the proportion of the entire estate of such decedent inherited by each of said persons, and the relation, if any, with each legatee, devisee, heir, or transferee sustained to the decedent or person from whom the transfer was made. Such affidavits shall be subscribed and sworn to by the personal representative of the decedent or some other person having knowledge of the facts therein set forth.

Sec. 23. Minnesota Statutes 1978, Section 291.20, Subdivision 1, is amended to read:

291.20 [SAFETY DEPOSIT COMPANIES NOT TO TRANSFER FUNDS.] Subdivision 1. No person holding securities or assets belonging at the time of death of a decedent to him or to him and another or others as joint tenants, or having on deposit funds in excess of \$1,000 to the credit of a decedent, or to the decedent and another or others as joint tenants, or to the credit of the decedent as trustee for another or others, or renting a safe deposit box or other place of safekeeping to a decedent, individually or as joint tenant or tenant in common, shall deliver or transfer the same to any person, or permit any person to have access thereto, unless notice of the time and place of such intended transfer or access be served upon the county treasurer, personally or by representative, in which event the county treasurer, personally or by representative, may examine said securities, assets, funds or contents of such safe deposit box, at the time of such delivery, transfer or access. If, upon such examination the county treasurer or his representative shall for any cause deem it advisable that such securities, assets or funds should not be immediately delivered or transferred, or access to said safe deposit box or other place of safekeeping should not immediately be granted, he may

forthwith notify in writing such person to defer delivery or transfer or access, as the case may be, for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the person notified to defer such delivery, transfer or access until the time stated in such notice or until prior revocation thereof. Failure to serve the notice first above mentioned, or to allow such examination, or to defer delivery or transfer of such securities, assets, or funds, or to refuse access to such safe deposit box or other place of safekeeping for the time stated in the second of such notices, shall render such person liable to the payment of the tax due, not exceeding \$1,000, upon the transfer of said securities, assets, or funds, or upon securities, assets, or moneys in such safe deposit box or other place of safekeeping, pursuant to the provisions of this act; provided, however, that nothing herein contained shall subject such person to liability for the payment of any such tax unless such person had knowledge of the death of the decedent prior to such delivery or transfer of such securities, assets, or funds, or entry to said safe deposit box or other place of safekeeping. The word "person" as used herein shall include individual persons, safe deposit companies, banks, trust companies, savings and loan associations, partnerships and all other organizations.

Any person seeking access to any safe deposit box upon the death of any person who at the time of his death was a tenant thereof either individually or as joint tenant or tenant in common, or seeking to withdraw securities, assets or funds belonging to the decedent or which decedent had the right to withdraw, shall notify the person renting such safe deposit box or holding such securities, assets or funds of the decedent's death. Any person who wilfully fails to give the notice of the death of the decedent required by this paragraph with intent to evade taxes due hereunder shall be guilty of a misdemeanor. It shall be a complete defense to any prosecution under the provisions of this subdivision that no inheritance estate tax was due from the decedent's estate.

Sec. 24. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.215] [VALUATION OF ESTATE; REPORTING.] *Subdivision 1. The valuation of all property includable in the Minnesota taxable estate of a decedent shall be subject to review and approval of the commissioner of revenue.*

*Subd. 2. Before the final settlement of an estate the personal representative shall furnish an amended estate tax return listing all property and taxable transfers or other events of which he has become aware since the first estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. He also shall furnish copies of any documents or records and any other information relating to the estate or its value upon request of the commissioner of revenue.*

*Subd. 3. The personal representative shall file an amended estate tax return within 90 days after any amended estate tax return*

*is filed pursuant to the provisions of the United States Internal Revenue Code. If no amended federal estate tax return is filed but the federal estate tax return is changed or corrected, the change or correction shall be reported to the commissioner of revenue within 90 days after the final determination of the change or correction is made. Upon receipt of an amended federal estate tax return or upon notification of any change or correction made on the federal estate tax return, the commissioner of revenue may reassess the estate tax.*

Sec. 25. Minnesota Statutes 1978, Section 291.27, is amended to read:

**291.27 [UNPAID TAX; OMITTED PROPERTY.]** *If any tax is due and unpaid under the provisions of this chapter, the representative, the county attorney of the county in which an estate is probated, the attorney general or the commissioner may apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that any such tax accruing under this chapter has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner, and proof thereof, and the hearing and determination thereon, shall conform, as near as may be, to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this chapter in the probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax.*

*Any tax due and unpaid under the provisions of this chapter may be enforced and collected from any transferee of property included in the Minnesota estate by action in a the court of administration of the estate of the decedent or in a court of general jurisdiction by the personal representative of any estate, or by action, in the name of the state, brought by the attorney general, the county attorney or the commissioner in the name of the state.*

*Any property which for any cause is omitted from an appraisal, inventory, or schedule of non-probate assets the Minnesota estate tax return so that its value is not taken into consideration in the determination of the inheritance taxes estate tax, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the original appraisal, inventory, schedule of non-probate assets, inheritance estate tax return and determination, except that any personal representative of an estate discharged from his trust in the meantime shall not be liable for the payment of such tax. When any property has been thus omitted in the determination of an inheritance estate tax, such taxes the tax thereon may be determined and recovered in a civil action brought by the attorney general or the commissioner, in the name of the state, in any court of general jurisdiction, or may*

be prosecuted to collection by citation and subsequent proceedings in the probate court wherein the estate was administered.

Sec. 26. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.48] [PUBLICITY OF RETURNS; INFORMATION.] *It shall be unlawful for the commissioner or any other public official, employee or former employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return required by chapter 291 or 292 or information acquired while examining or auditing any taxpayer's liability for taxes thereunder, except in connection with a proceeding involving taxes due under chapter 291 or 292 from the taxpayer making the return. The commissioner may furnish a copy of any return or report to any official of the United States or any state having duties to perform in respect to the assessment or collection of any inheritance, estate, or gift tax, if the taxpayer is required by the laws of the United States or of the other state to make a return therein. Nothing herein contained shall be construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular property, decedents, heirs, or personal representatives, returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.*

*The return of a decedent or donor shall, upon written request, be open to inspection by or disclosure to (a) the administrator, executor, or trustee of his estate, and (b) any heir at law, next of kin, or beneficiary under the will of the decedent, and any other person whose basis in property is determined in whole or part by values set forth in the return, or (c) a donee of the property, but only if the commissioner finds that the heir, next of kin, beneficiary or other person or donee has a material interest which will be affected by information contained therein.*

Sec. 27. Minnesota Statutes 1978, Section 291.33, Subdivision 1, is amended to read:

291.33 [PAYMENTS TO COUNTIES.] Subdivision 1. On or before the first of November in each year the commissioner shall determine the net amount of inheritance tax, Minnesota estate tax and interest collected thereon which has been paid to the commissioner during the fiscal year ending June 30 next preceding from estates in each of the several counties of this state wherein probate proceedings have been had or where, if no probate proceedings have been required, wherein are located the probate courts that would have had venue under the provisions of section 524.3-201, had there been assets of decedents subject to probate.

For purposes of this subdivision net amount shall be the total amount paid from each of the several counties under the provisions of this chapter, during the appropriate fiscal year, reduced by the refunds made by the commissioner applicable to each of the several counties under the provisions of this chapter, during the same fiscal year.

Sec. 28. Minnesota Statutes 1978, Section 352.15, Subdivision 1, is amended to read:

352.15 [EXEMPTION FROM PROCESS AND TAXATION.] Subdivision 1. None of the moneys, annuities, or other benefits mentioned herein shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process, or to any state income tax or state inheritance estate tax, except that none shall be exempt from taxation under chapter 201, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. Provided, however, 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 his spouse. The board of directors may prescribe the conditions under which such payments will be made.

Sec. 29. Minnesota Statutes 1978, Section 353.15, is amended to read:

353.15 [NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS AND TAXATION.] No money, annuity, or benefit provided for in this chapter is assignable or subject to a power of attorney, execution, levy, attachment, garnishment, or legal process, including actions for divorce, legal separation, and child support, or to any state income tax or state inheritance estate tax, except that none shall be exempt from taxation under chapter 201, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. Provided, however, 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 his spouse. The association may prescribe the conditions under which such payment will be made. 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. 30. Minnesota Statutes 1978, Section 354.10, is amended to read:

354.10 [FUND NOT SUBJECT TO ASSIGNMENT OR PROCESS; BENEFICIARIES.] The right of a teacher to avail himself of the benefits provided by this chapter, is a personal right only and shall not be assignable. All moneys to the credit of a teacher's account in the fund or any moneys payable to him from the fund shall belong to the state of Minnesota until actually paid to

the teacher or his 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 his beneficiary, including actions for divorce, legal separation, and child support, shall be null and void and the same shall be exempt from garnishment or levy under attachment or execution and from all taxation by the state of Minnesota, except that none shall be exempt from taxation under chapter 291; unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. Provided however, 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 his or her spouse. The board shall prescribe the conditions which shall govern these procedures. 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. Any beneficiary designated by a teacher under the terms of this chapter, may be changed or revoked by the teacher at his pleasure, in such manner as the board may prescribe. In case a designated beneficiary dies before the teacher designating him dies, and a new beneficiary is not designated, the teacher's estate shall be the beneficiary.

Sec. 31. Minnesota Statutes 1978, 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 such teacher or member in a corporation organized as a "Teachers Retirement Fund Association" under sections 354A.03 to 354A.10, and all moneys, rights, and interests or annuities due or to become due to such teacher, member, or annuitant, or their beneficiaries, from any such association shall not be assignable, shall be exempt from garnishment, attachment, and execution or sale on any final process issued from any court and shall not be subject to the inheritance estate tax provisions of this state if transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

Sec. 32. Minnesota Statutes 1978, Section 524.3-706, is amended to read:

**524.3-706 [DUTY OF PERSONAL REPRESENTATIVE; INVENTORY AND APPRAISEMENT.]** Within three months after his appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file with the court or registrar and mail to the surviving spouse, if there be one, and to all residuary distributees an inventory of property owned by the decedent at the time of his death, listing it with

reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

The personal representative shall also mail a copy of the inventory to interested persons or creditors who request it, and shall file an executed copy of the Minnesota inheritance tax return with the court or registrar.

Sec. 33. Minnesota Statutes 1978, Section 524.3-916, is amended to read:

**524.3-916 [APPORTIONMENT OF ESTATE TAXES.]** (a) For purposes of this section:

(1) "estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;

(2) "person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(3) "person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, conservator, and trustee;

(4) "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "tax" means the federal estate tax and the state estate tax determined by the commissioner of revenue pursuant to ~~section 291.34~~ chapter 291 and interest and penalties imposed in addition to the tax;

(6) "fiduciary" means personal representative or trustee.

(b) Unless the will or other written instrument otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will or other written instrument directs a method of apportionment of tax different from the method described in this code, the method described in the will or other written instrument controls.

(c)(1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b), because

of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge him with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

(d)(1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with Laws 1975, Chapter 347.

(2) If the property held by the personal representative is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(e)(1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or

interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or devisee is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death estate tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b) hereof, and to that extent no apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1954, as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three months next following final determination of the tax. A personal representative or other person required to pay the tax who institutes the action within a reasonable time after the three month period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is *prima facie* correct.

Sec. 34. Minnesota Statutes 1978, Section 524.3-1001, is amended to read:

524.3-1001 [FORMAL PROCEEDINGS TERMINATING ADMINISTRATION; TESTATE OR INTESTATE; ORDER OF DISTRIBUTION, DECREE, AND GENERAL PROTECTION.] (a) (1) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the persons entitled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(2) In such petition for complete settlement of the estate, the petitioner may apply for a decree. Upon the hearing, if in the best interests of interested persons, the court may issue its decree which shall determine the persons entitled to the estate and assign the same to them in lieu of ordering the assignment by the personal representative. The decree shall name the heirs and distributees, state their relationship to the decedent, describe the property, and state the proportions or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all heirs be ascertained.

(3) In solvent estates, the hearing may be waived by written consent to the proposed account and decree of distribution or order of distribution by all heirs or distributees, and the court may then enter its order allowing the account and issue its decree or order of distribution.

(4) The court shall have the power in its decree or order of distribution to waive the lien of inheritance estate taxes, find that the taxes have been satisfied by payment or, decree the property subject to the lien; provided, however, where a decree or order for distribution is issued, the personal representative shall not be discharged until all property is paid or transferred to the persons entitled thereto, and has otherwise fully discharged his trust. If objections are filed with the court by the commissioner of revenue, no discharge shall be issued until the objections are determined. ~~The court shall send a copy of the decree, upon issuance, to the commissioner of revenue. If no objection is filed, the court shall have the power to settle and distribute the estate and discharge the personal representative without regard to tax obligations.~~

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding,

the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Sec. 35. Minnesota Statutes 1978, Section 525.091, Subdivision 1, is amended to read:

525.091 [DESTRUCTION AND REPRODUCTION OF PROBATE RECORDS.] Subdivision 1. The clerk of court of any county upon order of the probate judge may destroy all the original documents in any proceeding of record in his office five years after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in his office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; ~~inheritance tax return or schedule of non-probate assets; inheritance tax return waiver, or self assessed inheritance tax return;~~ orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state ~~inheritance~~ estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

(b) In guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents.

(c) In mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order

for restoration to capacity; and any amendment of the listed documents.

(d) Except for the enumerated documents described in this subdivision, the clerk of probate court may destroy all other original documents in any proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding in the probate court is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safe-keeping and those containing wills of decedents not adjudicated upon.

Sec. 36. Minnesota Statutes 1978, Section 525.091, Subdivision 2, is amended to read:

Subd. 2. The clerk of probate court of any county upon order of the probate judge may destroy the original record books as enumerated in this subdivision provided a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original record book is on file in his office.

Enumerated original record books:

(a) All record books kept for recording in compliance with section 525.03, clauses (3), (4), (5) and (6).

(b) All record books kept for inheritance tax purpose in compliance with section 291.29, subdivisions 1 and 2, after the expiration of 15 years from the date of the last proceeding entered therein.

Sec. 37. Minnesota Statutes 1978, Section 525.312, is amended to read:

525.312 [DECREE OF DESCENT.] Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given pursuant to section 524.1-401. Notice of the hearing, in the form prescribed by court rule, shall also be given under direction of the clerk of court by publication once a week for two consecutive weeks in a legal newspaper in the county where the hearing is to be held, the last publication of which is to be at least ten days before the time set for hearing. Upon proof of the petition and of the will if there be one, or upon proof of the petition and of an authenticated copy of a will duly proved and allowed outside of this state in accordance with the laws in force in the place where proved, if there be one, the court shall allow the same and enter its decree of descent assigning the real or personal property, or any interest therein, to the persons entitled thereto pursuant to the will or such authenticated copy, if there be one, otherwise pursuant to the laws of intestate succession in force at the time of the decedent's death. The court may appoint two or more disinterested persons to appraise the property. No decree of descent shall be entered until the inheritance tax, if any, has been determined and paid.

Sec. 38. Minnesota Statutes 1978, Section 525.71, is amended to read:

525.71 [APPEALABLE ORDERS.] Appeals to the district court may be taken from any of the following orders, judgments, and decrees issued by a judge of the court under chapters 524 or 525:

- (1) An order admitting, or refusing to admit, a will to probate;
- (2) An order appointing, or refusing to appoint, or removing, or refusing to remove, a representative other than a special administrator or special guardian;
- (3) An order authorizing, or refusing to authorize, the sale, mortgage, or lease of real estate, or confirming, or refusing to confirm, the sale or lease of real estate;
- (4) An order directing, or refusing to direct, a conveyance or lease of real estate under contract;
- (5) An order permitting, or refusing to permit, the filing of a claim, or allowing or disallowing a claim or counterclaim, in whole or in part, when the amount in controversy exceeds \$100;
- (6) An order setting apart, or refusing to set apart, property, or making, or refusing to make, an allowance for the spouse or children;
- (7) An order determining, or refusing to determine, venue; an order transferring, or refusing to transfer, venue;
- (8) An order directing, or refusing to direct, the payment of a bequest or distributive share when the amount in controversy exceeds \$100;
- (9) An order allowing, or refusing to allow, an account of a representative or any part thereof when the amount in controversy exceeds \$100;
- (10) An order adjudging a person in contempt;
- (11) An order vacating a previous appealable order, judgment, or decree; an order refusing to vacate a previous appealable order, judgment, or decree alleged to have been procured by fraud or misrepresentation, or through surprise or excusable inadvertence or neglect;
- (12) A judgment or decree of partial or final distribution or an order determining or confirming distribution or any order of general protection;
- (13) An order entered pursuant to section 576.142;
- (14) An order granting or denying restoration to capacity;
- (15) An order made directing, or refusing to direct, the payment of representative's fees or attorneys' fees, and in such case the representative and the attorney shall each be deemed an aggrieved party and entitled to take such appeal;

(16) An order, judgment, or decree relating to or affecting inheritance estate taxes or refusing to amend, modify, or vacate such an order, judgment, or decree; but nothing herein contained shall abridge the right of direct review by the supreme court;

(17) An order extending the time for the settlement of the estate beyond five years from the date of the appointment of the representative.

Sec. 39. Minnesota Statutes 1978, Section 525.74, is amended to read:

525.74 [DIRECT APPEAL TO SUPREME COURT.] A party aggrieved may appeal direct to the supreme court from an order determining or refusing to determine inheritance estate taxes upon a hearing on a prayer for reassessment and redetermination. Within 30 days after service of notice of the filing of such order, the appellant shall serve a notice of appeal upon all parties adversely interested or upon their attorneys and upon the probate judge. An appellant, other than the state, the veterans' administration, or a representative appealing on behalf of the estate, shall file in the probate court a bond in such amount as that court may direct, conditioned to prosecute the appeal with due diligence to a final determination, pay all costs and disbursements and abide the order of the court therein. The notice of appeal with proof of service and the bond, if required, shall be filed in the probate court within ten days after the service of such notice and the appellant shall pay to such court the sum of \$15, of which \$10 shall be transmitted to the clerk of the supreme court, as provided by law for appeals in civil actions.

Such appeal shall stay all proceedings on the order appealed from. When a party in good faith gives due notice of appeal from such order and omits through mistake to do any other act necessary to perfect the appeal, or to stay proceedings, the court may permit an amendment on such terms as may be just. Upon perfection of the appeal, the probate court shall transmit to the clerk of the supreme court the \$10 aforementioned together with a certified copy of the notice of appeal and bond, if required. The filing thereof shall vest in the supreme court jurisdiction of the cause, and records shall be transmitted to the supreme court, and records and briefs shall be printed, served, and filed, and such appeal shall be heard and disposed of as in the case of appeals in civil actions from the district court. If a settled case be necessary, the probate court may settle a case upon the application of any party. The notice of the hearing upon such application and the case proposed to be settled shall be served on all other parties interested in the appeal at least eight days prior to the hearing.

Sec. 40. Minnesota Statutes 1978, Section 525.841, is amended to read:

525.841 [ESCHEAT RETURNED.] In all such cases the commissioner of finance shall be furnished with a certified copy of the court's order assigning the escheated property to the persons entitled thereto, and upon notification of payment of the

inheritance estate tax, the commissioner of finance shall draw his warrant on the state treasurer, or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11.08 or 94.09 to 94.16, then the warrant shall be for the appraised value as established during the administration of the decedent's estate. There is hereby annually appropriated from any moneys in the state treasury not otherwise appropriated an amount sufficient to make payment to all such designated persons. No interest shall be allowed on any amount paid to such persons.

Sec. 41. [REPEALER.] *Minnesota Statutes 1978, Sections 3A-08; 291.02; 291.07, Subdivisions 2 and 2a; 291.09, Subdivisions 1, 2, 3 and 4; 291.10; 291.11, Subdivisions 2, 3, 4, 5, 6, 7, 8 and 9; 291.12, Subdivision 4; 291.19, Subdivision 5; 291.20, Subdivision 3; 291.21, Subdivision 2; 291.22; 291.23; 291.24; 291.25; 291.26; 291.29, Subdivisions 1, 2, 3 and 4; 291.30; 291.34; 291.35; 291.36; 291.37; 291.38; 291.39; 291.40; 292.01; 292.02; 292.03; 292.031; 292.04; 292.05; 292.06; 292.07; 292.08; 292.09; 292.105; 292.111; 292.112; 292.12; 292.125; 292.14; and 292.15 are repealed.*

Sec. 42. *There is appropriated for fiscal years 1980, 1981 and 1982 from the general fund to the commissioner of revenue the amounts necessary to make the refunds provided by section 5.*

Sec. 43. [EFFECTIVE DATE.] *The provisions of section 5 which relate to payments for military service while the decedent was missing in action shall be effective for estates of decedents declared dead after January 1, 1975. The provisions of section 26 shall be effective the day following final enactment and shall relate to returns filed pursuant to chapters 291 and 292 prior to and after the effective date of this article. The remainder of this article is effective for estates of decedents dying after December 31, 1979 and gifts made after December 31, 1979.*

#### ARTICLE IV: SALES AND USE TAX

Section 1. *Minnesota Statutes 1978, Section 297A.01, is amended by adding a subdivision 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 machinery for the preparation, seeding or cultivation of soil for growing agricultural crops, harvesting and threshing of agricultural products, and certain machinery for dairy, livestock and poultry farms, together with barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations. 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 def-*

*inition of farm machinery. Repair or replacement parts for farm machinery shall 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 required to be registered under chapter 297B, snowmobiles, snow blowers, lawn mowers, garden-type tractors or garden tillers and the repair and replacement parts for those vehicles and machines.*

Sec. 2. Minnesota Statutes 1978, Section 297A.02, is amended to read:

297A.02 [IMPOSITION OF TAX.] Except as otherwise provided in Extra Session Laws 1971, Chapter 31, Article 1, there is hereby imposed an excise tax of four percent of the gross receipts from sales at retail, as hereinbefore defined, made by any person in this state after October 31, 1971.

*Notwithstanding the foregoing, the tax imposed hereby upon sales at retail through coin-operated vending machines shall be three percent of the gross receipts of such sales, and the tax imposed upon sales at retail of farm machinery shall be two percent of the gross receipts from such sales .*

Sec. 3. Minnesota Statutes 1978, Section 297A.14, is amended to read:

297A.14 [USING, STORING OR CONSUMING TANGIBLE PERSONAL PROPERTY; ADMISSIONS; UTILITIES.] 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, there is hereby imposed on every person in this state a use tax at the rate of four percent , *or two percent in the case of farm machinery*, of the sales price of sales at retail of any of the aforementioned items made to such person after October 31, 1971, unless the tax imposed by section 297A.02 was paid on said sales price.

Motor vehicles subject to tax under this section shall be taxed at the fair market value at the time of transport into Minnesota if such motor vehicles were acquired more than three months prior to its transport into this state.

Notwithstanding any other provisions of sections 297A.01 to 297A.44 to the contrary, the cost of paper and ink products exceeding \$100,000 in any calendar year, used or consumed in producing a publication as defined in section 297A.25, subdivision 1, clause (i) is subject to the tax imposed by this section.

Sec. 4. Minnesota Statutes 1978, Section 297A.24, is amended to read:

297A.24 [TAXES IN OTHER STATES.] If any article of tangible personal property or any item enumerated in section 297A.14 has already been subjected to a tax by any other state in

respect of its sale, storage, use or other consumption in an amount less than the tax imposed by sections 297A.01 to 297A.44, then as to the person who paid the tax in such other state, the provisions of section 297A.14 shall apply only at a rate measured by the difference between the rate herein fixed and the rate by which the previous tax was computed. If such tax imposed in such other state was ~~four percent~~ *at the rate set in section 297A.14* or more, then no tax shall be due from such person under section 297A.14.

Sec. 5. Minnesota Statutes 1978, Section 297A.25, Subdivision 1, is amended to read:

297A.25 [EXEMPTIONS.] Subdivision 1. The following are specifically exempted from the taxes imposed by sections 297A.01 to 297A.44:

(a) The gross receipts from the sale of food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products;

(b) The gross receipts from the sale of prescribed drugs and medicine intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses, therapeutic and prosthetic devices, but not including cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein;

(c) The gross receipts from the sale of and the storage, use or other consumption in Minnesota of tangible personal property, tickets, or admissions, electricity, gas, or local exchange telephone service, which under the Constitution or laws of the United States or under the Constitution of Minnesota, the state of Minnesota is prohibited from taxing;

(d) The gross receipts from the sale of tangible personal property (i) which, without intermediate use, is shipped or transported outside Minnesota and thereafter used in a trade or business or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property transported or shipped outside Minnesota and thereafter used in a trade or business outside Minnesota, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce (storage shall not constitute intermediate use); or (ii) which the seller delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(e) The gross receipts from the sale of packing materials used to pack and ship household goods, the ultimate destination of

which is outside the state of Minnesota and which are not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(f) The gross receipts from the sale of and storage, use or consumption of petroleum products upon which a tax has been imposed under the provisions of chapter 296, whether or not any part of said tax may be subsequently refunded;

(g) The gross receipts from the sale of clothing and wearing apparel except the following:

(i) all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof; watches; clocks; cases and movements for watches and clocks; gold, gold-plated, silver, or sterling flatware or hollow ware and silver-plated hollow ware; opera glasses; lorgnettes; marine glasses; field glasses and binoculars.

(ii) articles made of fur on the hide or pelt, and articles of which such fur is the component material or chief value, but only if such value is more than three times the value of the next most valuable component material.

(iii) perfume, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous and toilet powders. The tax imposed by this act shall not apply to lotion, oil, powder, or other article intended to be used or applied only in the case of babies.

(iv) trunks, valises, traveling bags, suitcases, satchels, overnight bags, hat boxes for use by travelers, beach bags, bathing suit bags, brief cases made of leather or imitation leather, salesmen's sample and display cases, purses, handbags, pocketbooks, wallets, billfolds, card, pass, and key cases and toilet cases.

(h) The gross receipts from the sale of and the storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials, including returnable containers used in packaging food and beverage products, feeds, seeds, fertilizers, electricity, gas and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used becomes an ingredient or constituent part of the property produced. Such production shall include, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products whether vegetable or animal, commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity and the production of road building materials. Such production shall not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories,

appliances, contrivances, furniture and fixtures, used in such production and fuel, electricity, gas or steam used for space heating or lighting, are not included within this exemption; however, accessory tools, equipment and other short lived items, which are separate detachable units used in producing a direct effect upon the product, where such items have an ordinary useful life of less than 12 months, are included within the exemption provided herein;

(i) The gross receipts from the sale of and storage, use or other consumption in Minnesota of tangible personal property (except as provided in section 297A.14) which is used or consumed in producing any publication regularly issued at average intervals not exceeding three months, and any such publication. For purposes of this subsection, "publication" as used herein shall include, without limiting the foregoing, a legal newspaper as defined by Minnesota Statutes 1965, Section 331.02, and any supplements or enclosures with or part of said newspaper; and the gross receipts of any advertising contained therein or therewith shall be exempt. For this purpose, advertising in any such publication shall be deemed to be a service and not tangible personal property, and persons or their agents who publish or sell such newspapers shall be deemed to be engaging in a service with respect to gross receipts realized from such newsgathering or publishing activities by them, including the sale of advertising. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures used in such publication and fuel, electricity, gas or steam used for space heating or lighting, are not exempt;

(j) The gross receipts from all sales 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;

(k) 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;

(l) The gross receipts from sales of rolling stock and the storage, use or other consumption of such property by railroads, freight line companies, sleeping car companies and express companies taxed on the gross earnings basis in lieu of ad valorem taxes. For purposes of this clause "rolling stock" is defined as the portable or moving apparatus and machinery of any such company which moves on the road, and includes, but is not limited to, engines, cars, tenders, coaches, sleeping cars and parts necessary for the repair and maintenance of such rolling stock.

(m) The gross receipts from sales of airflight equipment and the storage, use or other consumption of such property by airline companies taxed under the provisions of sections 270.071 to 270.079. For purposes of this clause, "airflight equipment" includes

airplanes and parts necessary for the repair and maintenance of such aircraft equipment, and flight simulators.

(n) The gross receipts from the sale of telephone central office telephone equipment used in furnishing intrastate and interstate telephone service to the public.

(o) The gross receipts from the sale of and the storage, use or other consumption by persons taxed under the in lieu provisions of chapter 298, of mill liners, grinding rods and grinding balls which are substantially consumed in the production of taconite, the material of which primarily is added to and becomes a part of the material being processed.

(p) The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by, any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious or educational purposes if the property purchased is to be used in the performance of charitable, religious or educational functions, or 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;

(q) The gross receipts from the sale of caskets and burial vaults;

(r) The gross receipts from the sale of cigarettes.

(s) The gross receipts from the sale of an automobile or other conveyance if the purchaser is assisted by a grant from the United States in accordance with 38 United States Code, Section 1901, as amended.

(t) The gross receipts from the sale to the licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654, if the aircraft is resold while the permit is in effect.

(u) The gross receipts from the sale of building materials to be used in the construction or remodeling of a residence when the construction or remodeling is financed in whole or in part by the United States in accordance with 38 United States Code, Sections 801 to 805, as amended. This exemption shall not be effective at time of sale of the materials to contractors, subcontractors, builders or owners, but shall be applicable only upon a claim for refund to the commissioner of revenue filed by recipients of the benefits provided in Title 38 United States Code, Chapter 21, as amended. The commissioner shall provide by regulation for the refund of taxes paid on sales exempt in accordance with this paragraph.

(v) The gross receipts from the sale of textbooks which are prescribed for use in conjunction with a course of study in a public or private school, college, university and business or trade

school to students who are regularly enrolled at such institutions. For purposes of this clause a "public school" is defined as one that furnishes course of study, enrollment and staff that meets standards of the state board of education and a private school is one which under the standards of the state board of education, provides an education substantially equivalent to that furnished at a public school. Business and trade schools shall mean such schools licensed pursuant to section 141.25.

(w) The gross receipts from the sale of and the storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside the state of Minnesota.

(x) The gross receipt from the sale of residential heating fuels in the following manner:

(i) all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use;

(ii) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April;

(iii) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat, for the billing months of November, December, January, February, March and April.

(y) *The gross receipts from either the sales to or the storage, use or consumption of tangible personal property by an organization of military service veterans or an auxiliary unit of an organization of military service veterans, provided that:*

(i) *the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation pursuant to section 501(c), clause (19), of the Internal Revenue Code as amended through December 31, 1978; and,*

(ii) *the tangible personal property which is sold to or stored, used or consumed by the organization or auxiliary unit is for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure or profit uses.*

(z) *The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by a county agricultural society incorporated pursuant to section 38.01 to be used for the purposes of sections 38.01 to 38.28.*

**Sec. 6. [EFFECTIVE DATE.]** Sections 1 to 4 are effective for sales made after December 31, 1979. Section 5 is effective for sales made the day following final enactment.

## ARTICLE V: BUSINESS RELIEF

Section 1. Minnesota Statutes 1978, Section 273.13, is amended by adding a subdivision to read:

*Subd. 8b. [CLASS 3g; SMALL BUSINESS TAX CREDIT.]*

*(a) All nonresidential real property devoted to commercial use shall constitute class 3g, and shall be valued and assessed at 43 percent of the estimated market value thereof. The property tax to be paid on property classified pursuant to this subdivision shall be reduced by an amount equal to the tax levy that would be produced by applying a rate of ten mills on the first \$25,000 of the assessed value of the property, not to exceed \$250.*

*(b) Certification of the amount of revenue lost due to the property tax credit provided in clause (a) shall be made by the county auditor and submitted to the commissioner of revenue as part of the abstract of tax lists required to be filed with the commissioner pursuant to section 275.29. The commissioner of revenue shall review such certifications to determine their accuracy. He may make such changes in the certification as he may deem necessary or return a certification to the county auditor for corrections.*

*(c) Payment shall be made according to the procedure provided in section 273.13, subdivision 15a, for the purpose of replacing revenue lost as a result of the property tax credit provided in clause (a).*

*(d) Each property tax statement mailed under section 276.04 to a taxpayer whose real property tax is reduced pursuant to clause (a), shall contain a statement of the amount of such reduction in dollars, and shall identify the reduction as being "small business property tax relief".*

*(e) There is annually appropriated from the general fund to the commissioner of revenue the amount necessary to make the payments provided in clause (c).*

Sec. 2. Minnesota Statutes 1978, Section 290.06, Subdivision 1, is amended to read:

290.06 [RATES OF TAX; CREDITS AGAINST TAX.] Subdivision 1. [COMPUTATION, CORPORATIONS.] The privilege and income taxes imposed by this chapter upon corporations shall be computed by applying to their taxable net income in excess of the applicable credits allowed under section 290.21 the rate of following rates:

*(1) On the first \$25,000, nine 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 or 290.20, the amount of its 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 percent. The amount of tax payable by a corporation required to file a return shall not be less than \$100.*

Sec. 3. Minnesota Statutes 1978, Section 290.06, Subdivision 2c, is amended to read:

Subd. 2c. [SCHEDULE OF RATES FOR INDIVIDUALS, ESTATES AND TRUSTS.] (a) For taxable years beginning after December 31, ~~1977~~ 1979, the income taxes imposed by this chapter upon individuals, estates and trusts, other than those taxable as corporations, shall be computed by applying to their taxable net income in excess of the applicable credits allowed by section 290.21, the following schedule of rates:

- (1) On the first \$500, one and six-tenths percent;
- (2) On the second \$500, two and two-tenths percent;
- (3) On the next \$1,000, three and five-tenths percent;
- (4) On the next \$1,000, five and eight-tenths percent;
- (5) On the next \$1,000, seven and three-tenths percent;
- (6) On the next \$1,000, eight and eight-tenths percent;
- (7) On the next \$2,000, ten and two-tenths percent;
- (8) On the next \$2,000, eleven and five-tenths percent;
- (9) On the next \$3,500, twelve and eight-tenths percent;
- (10) On all over \$12,500, not over \$20,000, fourteen percent;
- (11) On all over \$20,000 and not over \$27,500, fifteen percent;
- (12) On all over \$27,500 and ~~not over \$40,000~~ , sixteen percent ;
- ~~(13) On all over \$40,000, seventeen percent.~~

(b) In lieu of a tax computed according to the rates set forth in clause (a) of this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year, reduced by the applicable credits allowed by section 290.21, is less than \$20,000 shall 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.

Sec. 4. Minnesota Statutes 1978, Section 290.361, Subdivision 2, is amended to read:

Subd. 2. [COMPUTATION OF TAXABLE NET INCOME.] The taxable net income shall be computed in the manner provided by this chapter except that in the case of national and state banks: (a) the rate shall be ~~12.64 percent until January 1, 1974 and 12 percent thereafter~~ the rate provided in section 290.06, subdivision 1; (b) the basic date for the purpose of computing gain or loss and depreciation shall be January 1, 1940, instead of January 1, 1933; (c) property consisting of investments in bonds,

stocks, notes, debentures, mortgages, certificates, or any evidence of indebtedness, and any property acquired in liquidation thereof when such property is held for investment or for sale, shall not be deemed to be capital assets; and (d) in computing net income there shall be allowable as a deduction from gross income, in addition to deductions otherwise provided for in this act, any dividend (not including any distribution in liquidation) paid, within the taxable year, to the United States or to any instrumentality thereof exempt from federal income taxes, on the preferred stock of the bank owned by the United States or such instrumentality.

*Sec. 5. [EFFECTIVE DATE.] Section 1 is effective for taxes levied in 1979, payable in 1980 and thereafter. Sections 2 to 4 are effective for taxable years beginning after December 31, 1979.*

## ARTICLE VI: LOCAL AIDS

Section 1. Minnesota Statutes 1978, Section 275.51, Subdivision 3d, is amended to read:

Subd. 3d. The property tax levy limitation for governmental subdivisions in 1977 payable in 1978 and subsequent years shall be calculated as follows:

(a) The sum of the following amounts shall be computed: (1) the property tax permitted to be levied in 1976 payable 1977 computed pursuant to Minnesota Statutes 1976, Section 275.51, Subdivision 3c, plus

(2) the amount of any state aids the governmental subdivision was entitled to receive in calendar year 1977 pursuant to sections 477A.01; 298.26; 298.28, subdivisions 1 and 1a; 298.281, subdivision 1; 298.282; and 294.26, plus

(3) the amount levied in 1976 payable 1977 pursuant to Minnesota Statutes 1976, Section 275.50, Subdivision 5, Clauses (a), (c), (d), (e), and (f), except for levies made to pay tort judgments and make settlements of tort claims or to pay the salaries and benefits of municipal and probate court judges, plus

(4) the amount levied in 1976 payable 1977 pursuant to Minnesota Statutes 1976, Section 275.50, Subdivision 5, Clause (g) for the administrative costs of public assistance programs or county welfare systems, plus

(5) one-half of the amount of the special levy authorized under section 275.50, subdivision 5, clause (n) shall be added to the permanent levy limit base of the governmental subdivision in the year following the year in which it has been discontinued as a special levy pursuant to the provisions of section 275.50, subdivision 5, clause (n).

(b) The sum computed in clause (a) shall be increased annually in the manner provided in section 275.52 to derive the levy limit base for successive years.

(c) For taxes levied in 1978 payable 1979 and subsequent years, the levy limit base is the levy limit base which was computed for the immediately preceding year under the provisions of this section increased according to the provisions of section 275.52. *To determine the levy limit base for taxes levied in 1979 payable 1980 and subsequent years, the levy limit base used for taxes levied in 1979 payable in 1980 (a) shall be increased by the excess of the amount levied in 1979 for refuse collection and street maintenance over the amount levied in 1978 payable 1979 for those purposes; and (b) in the case of a city of the first class located within the metropolitan area defined in section 473.121, subdivision 2, shall be reduced by an amount sufficient to reduce the levy limitation for taxes levied in 1979 payable 1980 by 15 percent from the preceding year's levy limitation.* Any amount levied in 1976 payable 1977 under the provisions of section 275.50, subdivision 5, clauses (a), (c), (d), (e) or (f) to meet the costs of programs, services or legal requirements which cease to exist in a subsequent year shall be subtracted from the levy limit base in the year in which the programs, services or legal requirements for which the levy was made cease to exist.

(d) The levy limit base shall be reduced by the total amount of state formula aids pursuant to section 477A.01 and taconite taxes and aids pursuant to sections 294.26; 298.26; 298.28, subdivision 1; and 298.282, to be paid in the calendar year in which property taxes are payable. As provided in section 298.28, subdivision 1, for taxes payable in 1978 and 1979, two cents per taxable ton, and for taxes payable in 1980 and thereafter, one cent per taxable ton of the amount distributed under section 298.28, subdivision 1, clause (4) (c) shall not be deducted from the levy limit base of the counties that receive that aid. The resulting figure is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.

Sec. 2. Minnesota Statutes 1978, Section 275.52, Subdivision 4, is amended to read:

Subd. 4. The levy limit base of a governmental subdivision may be increased upon approval by the levy limit review board established in section 275.551, for the following reasons:

(a) Any governmental subdivision which spent money from its surplus funds for nonspecial levy purposes in calendar year 1971 may have its levy limit base increased by an amount not to exceed the amount of revenue it used from surplus funds for nonspecial levy purposes in calendar year 1971.

(b) Any governmental subdivision which has been required to provide new services because of changes in state law, whether or not the changed law directly mandates new services, may have its levy limit base increased by an amount not to exceed the amount required to finance the services, provided that the services may not be financed by special levies or special assessments.

(c) Any governmental subdivision which has been required to provide new or expanded services because of annexations, consolidations, mergers or new incorporations since 1970 may have its levy limit base increased by an amount not to exceed the amount required to finance the general operating costs involved in such services.

(d) Any city or township having statutory city powers which has a levy limit base per capita that is below 80 85 percent of the arithmetic average of the levy limit bases per capita for cities and townships having statutory city powers in the same county may have its levy limit base increased by an amount not to exceed the amount required to bring its levy limit base per capita up to 80 85 percent of the arithmetic average of levy limit bases per capita for all cities and townships having statutory city powers in the county which are governed by the provisions of sections 275.50 to 275.59. On or before July 1 of 1977 and each subsequent year, the commissioner of revenue shall certify the average levy limit base per capita for each county for purposes of this clause. Provided that if a city or township having statutory powers has received a levy limit base adjustment from the levy limit review board prior to June 1, 1977 1979, that city or township may also qualify for a base adjustment in accordance with this clause.

Any governmental subdivision which desires to have its levy limit base adjusted under the provisions of this subdivision shall apply to the commissioner of revenue, who shall submit all applications to the levy limit review board established in section 275.551. Applications shall be in the form and accompanied by the data required by the levy limit review board. Adjustments authorized by the levy limit review board shall become a permanent part of the levy limit base for the governmental subdivision. The levy limit review board may authorize only one levy limit base adjustment for any governmental subdivision under this subdivision.

Sec. 3. Minnesota Statutes 1978, Section 275.53, Subdivision 1, is amended to read:

275.53 [GOVERNING CENSUS.] Subdivision 1. For the purpose of determining the amount of tax that a governmental subdivision may levy in accordance with a per capita limitation established by this chapter or the amount of aid that a city or township may receive pursuant to section 477A.01, the population of the governmental subdivision shall be that established by the last state or federal census, or by a special census taken within the entire governmental subdivision pursuant to sections 275.50 to 275.56 or to any other law, by a census taken pursuant to ~~subdivision~~ *subdivisions 1a or 2*, or by a population estimate made by the metropolitan council, by an order of the Minnesota municipal board pursuant to section 414.01, subdivision 14, or by an estimate made pursuant to subdivision 3, whichever is the most recent as to the stated date of count or estimate, up to and including October 1 of the current levy year. Population changes established after October 1 of the current levy year shall not be used in determining the levy limitation of a governmental subdivision for the current levy year under sections 275.50 to 275.56.

Sec. 4. Minnesota Statutes 1978, Section 275.53, is amended by adding a subdivision to read:

*Subd. 1a. Beginning in 1980, the state demographer shall prepare an annual population estimate for each city and town having a population of 2,500 or more for which the metropolitan council does not prepare an annual population estimate.*

Sec. 5. Minnesota Statutes 1978, Section 477A.01, Subdivision 1, is amended to read:

477A.01 [LOCAL GOVERNMENT AID.] Subdivision 1. The state shall ~~distribute \$52~~ *make available for distribution \$64* for each person residing in the ~~territory comprising each county state~~ for the calendar year ~~1978~~ 1980 and ~~\$59~~ \$70 for calendar year ~~1979~~ 1981 to the several taxing authorities, except school districts, with authority to impose taxes on property located in the ~~county's territory state~~. For purposes of this subdivision the number of persons residing in a ~~county the state~~ shall be the 1970 federal census population. ~~For the purposes of subdivisions 1, 2, 4, 4a and 4b, the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, excluding the city of New Prague, and Washington shall be considered a single county. That portion of the city of New Prague which is in Scott county shall be treated as if it is in LeSueur county.~~

Sec. 6. Minnesota Statutes 1978, Section 477A.01, Subdivision 2, is amended to read:

*Subd. 2. Every county government except that of a county containing a city of the first class shall receive a distribution equal to the distribution it was entitled to receive in the preceding year pursuant to Minnesota Statutes 1974, Section 477A.01 plus, for 1980, the sum of \$1 for each person residing in the county according to the 1970 federal census and, for 1981, the sum of \$2 for each person residing in the county according to the 1970 federal census. The amount necessary to make the payments to the counties in excess of the amount of their 1979 local government aid payments shall be appropriated in addition to the amount required to be appropriated pursuant to subdivision 1.*

Sec. 7. Minnesota Statutes 1978, Section 477A.01, Subdivision 4, is amended to read:

*Subd. 4. (a) The balance of the distributions in 1978 1980 pursuant to subdivision 1, shall be divided among the several cities and towns in the county's territory in the proportion that the product of*

*the city or town's 1970 federal census population or the average of the city's or town's 1970 federal census population and its current population as determined under the provisions of section 275.53, whichever is greater; times*

*(a) In the case of a city or town outside the metropolitan area as defined in section 473.121, subdivision 2, or a city other than a city of the first class or town inside the metropolitan area, the sum of its average city or town mill rate for the three immediately preceding years divided by three; or*

(b) In the case of a first class city located within the metropolitan area, the sum of (i) 60 percent of the dollar amount of its levy limitation and its special levies plus (ii) 40 percent of the dollar amount of its actual levy, divided by its taxable value adjusted for the contributions and distribution required by chapter 473F, for each of the three immediately preceding years divided by three, times

its city or town 1976 aggregate sales ratio as determined by the commissioner of revenue bears to the sum of the product of that calculation for all cities and towns in the territory, state as provided herein:

(1) Funds shall be distributed to all cities and towns which are not subject to the levy limitations imposed pursuant to sections 275.50 to 275.56, with the distribution to be based on the average equalized mill rate of each city or town. For purposes of this clause, "average equalized mill rate" shall be defined as the sum of the 1979 mill rate of the city or town plus its 1978 mill rate plus its 1977 mill rate, multiplied by its 1978 aggregate sales ratio as determined by the commissioner of revenue, divided by three.

If the average equalized mill rate of the city or town is 10 or less, the city or town will receive a distribution equal to that which it received pursuant to Minnesota Statutes 1978, Section 477A.01 for 1979, plus, in the case of a city, the sum of \$1 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 10 but less than or equal to 20, the city or town will receive a distribution equal to that which it received pursuant to Minnesota Statutes 1978, Section 477A.01 for 1979, plus the sum of \$3 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 20, the city or town will receive a distribution equal to that which it received pursuant to Minnesota Statutes 1978, Section 477A.01, for 1979, plus the sum of \$5 multiplied by its population as determined under section 275.53.

(2) Funds shall be distributed to the city of Minneapolis in an amount equal to the amount distributed to that city for 1979 pursuant to Minnesota Statutes 1978, Section 477A.01.

(3) The funds remaining after distribution has been made pursuant to paragraphs (1) and (2) shall be distributed according to the provisions of this paragraph among the cities and towns, other than the city of Minneapolis, which are subject to the levy limitations imposed pursuant to sections 275.50 to 275.56.

(i) For purposes of the 1980 distribution, the "local revenue base" of a city or town shall be the sum of its levy limitation for taxes levied in 1978 plus the amount of the distribution it received for 1979 pursuant to Minnesota Statutes 1978, Section 477A.01, except that the "local revenue base" of a city of the first class

located within the metropolitan area defined in section 473.121, subdivision 2 shall be the sum of its levy limitation for taxes levied in 1978, multiplied by .85, plus the amount of the distribution it received for 1979 pursuant to Minnesota Statutes 1978, Section 477A.01.

(ii) A preliminary state aid factor shall be established for each city and town by subtracting from the local revenue base, an amount equal to ten mills multiplied by the 1979 taxable valuation of the city or town, adjusted for the contributions and distributions required by chapter 473F in the case of a city or town located within the metropolitan area and less the captured value in any tax increment district, divided by its 1978 aggregate sales ratio as determined by the commissioner of revenue.

(iii) A final state aid factor shall be established for each city and town by adjusting the preliminary state aid factor to comply with the following restrictions:

The final state aid factor for a city or town shall be an amount which is equal to or greater than an amount computed pursuant to the following:

If the average equalized mill rate of the city or town is 10 or less, the final state aid factor of the city or town shall be at least equal to the amount which the city or town received pursuant to Minnesota Statutes 1978, Section 477A.01 for 1979, plus the sum of \$1 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 10 but less than or equal to 20, the final state aid factor of the city or town will be at least equal to the amount which the city or town received pursuant to Minnesota Statutes 1978, Section 477A.01 for 1979, plus the sum of \$3 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 20, the final state aid factor of the city or town will be at least equal to the amount which the city or town received pursuant to Minnesota Statutes 1978, Section 477A.01, for 1979, plus the sum of \$5 multiplied by its population as determined under section 275.53.

The final state aid factor for any city or town shall not exceed the previous year's distribution under Minnesota Statutes 1978, Section 477A.01 by more than the following percent: if a city received more than \$100 per capita in 1979 pursuant to Minnesota Statutes 1978, Section 477A.01, using the population determined pursuant to Minnesota Statutes 1978, Section 275.53, 12 percent; if more than \$75 per capita but less than or equal to \$100 per capita, 15 percent; if more than \$50 per capita but less than or equal to \$75 per capita, 17 percent; or if less than \$50 per capita, 20 percent.

(iv) The amount of the distribution for which a city or a town is eligible under this paragraph shall be determined as follows: For each city or town, its final state aid factor increase shall be

*the difference between its final state aid factor determined pursuant to this paragraph and the amount of distribution which it received for 1979 pursuant to Minnesota Statutes 1977, Section 477A.01. The final state aid factor increase of each city or town shall be divided by the sum of the final state aid factor increases for all cities and towns receiving distributions under this paragraph; that quotient shall be multiplied by the amount of the increase in funds available for distribution under this paragraph over the sum of the amounts distributed to those cities and towns for 1979 pursuant to Minnesota Statutes 1977, Section 477A.01. That product, plus the distribution the city or town received pursuant to Minnesota Statutes 1977, Section 477A.01 for 1979, shall equal the distribution to be distributed to the city or town for 1980.*

*(v) The final distribution made to each city or town pursuant to this paragraph shall be in an amount which is at least equal to the distribution received by that city or town for 1979 pursuant to Minnesota Statutes 1978, Section 477A.01, but which does not exceed the amount of the city's or town's 1979 distribution by more than the following percent: if a city received more than \$100 per capita in 1979 pursuant to Minnesota Statutes 1978, Section 477A.01, using the population determined pursuant to Minnesota Statutes 1978, Section 275.53, 12 percent; if more than \$75 per capita but less than or equal to \$100 per capita, 15 percent; if more than \$50 per capita but less than or equal to \$75 per capita, 17 percent; or if less than \$50 per capita, 20 percent.*

*(vi) If the amount distributed to a city or town by paragraph (iv) is limited by paragraph (v) the distribution to other cities and towns that receive aid under paragraph (3) shall be proportionately increased as necessary to absorb the difference. In no event shall a city's or town's distribution exceed the city's or town's 1979 distribution by more than the following percent: if a city received more than \$100 per capita in 1979 pursuant to Minnesota Statutes 1978, Section 477A.01, using the population determined pursuant to Minnesota Statutes 1978, Section 275.53, 12 percent; if more than \$75 per capita but less than or equal to \$100 per capita, 15 percent; if more than \$50 per capita but less than or equal to \$75 per capita, 17 percent; or if less than \$50 per capita, 20 percent.*

*(b) The balance of the distributions in 1979 1981 pursuant to subdivision 1 shall be divided among the several cities and towns in the county's territory in the proportion that the product of*

*the city or town's 1970 federal census population or the average of the city's or town's 1970 federal census population and its current population as determined under the provisions of section 275.53, whichever is greater; times*

*(a) in the case of a city or town outside the metropolitan area as defined in section 473.121, subdivision 2, or a city other than a city of the first class or town inside the metropolitan area, the sum of its average city or town mill rate for the three immediately preceding years divided by three; or*

(b) In the case of a first class city located within the metropolitan area, the sum of (i) 60 percent of the dollar amount of its levy limitation and its special levies plus (ii) 40 percent of the dollar amount of its actual levy, divided by its taxable value adjusted for the contributions and distribution required by chapter 473F, for each of the three immediately preceding years divided by three, times

its city or town 1977 aggregate sales ratio as determined by the commissioner of revenue bears to the sum of the product of that calculation for all cities and towns in the territory, state as provided herein:

(1) Funds shall be distributed to all cities and towns which are not subject to the levy limitations imposed pursuant to sections 275.50 to 275.56, with the distributions to be based on the average equalized mill rate of each city or town. For purposes of this clause, "average equalized mill rate" shall be defined as the sum of the 1980 mill rate of the city or town plus its 1979 mill rate plus its 1978 mill rate, multiplied by its 1979 aggregate sales ratio as determined by the commissioner of revenue, divided by three.

If the average equalized mill rate of the city or town is 10 or less, the city or town will receive a distribution equal to that which it received pursuant to clause (a) for 1980, plus, in the case of a city, the sum of \$1 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 10 but less than or equal to 20, the city or town will receive a distribution equal to that which it received pursuant to clause (a) for 1980, plus the sum of \$4 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 20, the city or town will receive a distribution equal to that which it received pursuant to clause (a), for 1980, plus the sum of \$6 multiplied by its population as determined under section 275.53.

(2) The funds remaining after distribution has been made pursuant to paragraph (1) shall be distributed according to the provisions of this paragraph among the cities and towns which are subject to the levy limitations imposed pursuant to sections 275.50 to 275.56.

(i) For purposes of the 1981 distribution, the "local revenue base" of a city or town shall be its local revenue base computed according to clause (a) paragraph (3) for purposes of the 1980 distribution, provided that, in the case of a city which received its 1980 aid distribution pursuant to clause (a), paragraph (2), a local revenue base shall be computed for it according to the provisions of clause (a), paragraph (3); these revenue bases shall be increased as follows:

The 1980 local revenue base will be multiplied by the percentage of increase from June, 1979, to June, 1980 in the revised consumer

price index for all urban consumers for the Minneapolis-St. Paul metropolitan area prepared by the United States department of labor with 1967 as a base year. The product of that computation will be added to the 1980 local revenue base. The inflation-adjusted base shall also be increased by the percentage increase in the population of the city or town during the preceding year as determined according to section 275.53. After adjustment for population increase the inflation-adjusted local revenue base of each city and town shall also be increased by (1) the amount of its special levies levied in 1979 to pay the costs of principal and interest on bonded indebtedness incurred in 1979 for the purpose of providing capital replacement for streets, curbs, gutters, storm sewers and bridges plus (2) any adjustments made to the levy limit base of the city or town pursuant to section 1 for purposes of refuse collection and street maintenance; and (3) any adjustments made to the levy limit base of the city or town pursuant to section 275.52, subdivision 4, clause (d).

(ii) A preliminary state aid factor shall be established for each city and town by subtracting from the local revenue base, ten mills multiplied by the 1980 taxable valuation of the city or town divided by its 1979 sales ratio as determined by the commissioner of revenue.

(iii) A final state aid factor shall be established for each city and town by adjusting the preliminary state aid factor to comply with the following restrictions:

The final state aid factor for a city or town shall be an amount which is equal to or greater than an amount computed pursuant to the following:

If the average equalized mill rate of the city or town is 10 or less, the final state aid factor of the city or town shall be at least equal to the amount which the city or town received pursuant to clause (a) for 1980, plus the sum of \$1 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 10 but less than or equal to 20, the final state aid factor for the city or town shall be at least equal to the amount which the city or town received pursuant to clause (a) for 1980, plus the sum of \$4 multiplied by its population as determined under section 275.53.

If the average equalized mill rate of the city or town is greater than 20, the final state aid factor for the city or town shall be at least equal to the amount which the city or town received pursuant to clause (a) for 1980, plus the sum of \$6 multiplied by its population as determined under section 275.53.

The final state aid factor for any city or town shall not exceed the previous year's distribution under section 477A.01 by more than the following percent: if a city received more than \$100 per capita in 1980 pursuant to clause (a) of this subdivision using the population determined pursuant to section 275.53, 12 percent; if more than \$75 per capita but less than or equal to

\$100 per capita, 15 percent; if more than \$50 per capita but less than or equal to \$75 per capita, 17 percent; or if less than \$50 per capita, 20 percent.

(iv) The amount of the distribution for which a city or town is eligible under this paragraph shall be determined as follows: For each city or town, its final state aid factor increase shall be the difference between its final state aid factor determined pursuant to this paragraph and the amount of distribution which it received pursuant to clause (a). The final state aid factor increase of each city or town shall be divided by the sum of the final state aid factor increases for all cities and towns receiving distributions under this paragraph; that quotient shall be multiplied by the amount of the increase in funds available for distribution under this paragraph over the amount distributed under clause (a), paragraphs (2) and (3). That product, plus the distribution the city or town received pursuant to clause (a), shall equal the distribution to be distributed to the city or town for 1981.

(v) The final distribution made to each city or town pursuant to this paragraph shall be in an amount which is at least equal to the distribution received by that city or town for 1980 pursuant to clause (a), but which does not exceed the amount of the city's or town's 1980 distribution by more than the following percent: if a city received more than \$100 per capita in 1980 pursuant to clause (a) of this subdivision using the population determined pursuant to section 275.53, 12 percent; if more than \$75 per capita but less than or equal to \$100 per capita, 15 percent; if more than \$50 per capita but less than or equal to \$75 per capita, 17 percent; or if less than \$50 per capita, 20 percent.

(vi) If the amounts distributed to a city or town by paragraph (iv) is limited by paragraph (v) the distribution to other cities and towns who receive aid under paragraph (2) shall be proportionately increased as necessary to absorb the difference. In no event shall a city's or town's distribution exceed the city's or town's 1980 distribution by more than the following percent: if a city received more than \$100 per capita in 1980 pursuant to clause (a) of this subdivision using the population determined pursuant to section 275.53, 12 percent; if more than \$75 per capita but less than or equal to \$100 per capita, 15 percent; if more than \$50 per capita but less than or equal to \$75 per capita, 17 percent; or if less than \$50 per capita, 20 percent.

Sec. 8. [REIMBURSEMENT FOR CERTAIN EMPLOYER CONTRIBUTIONS.] Subdivision 1. On or before March 1 each year, the clerk or chief administrative officer of each municipality shall prepare and shall certify to the commissioner of finance the amount of employer contributions made during the preceding calendar year by the municipality from municipal revenue sources (1) to the public employees retirement association, except for the public employees police and firefighters' fund, or (2) to the Minneapolis municipal employees retirement fund, or (3) to a local police or firefighters' relief association enumerated in section 69.77, subdivision 1a which has filed an annual financial report pursuant

to section 69.051, subdivision 1, and which has complied with the requirements of section 69.77. Within 30 days after receipt of the required certification, the commissioner of finance shall reimburse the municipality for an amount equal to 20 percent of the certified amount of employer contributions made to the funds listed in clauses (1) and (2) and 15 percent of the certified amount of employer contributions made to the funds listed in clause (3) during the preceding taxable year. Payments shall be made pursuant to this section in the manner indicated in Minnesota Statutes, Section 477A.01, Subdivision 4b.

**Subd. 2. [APPROPRIATION.]** *The moneys required to make the reimbursement provided for in subdivision 1 are appropriated annually to the commissioner of finance from the general fund in the state treasury.*

**Sec. 9. Minnesota Statutes 1978, Section 477A.03, is amended to read:**

**477A.03 [APPROPRIATION.]** *A sum sufficient to discharge the duties imposed by section 477A.01, subdivisions 1, 2 and 4e is annually appropriated from the general fund to the commissioner of revenue.*

**Sec. 10. [APPROPRIATION.]** *The sum of \$30,000 is appropriated to the state planning agency to meet the cost of providing the population estimates required in section 29.*

**Sec. 11. [REPEALER.]** *Minnesota Statutes 1978, Section 477A.01, Subdivisions 3 and 4a are repealed.*

## ARTICLE VII: RAILROADS

**Section 1. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:**

**[270.80] [DEFINITIONS.]** *Subdivision 1. The following words and phrases when used in sections 1 to 13, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.*

**Subd. 2. "Railroad company"** *means any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.*

**Subd. 3. "Operating property"** *means all property, excluding land, owned or used by a railroad company in the performance of railroad transportation services, including without limitation franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings and structures.*

**Subd. 4. "Nonoperating property"** *means and includes all property other than property defined in subdivision 3. Nonoperating property shall include real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date.*

*Subd. 5. "Commissioner" means the commissioner of revenue.*

Sec. 2. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.81] [TAXATION AND ASSESSMENT OF RAILROAD PROPERTY.] *Subdivision 1. The operating property of every railroad company doing business in Minnesota shall be valued by the commissioner in the manner prescribed by sections 1 to 13..*

*Subd. 2. The nonoperating property of every railroad company doing business in Minnesota shall be assessed as otherwise provided by law.*

*Subd. 3. The commissioner shall have exclusive primary jurisdiction to determine what is operating property and what is nonoperating property. In making such determination, the commissioner shall solicit information and opinions from outside his department and afford all interested persons an opportunity to submit data or views on the subject in writing or orally. Local assessors may submit written requests to the commissioner, asking that he determine the nature of specific property owned by a railroad and located within their assessing jurisdiction. Any determination made by the commissioner may be appealed by the assessor to the tax court pursuant to Minnesota Statutes, Chapter 271.*

*Subd. 4. In no event shall property owned or used by a railroad, whether operating property or nonoperating property, be subject to tax hereunder unless such property is of a character which would otherwise be subject to tax under the provisions of Minnesota Statutes, Chapter 272.*

*Subd. 5. Prior to the promulgation of permanent rules the commissioner may exercise temporary rule-making authority as provided in section 15.0412, subdivision 5, to implement the provisions of this act. The commissioner shall solicit information and opinions from outside his department as provided in section 15.0412, subdivision 6, before adopting these rules. Notwithstanding the provisions of section 15.0412, subdivision 5, rules adopted pursuant to this section shall be effective until permanent rules are adopted pursuant to chapter 15 or until May 1, 1980, whichever occurs first.*

Sec. 3. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.82] [REPORTS OF RAILROAD COMPANIES.] *Subdivision 1. Every railroad company doing business in Minnesota shall annually file with the commissioner on or before April 30 a report under oath setting forth the information prescribed by the commissioner to enable him to make the valuation and equalization required by sections 1 to 13.*

*Subd. 2. The commissioner for good cause may extend the time for filing the report required by subdivision 1.*

Sec. 4. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.83] [EXAMINATIONS AND INVESTIGATIONS.] *Subdivision 1. The commissioner shall have the power to examine or cause to be examined any books, papers, records, or memoranda revelant to the determination of the valuation of operating property as herein provided. The commissioner shall have the further power to require the attendance of any person having knowledge or information in the premises, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination and administer oaths or affirmations.*

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

*Subd. 3. If any railroad company shall refuse or neglect to make the report required by this section to the commissioner, or shall refuse or neglect to permit an inspection and examination of its property, records, books, accounts or other papers when requested by the commissioner, or shall refuse or neglect to appear before the commissioner or a person appointed under subdivision 2 when required so to do, the commissioner shall make the valuation provided for by sections 1 to 13 against the railroad company according to his best judgment on available information.*

Sec. 5. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.84] [ANNUAL VALUATION OF OPERATING PROPERTY.] *Subdivision 1. The commissioner shall annually between April 30 and July 31 make a determination of the fair market value of the operating property of every railroad company doing business in this state as of January 2 of the year in which the valuation is made. In determining the fair market value of the portion of operating property within this state, the commissioner shall value the operating property as a unit, taking into consideration the value of the operating property of the entire system, and shall allocate to this state that part thereof which is a fair and reasonable proportion of said entire system valuation. If the commissioner uses original cost as a factor in determining*

*the unit value of operating property, no depreciation or obsolescence allowance shall be permitted. However, if the commissioner uses replacement cost as a factor in determining the unit value of operating property, then a reasonable depreciation and obsolescence allowance may be used.*

*The commissioner shall give a report to the legislature in February 1980 and in February 1981 on the formula which he has used to determine the unit value of railroad operating property pursuant to this act. This report shall also contain the valuation for payable 1980 and 1981 by company and the taxes payable in 1980 and 1981 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary.*

*Subd. 2. After the commissioner has determined the fair market value of the operating property of each railroad company, he shall give notice by first class mail to the railroad company of the valuation.*

*Sec. 6. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:*

**[270.85] [REVIEW OF VALUATION.]** *A railroad company may within 15 days of receipt of the notice of valuation file a written request for a conference with the commissioner relating to the value of its operating property. The commissioner shall thereupon designate a time and place for the conference which he shall conduct, upon commissioner's entire files and records and such further information as may be offered. Said conference shall be held no later than 30 days after mailing of the commissioner's valuation notice. At a reasonable time after such conference the commissioner shall make a final determination of the fair market value of the operating property of the railroad company and shall notify the company promptly thereof.*

*Sec. 7. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:*

**[270.86] [APPORTIONMENT OF VALUATION.]** *Upon determination by the commissioner of the fair market value of the operating property of each railroad company, he shall apportion such value to the respective counties and to the taxing districts therein in conformity with fair and reasonable rules and standards to be established by the commissioner pursuant to notice and hearings, except as provided in section 2. In establishing such rules and standards the commissioner may consider (a) the physical situs of all station houses, depots, docks, wharves, and other buildings and structures with an original cost in excess of \$10,000; (b) the proportion that the length and type of all the tracks used by the railroad in such county and taxing district bears to the length and type of all the track used in the state; and (c) other facts as will result in a fair and equitable apportionment of value.*

*Sec. 8. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:*

**[270.87] [CERTIFICATION TO COUNTY ASSESSORS.]**

*When the commissioner has made his annual determination of the fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, he shall certify the fair market value to the county assessor, which shall constitute the 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. 9. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

**[270.88] [PROCEEDINGS AND APPEALS.]** *The commissioner's final determination under section 6 and his certification to county assessors under section 8 shall be final orders appealable to the tax court in accordance with chapter 271. Appeals by railroad companies under this act shall be taken against the commissioner and not against the county or taxing district to which payment is made. Upon the filing of any appeal by a railroad company, the commissioner shall give notice thereof by first class mail to each county which would be affected by the appeal.*

Sec. 10. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

**[270.89] [APPLICABILITY OF OTHER PROVISIONS.]** *Section 297A.25, subdivision 1, clause (1) shall remain applicable to railroad companies subject to this act.*

Sec. 11. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

**[270.90] [PAYMENT OF TAXES IN 1980 AND 1981 ONLY.]** *For the years 1979 and 1980 only, after the commissioner has determined the market value of the operating property of each company under the provisions of sections 5 and 6, he shall compute the assessed value of the operating property by applying the classification percentage contained in section 273.13, subdivision 9. By March 1, 1980 and 1981, the commissioner shall compute the tax due from each company by applying the average statewide mill rate. The statement of taxes shall be sent to each company on or before April 1, 1980 and 1981, and shall indicate the assessed value of operating property, the mill rate applied in determining the taxes and the total amount of taxes due and payable. That amount shall be compared to the amount of gross earnings tax imposed under section 13 of this act. If the amount paid pursuant to section 13 is less than the amount computed in this section, the additional tax shall be payable to the commissioner and shall be deposited by him in the general fund of the state treasury. The provisions of section 279.01 pertaining to due dates and penalties for late payment of taxes for nonhomestead property shall be applicable to the taxes payable under this section. If the amount paid pursuant to section 13 exceeds the amount computed in this section, the commissioner shall refund the amount of excess within 60 days. The amounts necessary to make the refunds provided in*

*this section are appropriated to the commissioner from the general fund in the state treasury.*

Sec. 12. Minnesota Statutes 1978, Section 272.02, Subdivision 1, is amended to read:

272.02 [EXEMPT PROPERTY.] Subdivision 1. Except as provided in other subdivisions of this section or in section 272.025, 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;
- (7) All public property exclusively used for any public purpose;
- (8) All natural cheese held in storage for aging by the original Minnesota manufacturer;
- (9) (a) Class 2 property of every household of the value of \$100, maintained in the principal place of residence of the owner thereof. The county auditor shall deduct such exemption from the total valuation of such property as equalized by the revenue commissioner assessed to such household, and extend the levy of taxes upon the remainder only. The term "household" as used in this section is defined to be a domestic establishment maintained either (1) by two or more persons living together within the same house or place of abode, subsisting in common and constituting a domestic or family relationship, or (2) by one person.
- (b) During the period of his active service and for six months after his discharge therefrom, no member of the armed forces of the United States shall lose status of a householder under paragraph (a) which he had immediately prior to becoming a member of the armed forces.

In case there is an assessment against more than one member of a household the \$100 exemption shall be divided among the members assessed in the proportion that the assessed value of the Class 2 property of each bears to the total assessed value of the Class 2 property of all the members assessed. The Class 2 property of each household claimed to be exempt shall be limited to property in one taxing district, except in those cases where a single domestic establishment is maintained in two or more adjoining districts.

Bonds and certificates of indebtedness hereafter issued by the state of Minnesota, or by any county or city of the state, or any

town, or any common or independent school district of the state, or any governmental board of the state, or any county or city thereof, shall hereafter be exempt from taxation; provided, that nothing herein contained shall be construed as exempting such bonds from the payment of a tax thereon, as provided for by section 291.01, when any of such bonds constitute, in whole or in part, any inheritance or bequest, taken or received by any person or corporation.

(10) Farm machinery manufactured prior to 1930, which is used only for display purposes as a collectors item;

(11) The taxpayer shall be exempted with respect to, all agricultural products, inventories, stocks of merchandise of all sorts, all materials, parts and supplies, furniture and equipment, manufacturers material, manufactured articles including the inventories of manufacturers, wholesalers, retailers and contractors; and the furnishings of a room or apartment in a hotel, rooming house, tourist court, motel or trailer camp, tools and machinery which by law are considered as personal property, and the property described in section 272.03, subdivision 1 (c), except personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, 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. *Railroad docks and wharves which are part of the operating property of a railroad company as defined in section 1 are not exempt.*

(12) Containers of a kind customarily in the possession of the consumer during the consumption of commodities, the sale of which are subject to tax under the provisions of the excise tax imposed by Extra Session Laws 1967, Chapter 32;

(13) All livestock, poultry, all horses, mules and other animals used exclusively for agricultural purposes;

(14) All agricultural tools, implements and machinery used by the owners in any agricultural pursuit.

(15) 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.

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. Any such equipment or device shall meet standards, regulations 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. If the commissioner determines that property qualifies for exemption, he shall issue an order exempting such property from taxation. Any such 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.

Sec. 13. Minnesota Statutes 1978, Section 295.02, is amended to read:

295.02 [ANNUAL RETURN.] Every railroad company owning or operating any line of railroad situated within, or partly within, this state shall, annually, pay to the commissioner of revenue, in lieu of all taxes upon all property within this state owned or operated for railway purposes by such company, including equipment, appurtenances, appendages and franchises thereof, a sum of money equal to *five two* percent of the gross earnings derived from the operation of such line of railway within this state.

On or before September first, annually, each such railroad company shall file a true and just return of all such gross earnings for the six months ending June thirtieth, next preceding, and the tax of *five two* percent thereon shall become due and payable to the state of Minnesota, in manner provided by law, on September first.

On or before March first, annually, each such railroad company shall file a true and just return of all such gross earnings for the six months ending December thirty-first, next preceding, and tax of *five two* percent thereon shall become due and payable to the state of Minnesota, in manner provided by law, on March first. The payments of such sums at the times hereinbefore set forth shall be in full and in lieu of all other taxes upon the property and franchises so taxed.

Such returns shall be filed with the commissioner, in such form as he shall prescribe, and the provisions of chapter 294 and acts amendatory thereto, shall be applicable to such railroad companies and to the returns and the taxes submitted therewith by them.

The lands acquired by public grant shall be and remain exempt from taxation until sold or contracted to be sold or conveyed, as provided in the respective acts whereby such grants were made or recognized.

Sec. 14. *Minnesota Statutes 1978, Sections 295.01, Subdivisions 2 and 3; 295.02; 295.03; 295.04; 295.05; 295.12; 295.13; and 295.14 are repealed.*

Sec. 15. *Section 14 shall be effective beginning for taxable years after December 31, 1980. The remainder of this article is effective after December 31, 1978.*

## ARTICLE VIII: PAYMENTS IN LIEU

Section 1. [DEFINITIONS.] *Subdivision 1. For the purpose of sections 1 to 5, the terms defined in this section have the meanings given them.*

Subd. 2. "Commissioner" *means the commissioner of natural resources.*

Subd. 3. "Acquired natural resources land" means any land presently administered by the commissioner in which the state acquired by purchase, condemnation, or gift, a fee title interest in lands which were previously privately owned.

Subd. 4. "Other natural resources land" means any other land presently owned in fee title by the state and administered by the commissioner, or any tax-forfeited land, other than platted lots within a city, which is owned by the state and administered by the commissioner or by the county in which it is located.

Sec. 2. There is annually appropriated to the commissioner of natural resources from the general fund for payment to counties within the state an amount equal to \$3 multiplied by the number of acres of acquired natural resources land, 75 cents multiplied by the number of acres of county-administered other natural resources land, and 37.5 cents multiplied by the number of acres of commissioner-administered other natural resources land located in each county as of July 1 of each year. Lands for which payments in lieu are made pursuant to section 97.49, subdivision 7, and Laws 1973, Chapter 567, shall not be eligible for payments under this section. Each county auditor shall certify to the department of natural resources during July of each year the number of acres of county-administered other natural resources land within his county. The department of natural resources may, in addition to the certification of acreage, require descriptive lists of land so certified. The commissioner of natural resources shall determine and certify the number of acres of acquired natural resources land and commissioner-administered natural resources land within each county.

Sec. 3. Payments to the counties shall be made from the general fund during the month of January of the year next following certification. There shall be deducted from amounts paid any amounts paid to a county or township during the preceding year pursuant to sections 84A.51, 89.036, 97.49, subdivision 3, and 272.68, subdivision 3 with respect to the lands certified pursuant to section 2.

Sec. 4. Forty percent of the total payment to the county shall be deposited in the county general revenue fund to be used to provide property tax levy reduction. The remainder shall be distributed by the county in the following priority:

(a) 37.5 cents for each acre of county-administered other natural resources land shall be deposited in a resource development fund to be created within the county treasury for use in resource development, forest management, game and fish habitat improvement, and recreational development and maintenance of county-administered other natural resources land. Any county receiving less than \$5,000 annually for the resource development fund may elect to deposit that amount in the county general revenue fund;

(b) From the funds remaining, each organized township shall receive 30 cents per acre of acquired natural resources land and 7.5 cents per acre of other natural resources land located within its boundaries. Payments for natural resources lands not located in an organized township shall be deposited in the county general

*revenue fund. Payments to counties and townships pursuant to this paragraph shall be used to provide property tax levy reduction. Provided that, if the total payment to the county pursuant to section 2 is not sufficient to fully fund the distribution provided for in this clause, the amount available shall be distributed to each township and the county general revenue fund on a pro rata basis; and*

*(c) Any remaining funds shall be deposited in the county general revenue fund. Provided that, if the distribution to the county general revenue fund exceeds \$50,000, the excess shall be used to provide property tax levy reduction.*

Sec. 5. Minnesota Statutes 1978, Section 275.51, Subdivision 3d, is amended to read:

Subd. 3d. The property tax levy limitation for governmental subdivisions in 1977 payable in 1978 and subsequent years shall be calculated as follows:

(a) The sum of the following amounts shall be computed: (1) the property tax permitted to be levied in 1976 payable 1977 computed pursuant to Minnesota Statutes 1976, Section 275.51, Subdivision 3c, plus

(2) the amount of any state aids the governmental subdivision was entitled to receive in calendar year 1977 pursuant to sections 477A.01; 298.26; 298.28, subdivisions 1 and 1a; 298.281, subdivision 1; 298.282; and 294.26, plus

(3) the amount levied in 1976 payable 1977 pursuant to Minnesota Statutes 1976, Section 275.50, Subdivision 5, Clauses (a), (c), (d), (e), and (f), except for levies made to pay tort judgments and make settlements of tort claims or to pay the salaries and benefits of municipal and probate court judges, plus

(4) the amount levied in 1976 payable 1977 pursuant to Minnesota Statutes 1976, Section 275.50, Subdivision 5, Clause (g) for the administrative costs of public assistance programs or county welfare systems, plus

(5) one-half of the amount of the special levy authorized under section 275.50, subdivision 5, clause (n) shall be added to the permanent levy limit base of the governmental subdivision in the year following the year in which it has been discontinued as a special levy pursuant to the provisions of section 275.50, subdivision 5, clause (n).

(b) The sum computed in clause (a) shall be increased annually in the manner provided in section 275.52 to derive the levy limit base for successive years.

(c) For taxes levied in 1978 payable 1979 and subsequent years, the levy limit base is the levy limit base which was computed for the immediately preceding year under the provisions of this section increased according to the provisions of section 275.52. Any amount levied in 1976 payable 1977 under the provisions of section 275.50, subdivision 5, clauses (a), (c), (d), (e) or

(f) to meet the costs of programs, services or legal requirements which cease to exist in a subsequent year shall be subtracted from the levy limit base in the year in which the programs, services or legal requirements for which the levy was made cease to exist.

(d) The levy limit base shall be reduced by the total amount of state formula aids pursuant to section 477A.01 and taconite taxes and aids pursuant to sections 294.26; 298.26; 298.28, subdivision 1; and 298.282 ; ; and the payments in lieu of taxes to a county pursuant to section 2 which are required to be used to provide property tax levy reduction, to be paid in the calendar year in which property taxes are payable. As provided in section 298.28, subdivision 1, for taxes payable in 1978 and 1979, two cents per taxable ton, and for taxes payable in 1980 and thereafter, one cent per taxable ton of the amount distributed under section 298.28, subdivision 1, clause (4) (c) shall not be deducted from the levy limit base of the counties that receive that aid. The resulting figure is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.

Sec. 6. [EFFECTIVE DATE.] *This article is effective July 1, 1979.*

## ARTICLE IX: CIGARETTE TAX ADMINISTRATION

Section 1. Minnesota Statutes 1978, Section 270.06, is amended to read:

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

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

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

(3) To direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and to cause complaints to be made against local assessors, mem-

bers of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty.

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

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

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

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

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

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

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

(11) To transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even-numbered year, the report of the department of revenue for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;

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

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

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

(15) To execute and administer any agreement with the secretary of the treasury of the United States regarding the exchange of information and administration of the tax laws of both the United States and the state of Minnesota;

(16) *To administer and enforce the provisions of sections 325.64 to 325.76, the Minnesota unfair cigarette sales act.*

## ARTICLE X: GIFTS TO MINORS

Section 1. Minnesota Statutes 1978, Section 292.04, is amended to read:

292.04 [EXEMPTIONS.] The following transfers by gift shall be exempt from and excluded in computing the tax imposed by this chapter:

(1) Gifts to or for the use of the United States of America or any state or any political subdivision thereof for exclusively public purposes;

(2) Gifts to or for the use of any fund, foundation, trust, association, organization or corporation operated within this state for religious, charitable, scientific, literary, or educational purposes exclusively, including the promotion of the arts, or the conduct of a public cemetery, if no part thereof inures to the profit of any private shareholder or individual. Gifts to or for the use of any corporation, fund, foundation, trust, or association operated for religious, charitable, scientific, literary, or educational purposes, including the promotion of the arts, or the conduct of a public cemetery, no part of which inures to the profit of any private shareholders or individual, shall be exempt, if at the date of the gift, the laws of the state under the laws of which the donee is organized or existing either (1) do not impose a gift tax in respect of property transferred to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of this state, or (2) contain a reciprocal provision under which gifts to a similar corporation, fund, foundation, trust, or association organized or existing under the laws of another state are exempt from gift taxes if such other state allows a similar exemption to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of such state;

(3) Gifts to a fraternal society, order, or association operating under the lodge system, but only if such gifts are to be used exclusively for the purposes designated in clause (2);

(4) Gifts to or for the use of posts or organizations of war veterans, or auxiliary units or societies of any such posts or organ-

izations, if such posts, organizations, units or societies are organized within the state of Minnesota and if such gifts are to be used exclusively for the purposes designated in clause (2);

(5) All property transferred, money, service, or other thing of value, paid, furnished, or delivered by any person, corporation, organization, or association to his or its employees, or to any organization of his or its employees, directly or indirectly, or to any person, firm, or corporation for them or it, including payments to cover insurance, sickness, and death benefits, pensions, relief activities, or to any other employees benefit fund of any kind, and medical service to such employees and their families;

(6) The first \$3,000 in value of gifts (other than of future interests in property) made to any person by the donor during any calendar year. No part of a gift to a minor donee shall be considered a gift of future interest in property for purposes of this clause if it complies with the provisions of the Minnesota uniform gifts to minors act, chapter 527, or if it is a transfer for the benefit of a minor, and if the property and income therefrom:

(a) May be expended by or for the benefit of the donee before his attaining the age of 18 21 years; and

(b) Will to the extent not so expended

(1) pass to the donee on his attaining the age of 18 21 years and

(2) in the event the donee dies before attaining the age of 18 21 years, be payable to the estate of the donee, or as he may appoint under a general power of appointment as defined in section 2514(C) of the Internal Revenue Code of 1954;

(7) Gifts to an employee stock ownership trust as defined in section 290.01, subdivision 5. Where the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the exemption shall be reduced by the product of multiplying said amount by their percentage interest in the trust.

*Sec. 2. [REFUND.] Persons who paid gift taxes after June 1, 1973 on a transfer excludable pursuant to section 1 shall be entitled to a refund of taxes paid provided a claim is made to the commissioner pursuant to the procedures of section 292.12.*

*Sec. 3. [APPROPRIATION.] There is appropriated from the general fund to the commissioner of revenue the amount necessary to make the refunds provided by section 2.*

*Sec. 4. [EFFECTIVE DATE.] This article is retroactively effective June 1, 1973."*

Delete the title and insert:

"A bill for an act relating to taxation; providing certain modifications of gross income; increasing and extending certain credits against income tax; increasing the maximum standard deduction; providing for computation of charitable contribution deduction; imposing one-month moratorium on withholding of tax from

wages; providing for valuation of agricultural land for school aids purposes; increasing the state share of certain income maintenance payments; reducing certain property assessment ratios; extending agricultural homestead treatment to noncontiguous land; providing for certain levies; increasing the homestead credit; eliminating the limited market value; increasing certain property tax refund amounts; abolishing the inheritance tax; establishing an estate tax; repealing the gift tax; reducing the rate of sales and use tax on farm machinery; providing sales tax exemptions for certain organizations; reducing the rates of tax on corporate, banks and individual income; providing a property tax credit for commercial property; increasing the amount and providing for the distribution of aids to local governments; providing state assistance for municipal pension costs; altering the tax treatment of railroads; providing for payment in lieu of taxes on certain lands; requiring the commissioner of revenue to administer the Minnesota unfair cigarette sales act; providing retroactive gift tax exemption for certain gifts to minors; appropriating money; amending Minnesota Statutes 1978, Sections 124.212, Subdivision 10; 256.82; 256D.03, Subdivision 2; 256D.36, Subdivision 1; 270.-06; 272.02, Subdivision 1; 273.11, Subdivision 2; 273.13, Subdivisions 4, 5a, 6, 7, and 14a, and by adding a subdivision; 273.17, Subdivision 1; 275.125, Subdivision 6a; 275.51, Subdivision 3d; 290.01, Subdivision 20; 290.012, Subdivision 3; 290.06, Subdivisions 1, 2c, 3c, 3d, and 3e, and by adding subdivisions; 290.-081; 290.09, Subdivision 15; 290.14; 290.21, Subdivision 3; 290.23, by adding a subdivision; 290.361, Subdivision 2; 290A.03, Subdivisions 3 and 11; 290A.04, Subdivisions 2, 2a, 2b, and 3; 291.005, Subdivision 1; 291.01; 291.03; 291.05; 291.051; 291.06; 291.065; 291.07, Subdivision 1; 291.08; 291.09, Subdivisions 5 and 7, and by adding subdivisions; 291.11, Subdivision 1; 291.111, Subdivision 1; 291.132; 291.14; 291.19, Subdivision 3; 291.20, Subdivision 1; 291.27; 291.33, Subdivision 1; 292.04; 295.02; 297A.-01, by adding a subdivision; 297A.02; 297A.14; 297A.24; 297A.25, Subdivision 1; 352.15, Subdivision 1; 353.15; 354.10; 354A.11; 477A.01, Subdivisions 1, 2 and 4; 524.3-706; 524.3-916; 524.3-1001; 525.091, Subdivisions 1 and 2; 525.312; 525.71; 525.74; and 525.841; and Chapters 270, 273 and 291, by adding sections: repealing Minnesota Statutes 1978, Sections 3A.08; 273.11, Subdivision 2; 290.06, Subdivision 12; 291.02; 291.07, Subdivisions 2 and 2a; 291.09, Subdivisions 1, 2, 3 and 4; 291.10; 291.11, Subdivisions 2, 3, 4, 5, 6, 7, 8, and 9; 291.12, Subdivision 4; 291.19, Subdivision 5; 291.20, Subdivision 3; 291.22; 291.23; 291.24; 291.25; 291.26; 291.29, Subdivisions 1, 2, 3 and 4; 291.30; 291.3A-291.35; 291.36; 291.37; 291.38; 291.39; 291.40; 292.01; 292.02; 292.03; 292.031; 292.04; 292.05; 292.06; 292.07; 292.08; 292.09; 292.105; 292.111; 292.112; 292.12; 292.125; 292.14; 292.15; 295.-01, Subdivisions 2 and 3; 295.02; 295.03; 295.04; 295.05; 295.12; 295.13; 295.14; and 477A.01, Subdivisions 3 and 4a."

The motion prevailed. So the amendment was adopted.

Mr. Sieloff moved to amend H. F. No. 1495, as amended by the Senate May 14, 1979, as follows:

(The text of the amended House File is identical to S. F. No. 1567.)

Page 8, line 25, delete "\$10,000" and insert "\$12,000"

Page 8, line 25, strike "less"

Page 8, line 28, strike the old language

Page 8, line 29, before the period, strike the old language and delete the new language

Page 9, line 1, delete "\$10,000" and insert "\$12,000"

Page 9, line 1, strike "; this subtraction"

Page 9, strike line 2

Page 9, line 3, strike everything through "of" and delete "\$15,000"

#### CALL OF THE SENATE

Mr. Sieloff imposed a call of the Senate for the balance of the proceedings on H. F. No. 1495. The following Senators answered to their names:

Anderson	Frederick	Knoll	Penny	Solon
Ashbach	Gearty	Knutson	Perpich	Spear
Bang	Gunderson	Laufenburger	Peterson	Staples
Benedict	Hanson	Lessard	Pillsbury	Stokowski
Bernhagen	Hughes	Luther	Purfeerst	Strand
Brataas	Humphrey	McCutcheon	Renneke	Stumpf
Chenoweth	Jensen	Menning	Rued	Tennessen
Chmielewski	Johnson	Merriam	Schaaf	Ueland, A.
Coleman	Keefe, J.	Moe	Schmitz	Ulland, J.
Davies	Keefe, S.	Nelson	Setzepfandt	Vega
Dieterich	Kirchner	Nichols	Sieloff	Wegener
Dunn	Kleinbaum	Ogdahl	Sikorski	Willet
Engler	Knaak	Olhoff	Sillers	

The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the amendment of Mr. Sieloff.

Mr. McCutcheon moved that those not voting be excused from voting. The motion did not prevail.

Mr. Ashbach moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 21 and nays 32, as follows:

Those who voted in the affirmative were:

Ashbach	Engler	Knaak	Renneke	Ulland, J.
Bang	Frederick	Knoll	Rued	
Bernhagen	Jensen	Knutson	Sieloff	
Brataas	Keefe, J.	Ogdahl	Sillers	
Dunn	Kirchner	Pillsbury	Ueland, A.	

Those who voted in the negative were:

Anderson	Dieterich	Johnson	Menning	Olson
Benedict	Gearty	Keefe, S.	Merriam	Perpich
Chmielewski	Gunderson	Kleinbaum	Nelson	Schaaf
Coleman	Hanson	Luther	Nichols	Schmitz
Davies	Humphrey	McCutcheon	Olhoff	Solon

Spear  
StaplesStokowski  
Stumpf

Tennessee

Vega

Wegener

The motion did not prevail. So the amendment was not adopted.

Mr. Frederick moved to amend H. F. No. 1495, as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE I  
INCOME TAX BRACKET EXPANSION**

Section 1. Minnesota Statutes 1978, Section 290.06, Subdivision 2c, is amended to read:

Subd. 2c. [SCHEDULE OF RATES FOR INDIVIDUALS, ESTATES AND TRUSTS.] (a) For taxable years beginning after December 31, ~~1977~~ 1978, the income taxes imposed by this chapter upon individuals, estates and trusts, other than those taxable as corporations, shall be computed by applying to their taxable net income in excess of the applicable credits allowed by section 290.21, the following schedule of rates:

- (1) On the first ~~\$500~~ \$600, one and six-tenths percent;
- (2) On the second ~~\$500~~ \$600, two and two-tenths percent;
- (3) On the next ~~\$1,000~~ \$1,200, three and five-tenths percent;
- (4) On the next ~~\$1,000~~ \$1,200, five and eight-tenths percent;
- (5) On the next ~~\$1,000~~ \$1,200, seven and three-tenths percent;
- (6) On the next ~~\$1,000~~ \$1,200, eight and eight-tenths percent;
- (7) On the next ~~\$2,000~~ \$2,400, ten and two-tenths percent;
- (8) On the next ~~\$2,000~~ \$2,400, eleven and five-tenths percent;
- (9) On the next ~~\$3,500~~ \$4,200, twelve and eight-tenths percent;
- (10) On all over ~~\$12,500~~ \$15,000, and not over ~~\$20,000~~ \$24,000, fourteen percent;
- (11) On all over ~~\$20,000~~ \$24,000, and not over ~~\$27,500~~ \$33,000, fifteen percent;
- (12) On all over ~~\$27,500~~ \$33,000, and not over ~~\$40,000~~ \$48,000, sixteen percent;
- (13) On all over ~~\$40,000~~ \$48,000, seventeen percent.

(b) In lieu of a tax computed according to the rates set forth in clause (a) of this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year, reduced by the applicable credits allowed by section 290.21, is less than \$20,000 shall 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.

Sec. 2. Minnesota Statutes 1978, Section 290.06, Subdivision 3d, is amended to read:

Subd. 3d. [CREDITS AGAINST TAX.] The taxes due as computed in accordance with section 290.06, subdivision 2c ; and 3c ; and 3e shall be credited with the following amounts:

(1) A credit equal to his tax liability in the case of:

(a) An unmarried claimant with an income of ~~\$4,800~~ \$5,280 or less;

(b) A claimant with one dependent, with an income of ~~\$5,800~~ \$6,240 or less;

(c) A claimant with two dependents, with an income of ~~\$6,800~~ \$7,200 or less;

(d) A claimant with three dependents, with an income of ~~\$7,800~~ \$8,040 or less;

(e) A claimant with four dependents, with an income of ~~\$8,400~~ \$8,760 or less; and

(f) A claimant with five or more dependents, with an income of ~~\$8,900~~ \$9,360 or less.

(2) In the case of a claimant with an income in excess of that set forth in the appropriate category of clause (1), he may pay a tax equal to 15 percent of that portion of his income that is in excess of the amount set forth in the appropriate category of clause (1), or his tax obligation as it would have been in the absence of section 290.012 and this subdivision, whichever is less.

(3) The total income of the claimant and his spouse, if any, shall be the figure employed for the purposes of this subdivision. No individual dependent upon and receiving his chief support from any other individual may be a claimant under section 290.012 and this subdivision. The commissioner of revenue shall prescribe the additional forms or alterations in existing forms as necessary to comply with the provisions of section 290.012 and this subdivision. All claimants shall submit their returns on these forms.

The commissioner of revenue shall provide alternative tax tables which will include these credits.

Sec. 3. Minnesota Statutes 1978, Section 290.06, is amended by adding a subdivision to read:

*Subd. 3f. [INFLATION ADJUSTMENT.] The commissioner of revenue shall determine and announce by September 1, 1981, the percentage increase from June, 1980, to June, 1981, in the revised urban consumer price index for the Minneapolis-St. Paul metropolitan area prepared by the United States department of labor with 1967 as a base year. The taxable net income brackets in subdivision 2c and the income exclusion amounts contained in subdivision 3d shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted taxable net*

*income brackets and exclusion amounts for the taxable year beginning after December 31, 1980.*

*The commissioner of revenue shall determine and announce by September 1, 1982, and each succeeding year, the percentage increase from June, 1981, to June, 1982, and each year thereafter, in the revised all urban consumer price index described above. The taxable net income brackets in subdivision 2c and the income exclusion amounts contained in subdivision 3d as adjusted in the previous year shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted taxable net income brackets and exclusion amounts for the taxable year beginning after December 31, 1981, and each succeeding taxable year.*

Sec. 4. [EFFECTIVE DATE.] Sections 1 and 2 are effective for taxable years beginning after December 31, 1978. Section 3 is effective for taxable years beginning after December 31, 1980 and subsequent years.

## ARTICLE II

### INCOME TAX CREDITS

Section 1. Minnesota Statutes 1978, Section 290.012, Subdivision 3, is amended to read:

Subd. 3. "Dependent" means an individual dependent upon and receiving his chief support from the claimant. Payments for support of minor children as provided in section 290.072, subdivision 3 under a temporary or final decree of dissolution or legal separation, shall be considered as payments by the claimant for the support of a dependent. For the purposes of section 290.06, subdivision 3d, a spouse except a divorced or separated spouse shall be considered to be a dependent.

Sec. 2. Minnesota Statutes 1978, Section 290.06, Subdivision 3c, is amended to read:

Subd. 3c. [CREDITS AGAINST TAX.] Notwithstanding the provisions of subdivision 3a for taxable years which begin after December 31, 1977 1978, the taxes due under the computation in accordance with section 290.06 shall be credited with the following amounts:

(1) In the case of an unmarried individual, and, except as provided in paragraph 6 in the case of the estate of a decedent, \$40 \$48, and in the case of a trust, \$5;

(2) In the case of a married individual, living with husband or wife, and in the case of a head of a household, \$80 \$96. If such husband and wife make separate returns the personal exemption may be taken by either or divided between them;

(3) In the case of an individual, \$40 \$48 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be allowed this credit with respect to any given dependent. In the case of the head

of a household, a credit for one dependent shall be disallowed. A payment to a divorced or separated wife spouse, other than a payment of the kind referred to in section 200.072, subdivision 3 for support of minor children under a temporary order or final decree of dissolution or legal separation, shall not be considered a payment by the husband other spouse for the support of any dependent.

(4) (a) In the case of an unmarried individual who has attained the age of 65 before the close of his taxable year, an additional \$20 \$48;

(b) In the case of an unmarried individual who is blind at the close of the taxable year, an additional \$20 \$48;

(c) In the case of a married individual, living with husband or wife, an additional \$20 \$48 for each spouse who has attained the age of 65 before the close of the individual's taxable year, and an additional \$20 \$48 for each spouse who is blind at the close of the individual's taxable year. If such husband and wife make separate returns, these credits may be taken by either or divided between them;

(d) For the purposes of sub-paragraphs (b) and (c) of paragraph (4), an individual is blind if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(e) In the case of an unmarried individual who is deaf at close of the taxable year, an additional \$20 \$48.

(f) In the case of a married individual, an additional \$20 \$48 for each spouse who is deaf at the close of the taxable year. If the husband and wife make separate returns, these credits may be taken by either or divided between them.

(g) In the case of an individual, an additional \$20 \$48 for each person (other than a spouse) who is deaf and dependent upon and receiving his chief support from the taxpayer.

(h) For the purposes of subparagraphs (e), (f) and (g) of paragraph (4), an individual is deaf if the average loss in the speech frequencies (500-2000 Hertz) in the better ear, unaided, is 92 decibels, American National Standards Institute, or worse.

(i) In the case of an unmarried individual who is quadriplegic at the close of the taxable year, an additional \$48;

(j) In the case of a married individual, living with a spouse, an additional \$48 for each spouse who is a quadriplegic at the close of the taxable year; and

(k) In the case of an individual, another \$48 for each person, other than a spouse, who is dependent upon and receiving his chief support from the taxpayer, and who is a quadriplegic at the close of the taxable year.

(5) (a) If an unmarried individual qualifies for two or more additional credits under the provisions of clauses (4) (a), (4) (b) and (4) (c), the total amount of his credit shall be increased by \$10 for each additional credit in excess of one.

(b) If a married individual qualifies for more than one additional credit for either spouse under the provisions of clauses (4) (c) and (4) (f), the total amount of his credit shall be increased by \$10 for each additional credit in excess of one per spouse.

(6) (5) In the case of an insurance company, it shall receive a credit on the tax computed as above equal in amount to any taxes based on premiums paid by it during the period for which the tax under Extra Session Laws 1967, Chapter 32, is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by Extra Session Laws 1933, Chapter 53 as amended;

(7) (6) In the case of a non-resident individual, credits under paragraphs 1, 2, 3, 4 and 5 and 4 shall be apportioned in the proportion of the gross income from sources in Minnesota to the gross income from all sources, and in any event a minimum credit of \$5 shall be allowed.

(7) [INFLATION ADJUSTMENT.] *The commissioner of revenue shall determine and announce by September 1, 1981, the percentage increase from June, 1980, to June, 1981, in the revised all urban consumer price index for the Minneapolis-St Paul metropolitan area prepared by the United States department of labor with 1967 as a base year. The credits provided in this subdivision shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted credit amounts for the taxable year beginning after December 31, 1980.*

*The commissioner of revenue shall determine and announce by September 1, 1982, and each succeeding year, the percentage increase from June, 1981, to June, 1982, and each year thereafter, in the revised all urban consumer price index described above. The credit amounts provided in this subdivision as adjusted in the previous year shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted credit amounts for the taxable year beginning after December 31, 1981, and each succeeding taxable year.*

Sec. 3. Minnesota Statutes 1978, Section 290.06, Subdivision 11, is amended to read:

Subd. 11. [CONTRIBUTIONS TO POLITICAL PARTIES AND CANDIDATES.] *In lieu of the credit against taxable net income provided by section 290.21, subdivision 3, clause (c), A taxpayer may take a credit against the tax due under this chapter of 50 percent but not more than \$25 \$50 of his contributions to a political party, as defined by section 200.02, subdivision 7, and candidate. A married couple, filing jointly, may take a similar credit of not more than \$50 \$100. No credit shall be allowed under this subdivision for a contribution to any candidate, other than a candidate for elective judicial office, who has not signed an agreement to limit his campaign expenditures as provided in section*

10A.32, subdivision 3b. The commissioner of revenue shall provide in the tax instruction booklet language understandable to a person of average intelligence which states that the taxpayer may only claim a credit against his tax due for contributions to candidates for (a) judicial office or (b) statewide or legislative office who have agreed to limit their expenditures. For purposes of this subdivision, "candidate" means a candidate as defined in section 10A.01, subdivision 5, or a candidate for United States congressional office from the state of Minnesota. A taxpayer taking a credit pursuant to this subdivision may not deduct a contribution under section 4. The department of revenue shall provide on the first page of the Minnesota tax form an appropriate provision for the credit provided by this subdivision.

This credit shall be allowed only if the contribution is verified in the manner the commissioner of revenue shall prescribe.

Sec. 4. Minnesota Statutes 1978, Section 290.09, is amended by adding a subdivision to read:

*Subd. 30. [POLITICAL CONTRIBUTIONS.] An amount for contributions made within the taxable year to a candidate, as defined in section 210A.01, subdivision 3, a political party or a political cause shall be allowed as a deduction, unless contributions to the candidate or political party would qualify for a credit under section 3 of this article. The maximum allowable deduction under this subdivision shall be \$100 for an individual and \$200 for a married couple, filing a joint return. A taxpayer who deducts a contribution pursuant to this subdivision may not take a contribution credit pursuant to section 3 of this article, in the same taxable year.*

Sec. 5. Minnesota Statutes 1978, 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, or to an employee

stock ownership trust as defined in section 290.01, subdivision 25. Where the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the deduction shall be reduced by the product of multiplying said amount by their percentage interest in the trust,

(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 (c) 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, provided, however, that for an individual taxpayer, the credit shall be allowed in an amount equal to the ratio of the taxpayer's gross income from sources within the state to the taxpayer's gross income from all sources.

(e) to a political party, as defined in section 200.02, subdivision 7, or a political candidate, as defined in section 210A.01, or a political cause when sponsored by any party or association or committee, as defined in section 210A.01, in a maximum amount not to exceed the following:

(1) contributions made by individual natural persons, \$100;

(2) contributions made by a national committeeman, national committeewoman, state chairman, or state chairwoman of a political party, as defined in section 200.02, subdivision 7, \$1,000;

(3) contributions made by a congressional district committeeman or committeewoman of a political party, as defined in section 200.02, subdivision 7, \$350;

(4) contributions made by a county chairman or a county chairwoman of a political party, as defined in section 200.02, subdivision 7, \$150;

(f) In the case of an individual, the total credit against taxable net income allowable hereunder shall not exceed 30 percent of the taxpayer's Minnesota gross income as follows:

(i) the aggregate of contributions made to organizations specified in (a), (b) and (d) shall not exceed ten percent of the taxpayer's Minnesota gross income;

(ii) the total credits under this subparagraph for any taxable year shall not exceed 20 percent of the taxpayer's Minnesota gross income. For purposes of this subparagraph, the credits under this section shall be computed without regard to any deduction allowed under subparagraph (i) but shall take into account any contributions described in subparagraph (i) which are in excess of the amount allowable as a credit under subparagraph (i); the sum of:

(i) 20 percent of the taxpayer's Minnesota gross income in the case of contributions described in clauses (c) and (e); and

(ii) 50 percent of the taxpayer's Minnesota gross income in the case of contributions or gifts described in clauses (a), (b) and (d), reduced by the amount of the credit allowable under subparagraph (i),

(g) in the case of an individual, if the amount of the contributions or gifts described in clauses (a), (b) and (d), when added to the amount of contributions described in clauses (c) and (e), payment of which is made in a taxable year, hereinafter referred to in this subdivision as the "contribution year", exceeds 50 percent of the taxpayer's Minnesota gross income for that year, the excess shall be treated as a gift or contribution pursuant to this subdivision, paid in each of the five succeeding taxable years in order of time, but with respect to any succeeding taxable year, only to the extent of the lesser of the following amounts:

(i) the amount by which 50 percent of the taxpayer's Minnesota gross income for such succeeding taxable year exceeds the sum of the contribution and gifts described in this subdivision, payment of which is actually made by the taxpayer within such succeeding taxable year, and the contributions and gifts described in clauses (a), (b) and (d), payment of which was made in taxable years before the contribution year and which are treated pursuant to this clause as having been paid in such succeeding taxable year; or

(ii) in the first succeeding taxable year, the amount of such excess, and in the second, third, fourth and fifth succeeding taxable years, the portion of such excess not treated under this clause as a contribution or gift described in clauses (a), (b) and (d) paid in a taxable year between the contribution year and such succeeding taxable year; or

(iii) if, in a contribution year, the taxpayer's Minnesota gross income exceeds \$100,000, clause (g) shall not apply and no contributions or gifts covered by clause (g) shall be carried forward to a subsequent year,

(g)(h) in the case of a corporation, the total credit against net income hereunder shall not exceed 15 percent of the taxpayer's taxable net income less the credits allowable under this section other than those for contributions or gifts.

(h)(i) 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 regulations prescribe, ,

(i)(j) in the case of a contribution or property placed in trust as described in section 170(f)(2) of the Internal Revenue Code of 1954, as amended through December 31, 1976, a credit

shall be allowed under this subdivision to the extent that a deduction is allowable for federal income tax purposes.

Sec. 6. [REPEALER.] *Minnesota Statutes 1978, Section 290.06, Subdivision 3e; and 290.21, Subdivision 3a, are repealed.*

Sec. 7. [EFFECTIVE DATE.] *Section 1 is effective for taxable years beginning after December 31, 1977. Except as otherwise provided, sections 2, 3, 4 and 5 are effective for taxable years beginning after December 31, 1978.*

### ARTICLE III

#### INCOME TAX RATE REDUCTION

Section 1. *Minnesota Statutes 1978, Section 290.06, Subdivision 2c, is amended to read:*

Subd. 2c. [SCHEDULE OF RATES FOR INDIVIDUALS, ESTATES AND TRUSTS.] (a) *For taxable years beginning after December 31, 1977 1979, the income taxes imposed by this chapter upon individuals, estates and trusts, other than those taxable as corporations, shall be computed by applying to their taxable net income in excess of the applicable credits allowed by section 290.21, the following schedule of rates:*

- (1) *On the first \$500, one and six-tenth percent;*
- (2) *On the second \$500, two and two-tenths percent;*
- (3) *On the next \$1,000, three and five-tenths percent;*
- (4) *On the next \$1,000, five and eight-tenths percent;*
- (5) *On the next \$1,000, seven and three-tenths percent;*
- (6) *On the next \$1,000, eight and eight-tenths percent;*
- (7) *On the next \$2,000, ten and two-tenths percent;*
- (8) *On the next \$2,000, eleven and five-tenths percent;*
- (9) *On the next \$3,500, twelve and eight-tenths percent;*
- (10) *On all over \$12,500, and not over \$20,000, fourteen percent;*
- (11) *On all over \$20,000 and not over \$27,500, fifteen percent;*
- (12) *On all over \$27,500 and not over \$40,000, sixteen percent ;*
- ~~(13) On all over \$40,000, seventeen percent .~~

(b) *In lieu of a tax computed according to the rates set forth in clause (a) of this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year, reduced by the applicable credits allowed by section 290.21, is less than \$20,000 shall 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.

## ARTICLE IV

### PENSIONS

Section 1. Minnesota Statutes 1978, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. [GROSS INCOME.] 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; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended.

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes 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 section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(v) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it

passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of chapter 290 at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which

exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24; and

(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101; and

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(12) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976, if the nonprofit corporation is domiciled outside of Minnesota;

(13) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, except for that portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(14) The amount of any excluded gain realized by a trust on the sale or exchange of property as defined in section 641(c)(1).

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

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

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes.

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carry-forwards or carrybacks resulting from such losses;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, notwithstanding any other law to the contrary, the amount, *not to exceed \$12,000*, received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of 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, 404, 405, 408 or 409 of the Internal Revenue Code of 1954, as amended through December 31, 1977. ~~The maximum amount of this subtraction shall be \$7,200 less the sum of (a) social security retirement benefits received during the taxable year, (b) railroad retirement benefits received during the taxable year, and (c) the amount by which the individual's federal adjusted gross income exceeds \$13,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$7,200 less the sum of social security retirement benefits and railroad retirement benefits; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$13,000;~~

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(8) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later; and

(9) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed after December 31, 1977 and before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60.

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which

actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(2) in computing Minnesota inheritance tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 2. [EFFECTIVE DATE.] *This article is effective for taxable years beginning after December 31, 1978.*

## ARTICLE V

### MILITARY TAXATION

Section 1. Minnesota Statutes 1978, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. [GROSS INCOME.] 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; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 52B of the Internal Revenue Code of 1954, as amended.

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as com-

puted for federal income tax purposes 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 section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(v) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H. R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of chapter 290 at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax

under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24; and

(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101; and

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(12) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976, if the nonprofit corporation is domiciled outside of Minnesota;

(13) Exempt-interest dividends, as defined in section 852(b) (5) (A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b) (5) (B) of the Internal Revenue

Code of 1954, as amended through December 31, 1976, except for that portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(14) The amount of any excluded gain realized by a trust on the sale or exchange of property as defined in section 641(c)(1),

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

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

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes;

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of 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, 404, 405, 408 or 409 of the Internal Revenue Code of 1954, as

amended through December 31, 1977. The maximum amount of this subtraction shall be \$7,200 less the sum of (a) social security retirement benefits received during the taxable year, (b) railroad retirement benefits received during the taxable year, and (c) the amount by which the individual's federal adjusted gross income exceeds \$13,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$7,200 less the sum of social security retirement benefits and railroad retirement benefits; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$13,000;

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(8) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later; and

*(9) To the extent included in federal adjusted gross income, the first \$3,000 received by any person as compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 received by an individual as compensation for personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota; and*

~~(9)~~ (10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed after December 31, 1977 and before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60.

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(2) in computing Minnesota inheritance tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

**Sec. 2. [REPEALER.]** *Minnesota Statutes 1978, Section 290.06, Subdivision 12, is repealed.*

**Sec. 3. [EFFECTIVE DATE.]** *This article is effective for taxable years beginning after December 31, 1978.*

## ARTICLE VI

### ENERGY CREDITS

**Section 1.** *Minnesota Statutes 1978, Section 290.06, is amended by adding a subdivision to read:*

**Subd. 13. [RESIDENTIAL ENERGY CREDIT.]** *A credit of 20 percent of the first \$10,000 of renewable energy source expenditures, made by the taxpayer on a Minnesota building of six dwelling units or less in a taxable year, may be deducted from the tax due under this chapter for the taxable year.*

*A "renewable energy source expenditure" which qualifies shall include:*

*(a) Expenditures which qualify for the federal renewable energy credit, pursuant to Section 44C of the Internal Revenue Code of 1954, as amended through December 31, 1978, and any regulations promulgated pursuant thereto;*

*(b) Expenditures for earth sheltered dwelling units. For purposes of this credit, an "earth sheltered dwelling unit" shall mean a structure which complies with applicable building standards and which is constructed so that:*

*(1) 80 percent or more of the roof area is covered with a minimum depth of 12 inches of earth;*

*(2) 50 percent or more of the wall area is covered with a minimum depth of 12 inches of earth; and*

*(3) Those portions of the structure not insulated with a minimum of seven feet of earth shall have additional insulation;*

*(c) Expenditures for biomass conversion equipment which produces ethanol, methane or methanol for use as a liquid fuel which is not offered for sale; and*

*(d) Expenditures for passive solar energy systems. For purposes of this credit, a "passive solar energy system" is defined to include systems which utilize elements of the building and its operable components to heat or cool a building with the sun's energy by means of conduction, convection, radiation, or evaporation. A passive system shall include:*

*(1) Collection aperture, including glazing installed in south facing walls and roofs; and*

*(2) Storage element, including thermal mass in the form of water, masonry, rock, concrete, or other mediums which is designed to store heat collected from solar radiation.*

*A passive system may include:*

(1) Control and distribution element, including fans, louvers, and air ducts; and/or

(2) Retention element, including movable insulation used to minimize heat loss caused by nocturnal radiation through areas used for direct solar heat gain during daylight hours.

Eligible passive expenditures shall be for equipment, materials or devices that are an integral part of the components listed above and essential to the functioning of a passive design which qualifies pursuant to rules promulgated by the commissioner of revenue in cooperation with the director of the energy agency. Expenditures for equipment, materials, or devices which are a part of the normal heating, cooling, or insulation system of a building are not eligible for the credit.

If a credit was allowed to a taxpayer under this subdivision for any prior taxable year with respect to a dwelling unit by reason of energy conservation expenditures or renewable energy source expenditures, the dollar amount of the credit allowable for each kind of expenditure for the current taxable year shall be reduced by the amount of expenditures of that kind taken into account in prior years.

The credit provided in this subdivision shall not be allowed in a taxable year if the amount of the credit would be less than \$10. The credit shall not exceed the amount of tax due under chapter 290.

If the credit allowable under this subdivision exceeds the amount of tax due in a taxable year, the excess credit may be carried forward to the succeeding taxable year and added to the credit allowable for that year. No amount may be carried forward to a taxable year beginning after December 31, 1984.

A shareholder in a family farm corporation and each partner in a partnership operating a family farm shall be eligible for the credit provided by this subdivision in the same manner and to the same extent allowed a joint owner of property under clause (a). "Family farm corporation" and "family farm" have the meanings given in section 500.24.

The credit provided in this subdivision is subject to the provisions of section 44C, (c) (7), (d) (1) to (3), and (e), of the Internal Revenue Code of 1954, as amended through December 31, 1978, and any regulations promulgated pursuant thereto.

Sec. 2. [RULES.] The commissioner of revenue in cooperation with the director of the energy agency shall promulgate rules establishing additional qualifications and definitions for the credits provided in clauses (a) to (d).

Sec. 3. [EFFECTIVE DATE.] This article is effective for expenditures made during the tax years beginning after December 31, 1978 and before January 1, 1983.

## ARTICLE VII

### CORPORATE TAX

Section 1. Minnesota Statutes 1978, Section 290.06, Subdivision 1, is amended to read:

290.06 [RATES OF TAX; CREDITS AGAINST TAX.] Subdivision 1. [COMPUTATION, CORPORATIONS.] The privilege and income taxes imposed by this chapter upon corporations shall be computed by applying to their taxable net income in excess of the applicable credits allowed under section 290.21 the rate of following schedule of rates: (a) On the first \$25,000, six percent; (b) On the remainder, 12 percent.

The amount of tax payable by a corporation required to file a return shall not be less than \$100.

Sec. 2. Minnesota Statutes 1978, Section 290.361, Subdivision 2, is amended to read:

Subd. 2. [COMPUTATION OF TAXABLE NET INCOME.] The taxable net income shall be computed in the manner provided by this chapter except that in the case of national and state banks: (a) the rate shall be 13.64 percent until January 1, 1974 and 12 percent thereafter; (b) the basic date for the purpose of computing gain or loss and depreciation shall be January 1, 1940, instead of January 1, 1933; (c) property consisting of investments in bonds, stocks, notes, debentures, mortgages, certificates, or any evidence of indebtedness, and any property acquired in liquidation thereof when such property is held for investment or for sale, shall not be deemed to be capital assets; and (d) (c) in computing net income there shall be allowable as a deduction from gross income, in addition to deductions otherwise provided for in this act, any dividend (not including any distribution in liquidation) paid, within the taxable year, to the United States or to any instrumentality thereof exempt from federal income taxes, on the preferred stock of the bank owned by the United States or such instrumentality. *The excise tax imposed by subdivision 1 of this section upon national and state banks shall be computed by applying to their taxable net income as determined above, the rates prescribed by section 290.06, subdivision 1.*

Sec. 3. [EFFECTIVE DATE.] *This article is effective for taxable years beginning after December 31, 1979.*

## ARTICLE VIII

### JOB EXPANSION AND NEW BUSINESS FACILITIES CREDIT

Section. 1. [290B.01] [DEFINITIONS.] As used in sections 1 to 6:

Subdivision 1. "Facility" means a factory, mill, plant, refinery, warehouse, feedlot, or building or complex of buildings in which individuals are customarily employed or in which machinery,

equipment or other property is customarily housed.

Subd. 2. "Revenue producing enterprise" includes any of the following:

(a) the assembly, fabrication, manufacture, or processing of an agricultural, mineral, or manufactured product;

(b) the storage, warehousing, distribution, or sale of an agricultural, mining, or manufacturing product;

(c) the feeding of livestock at a feed lot;

(d) the operation of a laboratory or other facility for research, development, or testing in the field of science, agriculture, animal husbandry, or industry;

(e) the performance of any type of services; or

(f) the administrative management of any of the enterprises described in clauses (a) through (e).

Subd. 3. "Qualified employee" is an individual who is employed by the taxpayer in the operation of the new business facility and who is:

(a) employed on a regular fulltime basis;

(b) employed on a parttime basis for at least 20 hours per week during the entire taxable year; or

(c) employed on a fulltime seasonal basis for the entire season customary to the position in which the person is employed.

Subd. 4. "Replacement business facility" means a facility which replaces an older facility, which older facility:

(a) was operated by either the taxpayer or a related taxpayer during three of the five years immediately preceeding the year in which the taxpayer begins operations at the replacement facility;

(b) was used by either the taxpayer or a related taxpayer in a revenue producing enterprise and the taxpayer continues in the operation of the same or a substantially identical revenue producing enterprise; and

(c) discontinues operations before the end of the first taxable year in which the taxpayer claims the credit allowed under sections 1 to 6.

Subd. 5. "Related taxpayer" means:

(a) an individual, corporation, partnership, trust, or association that controls the taxpayer; or

(b) a corporation, partnership, trust, or association that is controlled by the taxpayer either by himself or through an individual, corporation, partnership, trust, or association that the taxpayer controls.

Subd. 6. "Control" means:

(a) in the case of a corporation, the ownership, either directly or indirectly, of at least 80 percent of all nonvoting classes of stock of the corporation and at least 80 percent of the total voting power of all classes of the corporation's stock entitled to vote;

(b) in the case of a partnership or association, the ownership of at least 80 percent of the capital or profits of the partnership or association; and

(c) in the case of a trust, the ownership, either directly or indirectly, of at least 80 percent of the beneficial interest in the principal or income of the trust.

**Sec. 2. [290B.02] [CREDIT.] Subdivision 1.** A taxpayer is entitled to an income tax credit if he begins operating a new business facility in Minnesota after December 31, 1979 and before January 1, 1985, and if he maintains an average of at least five qualified employees at that new business facility.

**Subd. 2.** The income tax credit to which the taxpayer is entitled in a taxable year equals the lesser of:

(a) 50 percent of the state income tax liability for that taxable year which is attributable to the new business facility; or

(b) the sum of: (A) the product of: (i) \$100 multiplied by (ii) the average number of qualified employees employed at the new business facility during the taxable year; plus (B) the product of: (i) \$100 multiplied by (ii) each \$100,000 or major part thereof of the taxpayer's average new business facility investment during the taxable year.

**Subd. 3.** Except as provided in section 5, a taxpayer may claim the credit in the taxable year in which he begins operating the new business facility and in each of the nine succeeding taxable years in which he operates the facility and maintains the required number of qualified employees.

**Subd. 4.** For purposes of sections 1 to 6 a taxpayer begins operating a new business facility when he first pays at least five qualified employees to perform functions at the new business facility, which functions are a part of the facility's revenue producing enterprise.

**Subd. 5.** Notwithstanding subdivision 1 a public utility is not entitled to the credit provided under sections 1 to 6.

**Sec. 3. [290B.03] [CALCULATION OF CREDIT.] Subdivision 1.** (a) For purposes of determining the credit to which a taxpayer is entitled, the average number of qualified employees at a new business facility for a taxable year equals the quotient of: (1) the number of qualified employees at the new business facility on the last business day of each month divided by (2) 12.

(b) If in the taxable year in which the new business facility begins operations the facility does not operate for 12 months, the average number of qualified employees shall be determined by substituting the number of months that the facility is operated for the number 12 in clause (a) (2).

(c) If a facility qualifies as a new business facility under the expansion exception provided in section 4, subdivision 3, the average number of qualified employees determined under clause (a) shall be reduced by the average number of individuals employed in the operation of the old facility during the three taxable years immediately preceding the taxable year in which the new business facility begins operation. The average number of individuals employed at the old facility shall be determined in the same manner as the average number of qualified employees.

Subd. 2. (a) For purposes of determining the credit to which a taxpayer is entitled, the average new business facility investment for a taxable year equals the quotient of: (1) the value of the new business facility investment on the last business day of each month; divided by (2) 12.

(b) If in the taxable year in which the new business facility begins operations, the facility does not operate for 12 months, the average new business facility investment shall be determined by substituting the number of months that the facility is operated for 12 in clause (a) (2).

(c) The value of new facility investment is:

- (1) the original cost, if the taxpayer owns the property; or
- (2) eight times the net annual rental rate, if the taxpayer leases the property.

Subd. 3. (a) For purposes of determining the credit to which the taxpayer is entitled, the state income tax liability attributable to a new business facility equals the product of: (1) the taxpayer's total income tax liability incurred under chapter 290 as computed after application of the credits, except the credit allowed under sections 1 to 6, multiplied by (2) a fraction, the numerator of which is the sum of the property factor and the payroll factor and the denominator of which is two.

(b) The "property factor" is a fraction, the numerator of which is the total tangible property, real, personal and mixed, owned, rented, or used in this state during the taxable year in connection with the operation of the new business facility, and the denominator of which is the total tangible property, real, personal and mixed, owned, rented, or used in this state during the taxable year.

(c) The "payroll factor" is a fraction, the numerator of which is the total payroll that the taxpayer paid during the taxable year to qualified employees employed at the new business facility and the denominator of which is the total payroll that the taxpayer paid during the taxable year to employees in this state.

Sec. 4. [290B.04] [NEW BUSINESS FACILITY.] Subdivision 1. (a) A facility qualifies as a new business facility if:

(a) the facility is used by the taxpayer in the operation of a revenue producing enterprise, other than the leasing of the facility to another person;

(b) the facility has not, for one year prior to the date it begins operations, been operating in a revenue producing enterprise in which the products produced or sold, the services performed, or activities conducted were of the same character and were for the same type of customers as the revenue producing enterprise for which the taxpayer operates the facility; and

(c) the facility is not a replacement facility.

Subd. 2. For purposes of subdivision 1, clause (a) only, if a taxpayer leases a part of a facility to another person and operates the remainder of the facility in a revenue producing enterprise, the part of the facility which the taxpayer operates in a revenue producing operation may qualify as a new business facility.

Subd. 3. If a taxpayer expands an existing facility by making a capital investment that exceeds the lesser of:

(1) \$1,000,000; or

(2) the amount of his capital investment in the existing facility;  
the taxpayer may consider the expansion as a separate facility for purposes sections 1 to 6.

Sec. 5. [290B.05] [DEFERRAL OF CREDIT.] Subdivision 1. A taxpayer may elect to defer claiming the credit for not more than three taxable years after the taxable years in which he begins operating the new business facility.

Subd. 2. The taxpayer may make the election by filing a notice with the department, which notice must contain the date the taxpayer began operations at the new business facility and the taxable year for which the election is made. The notice must be filed before the end of the taxable year for which the election is made.

Subd. 3. Except as provided in subdivision 4, if a taxpayer fails to properly make the deferral election in a taxable year, he is entitled to claim the credit only in that taxable year and in the nine taxable years immediately following that taxable year.

Subd. 4. If a taxpayer terminates the operation of a revenue producing enterprise at a new business facility during the ten year period in which he is entitled to the credit, he is entitled to claim the credit for the number of taxable years remaining in the ten year period if he later resumes operation of the new business facility in the same or in a different revenue producing enterprise.

Sec. 6. [290B.06] [TRANSFER OF FACILITY.] Subdivision 1. If a taxpayer who is entitled to the credit under sections 1 to 6 transfers all or a part of his new business facility to a related taxpayer, the taxpayer may elect either to continue claiming the credit himself, or to allow the related taxpayer to claim the credit for the part of the new business facility transferred to that related taxpayer. The taxpayer shall make the election under this section during the taxable year in which the transfer

is made and must file notice of that election with his income tax return for that taxable year. If the taxpayer retains the credit for himself he may include the related taxpayer's average number of qualified employees and average new business facility investment for purposes of computing his credit under sections 1 to 6. However, the taxpayer may not include the related taxpayer's state income tax liability for purposes of computing his credit under sections 1 to 6. If the related taxpayer is allowed to claim the credit under sections 1 to 6 he shall compute the credit as if the part of the new business facility transferred to him is a separate new business facility. However, he may only claim the credit for the number of years remaining in the ten year period during which the taxpayer could claim the credit.

Subd. 2. If an individual taxpayer who is entitled to the credit dies during the ten year period in which he may claim the credit, the credit may be claimed for the remainder of the ten year period by the taxpayer's estate or by the beneficiary who receives the new business facility from the estate. However, the total new business facility investment of the estate and the beneficiaries may not exceed the deceased taxpayer's new business facility investment.

Sec. 7. Sections 1 to 6 are effective January 1, 1980 and apply to taxable years beginning after December 31, 1979.

## ARTICLE IX

### POLLUTION CONTROL CREDIT

Section 1. Minnesota Statutes 1978, Section 290.06, Subdivision 9, is amended to read:

Subd. 9. [POLLUTION CONTROL EQUIPMENT, CREDIT.]

(a) 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 and which is included in section 290.09, subdivision 7, paragraph (A) (a) that is installed and operated within Minnesota exclusively to prevent pollution of air, water, or land in accordance with engineering principles approved by the Minnesota pollution control agency, may be deducted from the tax due under this chapter in the first year for which a depreciation deduction is allowed for the equipment. The credit allowed by this subdivision shall not exceed so much of the liability for tax for the taxable year as does not exceed \$50,000 \$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.

(b) If the amount of the credit determined under (a) for any taxable year for which a depreciation deduction is allowed exceeds the limitation provided by (a) for such taxable year (hereinafter in this subdivision referred to as the "unused credit year"), such excess shall be,

(1) a credit carryback to each of the three taxable years preceding the unused credit year, and

(2) a credit carryover to each of the seven *four* taxable years following the unused credit year.

The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the ~~ten~~ *four* taxable years to which ~~(by reason of (1) and (2))~~ such credit may be carried and then to each of the other ~~nine~~ *three* taxable years; provided, however, the maximum credit allowable in any one taxable year under this subdivision (including the credit allowable under (a) and the carryback or carryforward allowable under this paragraph) shall in no event exceed \$50,000 ~~\$75,000~~.

(c) This subdivision shall apply to property acquired in taxable years beginning on or after January 1, ~~1969~~ 1977.

Sec. 2. Minnesota Statutes 1978, Section 290.06, Subdivision 9a, is amended to read:

Subd. 9a. [FEEDLOT POLLUTION CONTROL EQUIPMENT.] A credit of 10 percent of the net cost of pollution control and abatement equipment, including but not limited to, lagoons, concrete storage pits, slurry handling equipment, and other equipment and devices approved by the pollution control agency, purchased, installed and operated within the state by a feedlot operator to prevent pollution of air, land, or water in connection with the operation of a livestock feedlot, poultry lot or other animal lot, may be deducted from the tax due under this chapter in the taxable year in which such equipment is purchased; provided that no deduction shall be taken for any portion of the cost of the same equipment pursuant to subdivision 9. The credit provided for in ~~subdivision 9 shall terminate on December 31, 1976. The credit provided for in this subdivision shall terminate on December 31, 1980, except any amounts that are carried forward to a subsequent year may be taken as a credit in each subsequent year.~~

If the amount of the credit provided by this subdivision exceeds the taxpayer's liability for taxes pursuant to chapter 290 in the taxable year, beginning after December 31, 1972, in which the equipment is purchased, the excess amount may be carried forward to the four taxable years following the year of purchase. The entire amount of the credit not used in the year purchased shall be carried to the earliest of the four taxable years to which the credit may be carried and then to each of the three successive taxable years.

Sec. 3. Minnesota Statutes 1978, Chapter 298, is amended by adding a section to read:

[298.028] [POLLUTION CONTROL TAX CREDIT.] *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 due under this chapter 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.*

*Subd. 2. If the amount of the credit determined under subdivision 1 for any taxable year exceeds the limitation provided in subdivision 1 for such taxable year, hereinafter referred to as the "unused credit year", such excess shall be a credit carryover to each of the four taxable years following the unused credit year.*

*The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the four taxable years to which such credit may be carried and then to each of the other three taxable years; provided, however, the maximum credit allowable in any one taxable year under this subdivision, including the credit allowable under subdivision 1 and the carryforward allowable under this paragraph, shall in no event exceed \$75,000.*

**Sec. 4. [EFFECTIVE DATE.]** *Except as otherwise provided, sections 1 and 2 are effective the day following final enactment. Section 3 is effective for property acquired in a taxable year beginning after December 31, 1978.*

## ARTICLE X

### RAILROADS

**Section 1.** *Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:*

**[270.80] [DEFINITIONS.]** *Subdivision 1. The following words and phrases when used in sections 1 to 13, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section.*

*Subd. 2. "Railroad company" means any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.*

*Subd. 3. "Operating property" means all property owned or used by a railroad company in the performance of railroad transportation services, including without limitation franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings and structures.*

*Subd. 4. "Nonoperating property" means and includes all property other than property defined in subdivision 3. Nonoperating property shall include real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date.*

*Subd. 5. "Commissioner" means the commissioner of revenue.*

**Sec. 2.** *Minnesota Statutes 1978, Chapter 270, is amended by*

adding a section to read:

[270.81] [TAXATION AND ASSESSMENT OF RAILROAD COMPANY PROPERTY.] *Subdivision 1. The operating property of every railroad company doing business in Minnesota shall be valued by the commissioner in the manner prescribed by sections 1 to 13.*

*Subd. 2. The nonoperating property of every railroad company doing business in Minnesota shall be assessed as otherwise provided by law.*

*Subd. 3. The commissioner shall have exclusive primary jurisdiction to determine what is operating property and what is nonoperating property. In making such determination, the commissioner shall solicit information and opinions from outside his department and afford all interested persons an opportunity to submit data or views on the subject in writing or orally.*

*Subd. 4. In no event shall property owned or used by a railroad, whether operating property or nonoperating property, be subject to tax hereunder unless such property is of a character which would otherwise be subject to tax under the provisions of Minnesota Statutes, Chapter 272.*

*Subd. 5. Prior to the promulgation of permanent rules the commissioner may exercise temporary rule-making authority as provided in section 15.0412, subdivision 5, to implement the provisions of this act. The commissioner shall solicit information and opinions from outside his department as provided in section 15.0412, subdivision 6, before adopting these rules. Notwithstanding the provisions of section 15.0412, subdivision 5, rules adopted pursuant to this section shall be effective until permanent rules are adopted pursuant to chapter 15 or until May 1, 1980, whichever occurs first.*

Sec. 3. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.82] [REPORTS OF RAILROAD COMPANIES.] *Subdivision 1. Every railroad company doing business in Minnesota shall annually file with the commissioner on or before April 30 a report under oath setting forth the information prescribed by the commissioner to enable him to make the valuation and equalization required by sections 1 to 13.*

*Subd. 2. The commissioner for good cause may extend the time for filing the report required by subdivision 1.*

Sec. 4. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.83] [EXAMINATIONS AND INVESTIGATIONS.] *Subdivision 1. The commissioner shall have the power to examine or cause to be examined any books, papers, records, or memoranda relevant to the determination of the valuation of operating property as herein provided. The commissioner shall have the further power to require the attendance of any person having knowledge*

or information in the premises, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to such determination and administer oaths or affirmations.

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

Subd. 3. If any railroad company shall refuse or neglect to make the report required by this section to the commissioner, or shall refuse or neglect to permit an inspection and examination of its property, records, books, accounts or other papers when requested by the commissioner, or shall refuse or neglect to appear before the commissioner or a person appointed under subdivision 2 when required so to do, the commissioner shall make the valuation provided for by sections 1 to 13 against the railroad company according to his best judgment on available information.

Sec. 5. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.84] [ANNUAL VALUATION OF OPERATING PROPERTY.] Subdivision 1. The commissioner shall annually between April 30 and July 31 make a determination of the fair market value of the operating property of every railroad company doing business in this state as of January 2 of the year in which the valuation is made. In determining the fair market value of the portion of operating property within this state, the commissioner shall value the operating property as a unit, taking into consideration the value of the operating property of the entire system, and shall allocate to this state that part thereof which is a fair and reasonable proportion of said entire system valuation. If the commissioner uses original cost as a factor in determining the unit value of operating property, no depreciation or obsolescence allowance shall be permitted. However, if the commissioner uses replacement cost as a factor in determining the unit value of operating property, then a reasonable depreciation and obsolescence allowance may be used.

The commissioner shall give a report to the legislature in February 1980 and in February 1981, on the formula which he has used to determine the unit value of railroad operating property pursuant to this act. This report shall also contain the valuation for payable 1980 and 1981 by company and the taxes payable in 1980

and 1981 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary.

*Subd. 2. After the commissioner has determined the fair market value of the operating property of each railroad company, he shall give notice by first class mail to the railroad company of the valuation.*

Sec. 6. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.85] [REVIEW OF VALUATION.] *A railroad company may within 15 days of receipt of the notice of valuation file a written request for a conference with the commissioner relating to the value of its operating property. The commissioner shall thereupon designate a time and place for the conference which he shall conduct, upon commissioner's entire files and records and such further information as may be offered. Said conference shall be held no later than 30 days after mailing of the commissioner's valuation notice. At a reasonable time after such conference the commissioner shall make a final determination of the fair market value of the operating property of the railroad company and shall notify the company promptly thereof.*

Sec. 7. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.86] [APPORTIONMENT OF VALUATION.] *Upon determination by the commissioner of the fair market value of the operating property of each railroad company, he shall apportion such value to the respective counties and to the taxing districts therein in conformity with fair and reasonable rules and standards to be established by the commissioner pursuant to notice and hearing, except as provided in section 2 of this act. In establishing such rules and standards the commissioner may consider (a) the physical situs of all station houses, depots, docks, wharves, and other buildings and structures with an original cost in excess of \$10,000; (b) the proportion that the length and type of all the tracks used by the railroad in such county and taxing district bears to the length and type of all the track used in the state; and (c) other facts as will result in a fair and equitable apportionment of value.*

Sec. 8. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.87] [CERTIFICATION TO COUNTY ASSESSORS.] *When the commissioner has made his annual determination of the fair market value of the operating property of each company in each of the respective counties, and in the taxing districts therein, he shall certify the fair market value to the county assessor, which shall constitute the 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. 9. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.88] [PROCEEDINGS AND APPEALS.] *The commissioner's final determination under section 6 and his certification to county assessors under section 8 shall be final orders appealable to the tax court in accordance with chapter 271. Appeals by railroad companies under this act shall be taken against the commissioner and not against the county or taxing district to which payment is made. Upon the filing of any appeal by a railroad company, the commissioner shall give notice thereof by first class mail to each county which would be affected by the appeal.*

Sec. 10. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.89] [APPLICABILITY OF OTHER PROVISIONS.] *Section 297A.25, subdivision 1, clause (1) shall remain applicable to railroad companies subject to this act.*

Sec. 11. Minnesota Statutes 1978, Chapter 270, is amended by adding a section to read:

[270.90] [PAYMENT OF TAXES IN 1980 AND 1981 ONLY.] *For the years 1979 and 1980 only, after the commissioner has determined the market value of the operating property of each company under the provisions of sections 5 and 6, he shall compute the assessed value of the operating property by applying the classification percentage contained in section 273.13, subdivision 9. By March 1, 1980 and 1981, the commissioner shall compute the tax due from each company by applying the average statewide mill rate. The statement of taxes shall be sent to each company on or before April 1, 1980 and 1981, and shall indicate the assessed value of operating property, the mill rate applied in determining the taxes and the total amount of taxes due and payable. That amount shall be compared to the amount of gross earnings tax imposed under section 13 of this act. If the amount paid pursuant to section 13 is less than the amount computed in this section, the additional tax shall be payable to the commissioner and shall be deposited by him in the general fund of the state treasury. The provisions of section 279.01 pertaining to due dates and penalties for late payment of taxes for nonhomestead property shall be applicable to the taxes payable under this section. If the amount paid pursuant to section 13 exceeds the amount computed in this section, the commissioner shall refund the amount of excess within 60 days. The amounts necessary to make the refunds provided in this section are appropriated to the commissioner from the general fund in the state treasury.*

Sec. 12. Minnesota Statutes 1978, Section 272.02, Subdivision 1, is amended to read:

272.02 [EXEMPT PROPERTY.] Subdivision 1. Except as provided in other subdivisions of this section or in section 272.025, 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;
- (7) All public property exclusively used for any public purpose;
- (8) All natural cheese held in storage for aging by the original Minnesota manufacturer;

(9) (a) Class 2 property of every household of the value of \$100, maintained in the principal place of residence of the owner thereof. The county auditor shall deduct such exemption from the total valuation of such property as equalized by the revenue commissioner assessed to such household, and extend the levy of taxes upon the remainder only. The term "household" as used in this section is defined to be a domestic establishment maintained either (1) by two or more persons living together within the same house or place of abode, subsisting in common and constituting a domestic or family relationship, or (2) by one person.

(b) During the period of his active service and for six months after his discharge therefrom, no member of the armed forces of the United States shall lose status of a householder under paragraph (a) which he had immediately prior to becoming a member of the armed forces.

In case there is an assessment against more than one member of a household the \$100 exemption shall be divided among the members assessed in the proportion that the assessed value of the Class 2 property of each bears to the total assessed value of the Class 2 property of all the members assessed. The Class 2 property of each household claimed to be exempt shall be limited to property in one taxing district, except in those cases where a single domestic establishment is maintained in two or more adjoining districts.

Bonds and certificates of indebtedness hereafter issued by the state of Minnesota, or by any county or city of the state, or any town, or any common or independent school district of the state, or any governmental board of the state, or any county or city thereof, shall hereafter be exempt from taxation; provided, that nothing herein contained shall be construed as exempting such bonds from the payment of a tax thereon, as provided for by section 291.01, when any of such bonds constitute, in whole or in part, any inheritance or bequest, taken or received by any person or corporation.

(10) Farm machinery manufactured prior to 1930, which is used only for display purposes as a collectors item;

(11) The taxpayer shall be exempted with respect to, all agri-

cultural products, inventories, stocks of merchandise of all sorts, all materials, parts and supplies, furniture and equipment, manufacturers material, manufactured articles including the inventories of manufacturers, wholesalers, retailers and contractors; and the furnishings of a room or apartment in a hotel, rooming house, tourist court, motel or trailer camp, tools and machinery which by law are considered as personal property, and the property described in section 272.03, subdivision 1 (c), except personal property which is part of an electric generating, transmission, or distribution system or a pipeline system transporting or distributing water, gas, 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. *Railroad docks and wharves which are part of the operating property of a railroad company as defined in section 1 of this article are not exempt.*

(12) Containers of a kind customarily in the possession of the consumer during the consumption of commodities, the sale of which are subject to tax under the provisions of the excise tax imposed by Extra Session Laws 1967, Chapter 32;

(13) All livestock, poultry, all horses, mules and other animals used exclusively for agricultural purposes;

(14) All agricultural tools, implements and machinery used by the owners in any agricultural pursuit.

(15) 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.

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. Any such equipment or device shall meet standards, regulations 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. If the commissioner determines that property qualifies for exemption, he shall issue an order exempting such property from taxation. Any such 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.

Sec. 13. Minnesota Statutes 1978, Section 295.02, is amended to read:

295.02 [ANNUAL RETURN.] Every railroad company owning or operating any line of railroad situated within, or partly within, this state shall, annually, pay to the commissioner of revenue, in lieu of all taxes upon all property within this state owned or operated for railway purposes by such company, including equipment, appurtenances, appendages and franchises thereof, a sum of money equal to five two percent of the gross earnings derived from the operation of such line of railway within this state.

On or before September first, annually, each such railroad company shall file a true and just return of all such gross earnings for the six months ending June thirtieth, next preceding, and the tax of five *two* percent thereon shall become due and payable to the state of Minnesota, in manner provided by law, on September first.

On or before March first, annually, each such railroad company shall file a true and just return of all such gross earnings for the six months ending December thirty-first, next preceding, and tax of five *two* percent thereon shall become due and payable to the state of Minnesota, in manner provided by law, on March first. The payments of such sums at the times hereinbefore set forth shall be in full and in lieu of all other taxes upon the property and franchises so taxed.

Such returns shall be filed with the commissioner, in such form as he shall prescribe, and the provisions of chapter 294 and acts amendatory thereto, shall be applicable to such railroad companies and to the returns and the taxes submitted therewith by them.

The lands acquired by public grant shall be and remain exempt from taxation until sold or contracted to be sold or conveyed, as provided in the respective acts whereby such grants were made or recognized.

Sec. 14. *Minnesota Statutes 1978, Sections 295.01, Subdivisions 2 and 3; 295.02; 295.03; 295.04; 295.05; 295.12; 295.13; and 295.14 are repealed.*

Sec. 15. *Section 14 shall be effective beginning for taxable years after December 31, 1980. The remainder of this article shall be in effect for all years beginning after December 31, 1978.*

## ARTICLE XI

### FEDERAL UPDATE

Section 1. Minnesota Statutes 1978, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. [GROSS INCOME.] 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; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended *through December 31, 1978.*

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted

gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes 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 section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(v) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of chapter 290 at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

(vi) *The Internal Revenue Code of 1954, as amended through December 31, 1978, shall be in effect for taxable years beginning after December 31, 1978. Those provisions of the Revenue Act of 1978, P.L. 95-600, allowance of partial rollovers of lump sum distributions provided in P.L. 95-458, and of the Tax Treatment Extension Act of 1977, P.L. 95-615, which affect federal adjusted gross income and which became effective for taxable years ending before January 1, 1979 shall become effective for purposes of chapter 290 at the same time they became effective for federal income tax purposes.*

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24; and

(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101; and

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(12) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, if the nonprofit corporation is domiciled outside of Minnesota;

(13) Exempt-interest dividends, as defined in section 852(b) (5) (A) of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, not included in federal adjusted gross income pursuant to section 852(b) (5) (B) of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, except for that portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(14) The amount of any excluded gain ~~realized~~ *recognized* by a trust on the sale or exchange of property as defined in section 641(c) (1) of the Internal Revenue Code of 1954, as amended;

(15) *An amount equal to one-sixth of any gain from the sale or other disposition of property deducted under sections 1202(a) and 1202(c) (1) of the Internal Revenue Code of 1954, as amended through December 31, 1978.*

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

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

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes;

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections

290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of 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, 404, 405, 408 or 409 of the Internal Revenue Code of 1954, as amended through December 31, 1977 1978. The maximum amount of this subtraction shall be \$7,200 less the sum of (a) social security retirement benefits received during the taxable year, (b) railroad retirement benefits received during the taxable year, and (c) the amount by which the individual's federal adjusted gross income exceeds \$13,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$7,200 less the sum of social security retirement benefits and railroad retirement benefits; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$13,000;

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(8) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later; and

(9) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed after December 31, 1977 and before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60.

(10) *Wage or salary expense or program expenses disallowed*

*under the provisions of section 280C of the Internal Revenue Code of 1954 as amended through December 31, 1978 (relating to the jobs credit and to the WIN credit).*

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972, of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(2) in computing Minnesota inheritance tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 2. Minnesota Statutes 1978, Section 290.09, Subdivision 2, is amended to read:

Subd. 2. [TRADE OR BUSINESS EXPENSES; EXPENSE FOR PRODUCTION OF INCOME.] (a) In General. There shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year in carrying on any trade or business, including

(1) A reasonable allowance for salaries or other compensation for personal services actually rendered;

(2) Traveling expenses (including the entire amount expended for meals and lodging) while away from home in the pursuit of a trade or business; and

(3) Rentals or other payments required to be made as a condition to the continued use or possession, for purposes of the trade or business, of property to which the taxpayer has not taken or is not taking title or in which he has no equity. For purposes of the preceding sentence, the place of residence of a member of congress within the state shall be considered his home, but amounts expended by such members within each taxable year for living expenses shall not be deductible for income tax purposes in excess of \$3,000.

(4) *Entertainment, amusement, or recreation expenses shall be allowed under this subdivision only to the extent that they qualify as a deduction under section 274 of the Internal Revenue Code of 1954, as amended through December 31, 1978.*

(b) Expenses for Production of Income. In the case of an individual, there shall be allowed as a deduction all the ordinary and necessary expenses paid or incurred during the taxable year.

(1) For the production or collection of income;

(2) For the management, conservation, or maintenance of property held for the production of income; or

(3) In connection with the determination, collection, or refund of any tax.

(c) Campaign expenditures in an amount not to exceed the limits set out in section 210A.22, not subsequently reimbursed, which have been personally paid by a candidate for public office if the candidate has complied with the expenditure limitations set out in section 210A.22:

(No deduction shall be allowed under this clause for any contribution or gift which would be allowable as a credit under section 290.21 were it not for the percentage limitations set forth in such section);

(d) All expense money paid by the legislature to legislators;

(e) The provisions of section 280A (disallowing certain expenses in connection with the business use of the home and rental of vacation homes) of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, shall be applicable in determining the availability of any deduction under this subdivision.

Sec. 3. Minnesota Statutes 1978, Section 290.09, Subdivision 28, is amended to read:

Subd. 28. [REAL ESTATE INVESTMENT TRUSTS; DEDUCTIBLE DIVIDENDS.] A "real estate investment trust," as defined in section 856 of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978, and to which sections 856 to 858 860 of the Code apply for the taxable year, may deduct its dividends paid to the extent permitted by section 857(b) ~~(2)~~ ~~(C)~~ 857(b) (2) (B) of the Code; and its capital gains dividends paid as defined and limited by section 857(b) ~~(3)~~ ~~(C)~~ of the Code. Such a trust and its shareholders and beneficiaries shall be subject to all of the provisions of sections 857 and 858 of the Code which are applicable under this chapter, in determining their respective taxable net incomes, provided that the excess amount determined and subjected to *available for the alternative tax* under section 857(b) (3) (A) (ii) of the Code shall be included in gross income subject to the deduction provided by section 290.16, subdivision 4.

Sec. 4. Minnesota Statutes 1978, Section 290.091, is amended to read:

290.091 [MINIMUM TAX ON PREFERENCE ITEMS.] (a) In addition to all other taxes imposed by chapter 290 there is hereby imposed for each taxable year ~~beginning after December 31, 1976,~~ a tax which, in the case of a resident individual, estate or trust, shall be equal to 40 percent of the amount of the taxpayer's minimum tax liability for tax preference items pursuant to the provisions of sections 56 55 to 58 and 443(d) of the Internal Revenue Code of 1954 as amended through December 31, 1976 1978 except that for purposes of the tax imposed by this section, excess itemized deductions as defined in section 57(b) shall not include any deduction taken for Minnesota income tax paid and capital gains as defined in section 57(a) of the Internal Revenue

Code shall not include that portion of any gain occasioned by sale, transfer or the granting of a perpetual easement pursuant to any eminent domain proceeding or threat thereof as described in section 290.13, subdivision 5. This modification shall apply to the years in which the gain or reduction in loss is actually included in federal adjusted gross income even though amounts received pursuant to the eminent domain proceedings were received in prior years. *In the case of a taxpayer other than a corporation, an amount equal to one-half of the net capital gain for the taxable year shall be used as the definition of capital gain in place of the deduction determined under section 1202 of the Internal Revenue Code.* In the case of a resident individual, estate or trust having preference items which could not be taken to reduce income from sources outside the state pursuant to section 290.17, subdivision 1, or any other taxpayer the tax shall equal 40 percent of that federal liability, multiplied by a fraction the numerator of which is the amount of the taxpayer's preference item income allocated to this state pursuant to the provisions of sections 290.17, subdivision 1, to 290.20, and the denominator of which is the taxpayer's total preference item income for federal purposes.

*The provisions of section 57 (a) (9) (A) and (D) of the Internal Revenue Code of 1954, as amended through December 31, 1978 shall be effective for the same time during 1978 that these provisions became effective for federal income tax purposes.*

(b) In the case of a resident individual, estate or trust having preference items in taxable years beginning after December 31, 1976, and before January 1, 1978, which are not allocable to Minnesota under the provisions of sections 290.17 to 290.20 in effect for such years, the tax shall equal 40 percent of the taxpayer's federal minimum tax liability, multiplied by a fraction the numerator of which is the amount of the taxpayer's preference items allocable to Minnesota under the provisions of sections 290.17 to 290.20 in effect for such years and the denominator of which is the taxpayer's total preference items for federal purposes.

Sec. 5. Minnesota Statutes 1978, Section 290.095, is amended by adding a subdivision to read:

*Subd. 10. In the case of a taxpayer which has a product liability loss (as defined in section 172(i) of the Internal Revenue Code of 1954 as amended through December 31, 1978) for a taxable year beginning after September 30, 1979 (referred to as 'loss year'), the product liability loss shall be a net operating loss carryback to each of the 10 taxable years preceding the loss year.*

Sec. 6. Minnesota Statutes 1978, Section 290.14, is amended to read:

**290.14 [GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.]** 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 the cost to the taxpayer of such property, with the following exceptions:

- (1) If the property should have been included in the last inven-

tory, it shall be the last inventory value thereof;

(2) If the property was acquired by gift, it shall be the same as it would be if it were being sold or otherwise disposed of by the last preceding owner not acquiring it by gift; if the facts required for this determination cannot be ascertained, it shall be the fair market value as of the date, or approximate date, of acquisition by such last preceding owner, as nearly as the requisite facts can be ascertained by the commissioner;

(3) If the property was acquired by gift through an inter vivos transfer in trust, it shall be the same as it would be if it were being sold or otherwise disposed of by the grantor;

(4) Except as otherwise provided in this clause (4), the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged or otherwise disposed of before the decedent's death by such person, be the fair market value of the property at the date of decedent's death.

For the purposes of the preceding paragraph, the following property shall be considered to have been acquired from or to have passed from the decedent:

(a) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;

(b) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

(c) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(d) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(e) In the case of a decedent's dying after December 31, 1956, property acquired from the decedent by reason of death, form of ownership or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedents' gross estate for Minnesota inheritance tax purposes. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under the first paragraph of this clause reduced by the amount allowed to the taxpayer as deductions in computing taxable net income under this chapter or prior Minnesota income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death

of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to annuities described in section 290.08; and property described in paragraphs (a), (b), (c) and (d) of this clause (4).

Clause (4) shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 290.077. Nor shall it apply to restricted stock options described in section 290.078 which the employee has not exercised at death.

(5) If the property was acquired after December 31, 1932 upon an exchange described in section 290.13, subdivision 1, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 290.13, subdivision 1, to be received without the recognition of gain or loss, and in part of other property, the basis provided in this clause shall be allocated between the properties, other than money, received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This clause shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration, in whole or in part, for the transfer of the property to it;

(6) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 290.09, subdivision 5, the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stock or securities over the repurchase price of such property;

(7) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in section 290.13, subdivision 5, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law applicable to the year in which such conversion was made, determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of a lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludable from gross income under section 290.08, subdivision 14.

If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before January 1, 1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

*(9) The basis of property subject to the provisions of section 1034 of the Internal Revenue Code of 1954, as amended through December 31, 1978 (relating to the rollover of gain on sale of principal residence) shall be the same as the basis for federal income tax purposes. The basis 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. 7. Minnesota Statutes 1978, Section 290.26, Subdivision 2, is amended to read:

Subd. 2. [EMPLOYER CONTRIBUTIONS.] Contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan or to a simplified employee pension shall be allowed as a deduction in accordance with the provisions of ~~Section~~ Sections 404 or 408(k) of the Internal Revenue Code of 1954, as amended through December 31, ~~1976~~ 1978 as adapted to the provisions of this act chapter under regulations rules issued by the commissioner of revenue.

Sec. 8. Minnesota Statutes 1978, Section 290.971, Subdivision 1, is amended to read:

290.971 [ELECTION OF CERTAIN SMALL BUSINESS CORPORATIONS AS TO TAXABLE STATUS; DEFINITIONS.] Subdivision 1. [SMALL BUSINESS CORPORATION.] For purposes of this chapter, the term "small business corporation" means a domestic corporation of the United States which is not a member of an affiliated group (as defined in section 1504 of the Internal Revenue Code of 1954, as amended through December 31, ~~1976~~ 1978) and which does not

(1) have ~~(except as provided in subdivision 5)~~ more than ten 15 shareholders;

(2) have as a shareholder a person (other than an estate and other than a trust described in subdivision 6) who is not an individual;

(3) have a nonresident alien as a shareholder; and

(4) have more than one class of stock, and has elected under the provisions of section 1372(a) of the Internal Revenue Code of 1954, as amended through December 31, ~~1976~~ 1978 to be taxed as a small business corporation under the provisions of said Internal Revenue Code of 1954, as amended through December 31, ~~1976~~ 1978.

Sec. 9. Minnesota Statutes 1978, Section 290.971, Subdivision 3, is amended to read:

Subd. 3. [STOCK OWNED BY HUSBAND AND WIFE.] For purposes of subdivision 1 (1) stock which

(1) is community property of a husband and wife (or the income from which is community income) under the applicable community property law of a state; or

(2) is held by a husband and wife as joint tenants, tenants by the entirety, or tenants in common; or

(3) was, on the date of death of a spouse, stock described in paragraph (1) or (2), and is, by reason of such death, held by the estate of the deceased spouse and the surviving spouse, or by the estates of both spouses, (by reason of their deaths on the same date), in the same proportion as held by the spouses before such death; or

(4) was, on the date of the death of a surviving spouse, stock described in paragraph (3), and is, by reason of such death, held by the estates of both spouses in the same proportion as held by the spouses before their deaths, shall be treated as owned by one shareholder, a husband and wife (and their estates) shall be treated as one shareholder.

Sec. 10. Minnesota Statutes 1978, Section 290.971, Subdivision 6, is amended to read:

Subd. 6. [CERTAIN TRUSTS PERMITTED AS SHAREHOLDERS.] For purposes of subdivision 1, the following trusts may be shareholders:

(1) (a) A trust all of which is treated as owned by the grantor (who is an individual who is a citizen or resident of the United States) under sections 671 to 679 of the Internal Revenue Code of 1954, as amended through December 31, 1976 1978.

(b) A trust which was described in subparagraph (a) immediately before the death of the grantor and which continues in existence after such death, but only for the 60-day period beginning on the day of the grantor's death. If a trust is described in the preceding sentence and if the entire corpus of the trust is includable in the gross estate of the grantor, the preceding sentence shall be applied by substituting "2-year period" for "60-day period."

(2) A trust created primarily to exercise the voting power of stock transferred to it.

(3) Any trust with respect to stock transferred to it pursuant to the terms of a will, but only for the 60 day period beginning on the day on which such stock is transferred to it.

*In the case of a trust described in paragraph (1), the grantor shall be treated as the shareholder.*

*In the case of a trust described in paragraph (2), each beneficiary of the trust shall, for the purposes of subdivision 1, paragraph (1), be treated as a shareholder.*

Sec. 11. Minnesota Statutes 1978, Section 290.972, Subdivision 1, is amended to read:

290.972 [ELECTION BY SMALL BUSINESS CORPORATION.] Subdivision 1. [ELIGIBILITY.] Except as provided in subdivision 6 any small business corporation subject to the laws imposed by this chapter, and its shareholders may, in accordance with the provisions of this section, elect to have said corporation and its shareholders taxed as though said corporation were a partnership. Such election shall be valid only if all persons who are shareholders in such corporation *on the day on which such election is made.*

(1) *on the first day of the first taxable year for which such election is effective, if such election is made on or before such first day, or*

(2) *on the day on which the election is made, if the election is made after such first day,*

consent to such election.

Sec. 12. Minnesota Statutes 1978, Section 290.972, Subdivision 3, is amended to read:

Subd. 3. [WHERE AND HOW MADE.] (1) [IN GENERAL.] An election under subdivision 1 may be made by a small business corporation for any taxable year at any time during the *first month of such preceding taxable year, or at any time during the month preceding such first month first 75 days of the taxable year.* Such election shall be made in such manner as the commissioner shall prescribe by regulation.

(2) [TREATMENT OF CERTAIN LATE ELECTIONS.] *If*

(a) *a small business corporation makes an election under subdivision 1 for any taxable year, and*

(b) *such election is made after the first 75 days of the taxable year and on or before the last day of such taxable year, then such election shall be treated as made for the following taxable year.*

(3) In case of sickness, absence, or other disability, or when in the judgment of the commissioner good cause exists, he may upon application extend the time for making the election under subdivision 1 for not more than twelve months following the close of the taxable year for which the election is sought; provided, however, that an application for an extension of time with respect to taxable years beginning after December 31, 1960 and prior to December 31, 1963 may be filed not later than December 31, 1965.

Sec. 13. Minnesota Statutes 1978, Section 290.972, Subdivision 5, is amended to read:

Subd. 5. [TERMINATION.] (1) [NEW SHAREHOLDERS.] (A) An election under subdivision 1 made by a small business corporation shall terminate if any person who was not a shareholder in such corporation

(i) on the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(ii) on the day on which the election is made, if such election is made after such first day,

becomes a shareholder in such corporation and affirmatively refuses to consent to such election on or before the 60th day after the day on which he acquires the stock.

(B) If the person acquiring the stock is the estate of a decedent, the period under subparagraph (A) for affirmatively refusing to consent to the election shall expire on the 60th day after whichever of the following is the earlier:

(i) The day on which the executor or administrator of the estate qualifies; or

(ii) The last day of the taxable year of the corporation in which the decedent died.

(C) Any termination of an election under subparagraph (A) by reason of the affirmative refusal of any person to consent to such election shall be effective for the taxable year of the corporation in which such person becomes a shareholder in the corporation and ~~for all succeeding taxable years of the corporation. or, if later, the first taxable year for which such election would otherwise have been effective, and for all succeeding taxable years of the corporation.~~

(2) [REVOCATION.] An election under subdivision 1 made by a small business corporation may be revoked by it for any taxable year of the corporation after the first taxable year for which the election is effective. An election may be revoked only if all persons who are shareholders in the corporation on the day on which the revocation is made consent to the revocation. A revocation under this paragraph shall be effective

(A) for the taxable year in which made, if made before the close of the first month of such taxable year,

(B) for the taxable year following the taxable year in which made, if made after the close of such first month,

and for all succeeding taxable years of the corporation. Such revocation shall be made in such manner as the commissioner shall prescribe by regulation.

(3) [CEASES TO BE SMALL BUSINESS CORPORATION.] An election under subdivision 1 made by a small business corporation shall terminate if at any time

(A) after the first day of the first taxable year of the corporation for which the election is effective, if such election is made on or before such first day, or

(B) after the day on which the election is made, if such election is made after such first day,

the corporation ceases to be a small business corporation (as defined in section 290.971, subdivision 1). Such termination shall be effective for the taxable year of the corporation in which the corporation ceases to be a small business corporation and for all succeeding taxable years of the corporation.

(4) [FOREIGN INCOME.] An election under subdivision 1 made by a small business corporation shall terminate if for any taxable year of the corporation for which the election is in effect, such corporation derives more than 80 percent of its gross receipts from sources outside the United States. Such termination shall be effective for the taxable year of the corporation in which it derives more than 80 percent of its gross receipts from sources outside the United States, and for all succeeding taxable years of the corporation.

(5) [PASSIVE INVESTMENT INCOME.] (A) Except as provided in subparagraph (B), an election under subdivision 1 made by a small business corporation shall terminate if, for any taxable year of the corporation for which the election is in effect, such corporation has gross receipts more than 20 percent of which is passive investment income. Such termination shall be effective for the taxable year of the corporation in which it has gross receipts of such amount, and for all succeeding taxable years of the corporation.

(B) Subparagraph (A) shall not apply with respect to a taxable year in which a small business corporation has gross receipts more than 20 percent of which is passive investment income, if

(i) such taxable year is the first taxable year in which the corporation commenced the active conduct of any trade or business or the next succeeding taxable year; and

(ii) the amount of passive investment income for such taxable year is less than \$3,000.

(C) For purposes of this paragraph, the term "passive investment income" means gross receipts derived from royalties, rents, dividends, interest, annuities, and sales or exchanges of stock or securities (gross receipts from such sales or exchanges being taken into account for purposes of this paragraph only to the extent of gains therefrom). Gross receipts derived from sales or exchanges of stock or securities for purposes of this paragraph shall not include amounts received by an electing small business corporation which are treated under section 331 of the Internal Revenue Code of 1954, as amended through December 31, 1976 (relating to corporate liquidations), as payments in exchange for stock where the electing small business corporation owned more than 50 percent of each class of the stock of the liquidating corporation.

Sec. 14. Minnesota Statutes 1978, Section 290A.03, Subdivision 3, is amended to read:

Subd. 3. [INCOME.] "Income" means the sum of the following:

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1976

1978; 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 Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a) (1), (a) (2), (a) (3), (a) (10), (a) (13), and (a) (14);

(ii) all nontaxable income;

(iii) recognized net long term capital gains;

(iv) dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954;

(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, supplemental security income, and veterans disability pensions), 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) nontaxable interest received from the state or federal government or any instrumentality or political subdivision thereof;

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits; and

(xi) 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. 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. "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) gifts from nongovernmental sources;

(d) surplus food or other relief in kind supplied by a governmental agency; or

(e) relief granted under sections 273.012, subdivision 2 or 290A.01 to 290A.21; or

(f) federal adjusted gross income shall be reduced by the subtraction allowed in section 290.01, subdivision 20, clause (b) (10).

Sec. 15. [DIRECTION TO REVISOR.] *In the next and subsequent editions of Minnesota Statutes the revisor of statutes shall substitute the words "Internal Revenue Code of 1954, as amended through December 31, 1978" for the words "Internal Revenue Code of 1954, as amended through December 31, 1976" wherever such words occur in chapter 290, except section 290.01, subdivision 20.*

Sec. 16. [REPEALER.] *Minnesota Statutes 1978, Section 290.971, Subdivision 5 is repealed.*

Sec. 17. [EFFECTIVE DATE.] *The amendment made in section 1, clause (a) (15) is effective at the same time that the change became effective for federal income tax purposes during 1978.*

*The rest of this article is effective for taxable years beginning after December 31, 1978, except as otherwise provided.*

## ARTICLE XII

### PROPERTY TAX

Section 1. Minnesota Statutes 1978, Section 273.11, is amended to read:

273.11 [VALUATION OF PROPERTY.] Subdivision 1. Except as provided in subdivisions 2 and subdivision 6 or section 273.17, subdivision 1, all property shall be valued at its market value. In estimating and determining such value, the assessor shall not adopt a lower or different standard of value because the same is to serve as a basis of taxation, nor shall he adopt as a criterion of value the price for which such property would sell at auction or at a forced sale, or in the aggregate with all the property in the town or district; but he shall value each article or description of property by itself, and at such sum or price as he believes the same to be fairly worth in money. In assessing any tract or lot of real property, the value of the land, exclusive of structures and improvements, shall be determined, and also the value of all structures and improvements thereon, and the aggregate value of the property, including all structures and improvements, excluding the value of crops growing upon cultivated land. In valuing real property upon which there is a mine or quarry, it shall be valued at such price as such property, including the mine or quarry, would sell for a fair, voluntary sale, for cash. In valuing real property which is vacant, the fact that such property 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. All property, or the use thereof, which is taxable under sections 272.01, subdivision 2, or 273.19, shall be valued at the market value of such property and not at

the value of a leasehold estate in such property, or at some lesser value than its market value.

Subd. 2. (a) The assessor after determining the value of any property shall compare the value with that determined in the preceding assessment. Notwithstanding the provisions of section 273.17, the amount of the increase entered in the current assessment shall not exceed ten percent of the value in the preceding assessment or one fourth of the total amount of the increase in valuation whichever is greater; the excess shall be entered in a subsequent year or years; provided, however, that if the amount of the increase in market value is

(i) more than ten percent but no more than 20 percent, the excess shall be entered in the following year;

(ii) more than 20 percent but no more than 40 percent, ten percent shall be entered in each subsequent year until the amount remaining to be entered is less than 10 percent in which case the amount remaining will be entered in the next subsequent year; or

(iii) more than 40 percent, the excess shall be entered equally in the three subsequent years.

(b) In the case of property described in section 273.13, subdivisions 6, 7, 7b, 10, 12, 17, 17b and 19, plus all agricultural property and all real estate devoted to temporary and seasonal residential occupancy for recreational purposes which was not subject to the five percent limitation in valuation increase for the 1973 or the 1974 assessment that was previously provided pursuant to Minnesota Statutes 1974, Section 273.11, Subdivision 2, the value to be used for levying the 1976 taxes payable in 1977 shall be set at the average percent of market value used for the respective class of property in the 1975 tax levies in its assessment district if the market value as determined by the assessor pursuant to section 273.11, subdivision 1 exceeds by more than ten percent the limited market value established for that class of property. Such property shall subsequently increase in value for property tax purposes as prescribed in clause (a).

Subd. 5. Notwithstanding any other provision of law to the contrary, the limitation contained in subdivisions *subdivision 1 to 5* shall also apply to the authority of the local board of review as provided in section 274.01, the county board of equalization as provided in section 274.13, and the state board of equalization and the commissioner of revenue as provided in section 270.11, 270.12 and 270.16; and any increase effected by these boards over the valuation currently being used in computing taxes shall be added to the previous assessed valuation in annual increments as provided in subdivision 2.

Subd. 6. For purposes of property taxation, the market value of real and personal property installed prior to January 1, 1984, which is a solar, wind, or agriculturally derived methane gas system used as a heating, cooling, or electric power source of a building or structure shall be excluded from the market value of that building or structure if the property is not used to provide energy for sale.

Sec. 2. Minnesota Statutes 1978, Section 273.122, is amended to read:

273.122 [FLEXIBLE HOMESTEAD BASE VALUE.] Subdivision 1. [HOMESTEAD BASE VALUE.] For ~~1975 and prior years the 1979 assessment~~, the homestead base value shall mean ~~\$12,000~~ \$30,000 of market value of any property ~~other than property assessed pursuant to section 273.13, subdivisions 6 and 6a~~ which qualifies as homestead property for assessment purposes. ~~For the 1979 assessment, the homestead base value shall mean \$50,000 of market value of any property assessed pursuant to section 273.13, subdivisions 6 and 6a which qualifies as homestead property for assessment purposes.~~ The homestead base value shall be increased in any subsequent assessment year as provided in subdivision 2.

Subd. 2. [HOMESTEAD BASE VALUE INDEX.] In assessment years subsequent to ~~1975~~ 1979, the homestead base value shall be adjusted pursuant to the homestead base value index. The homestead base value index shall be computed by the equalization aid review committee for each year immediately preceding an assessment year. This index is computed in the following manner. The annual statewide average market value of homestead property as indicated by bona fide real estate sales during the year shall be divided by the statewide average market value of all homestead property sold in ~~1974~~ 1978. This quotient is multiplied by 100. For each increase of a full three and one-half points in the index the homestead base value shall be increased ~~\$500~~ \$1,000 in the following assessment year. On or before December 1 of any year preceding an assessment year the commissioner of revenue shall certify the homestead base value for that year.

Sec. 3. Minnesota Statutes 1978, Section 273.13, Subdivision 4, is amended to read:

Subd. 4. [CLASS 3.] (a) Tools, implements and machinery of an electric generating, transmission or distribution system or a pipeline system transporting or distributing water, gas, or petroleum products or mains and pipes used in the distribution of steam or hot or chilled water for heating or cooling buildings, which are fixtures, all agricultural land, except as provided by classes 1, 3b, 3c, all buildings and structures assessed as personal property and situated upon land of the state of Minnesota or the United States government which is rural in character and devoted or adaptable to rural but not necessarily agricultural use shall constitute class 3 and shall be valued and assessed at  $33\frac{1}{3}$  percent of the market value thereof, except as provided in clause (b). Except as provided in subdivision 5a, all real property devoted to temporary and seasonal residential occupancy for recreational purposes, and which is not devoted to commercial purposes for more than 200 days in the year preceding the year of assessment, shall be class 3 property and assessed accordingly. For this purpose, property is devoted to commercial use on a specific day if it is used, or offered for use, and a fee is charged for such use.

(b) For taxes ~~assessed~~ levied in ~~1977~~ 1979, payable in ~~1978~~ 1980

*and subsequent years, agricultural land and real property devoted to temporary and seasonal residential occupancy for recreation purposes which is classified as class 3 shall be assessed at 31 25 percent of its market value, and for taxes assessed in 1978, payable in 1979 and thereafter, it shall be assessed at 30 percent of its market value.*

Sec. 4. Minnesota Statutes 1978, Section 273.13, Subdivision 6, is amended to read:

Subd. 6. [CLASS 3B.] Agricultural land, except as provided by class 1 hereof, and which is used for the purposes of a homestead shall constitute class 3b and shall be valued and assessed at 10 15 percent of the market value thereof in 1977 1979, for taxes payable in 1978 1980, and at 16 percent thereafter *subsequent years*. The property tax to be paid on class 3b property as otherwise determined by law not exceeding 120 240 acres less any reduction received pursuant to section 273.135, regardless of whether or not the market value is in excess of the homestead base value, shall be reduced by 45 50 percent of the tax; provided that the amount of said reduction shall not exceed \$325 \$525. *Valuation subject to relief in 1977 for taxes payable in 1978 shall be limited to 120 acres of land, most contiguous surrounding, or bordering the house occupied by the owner as his dwelling place, and, such other structures as may be included thereon utilized by the owner in an agricultural pursuit. For taxes levied in 1978 payable 1979 and subsequent years, Valuation subject to relief shall be limited to 160 240 acres of land, most contiguous surroundings, or bordering, or closest to the house occupied by the owner as his dwelling place, and such other structures as may be included thereon utilized by the owner in an agricultural pursuit. If the market value is in excess of the homestead base value, the amount in excess of that sum shall be valued and assessed at 31 25 percent of its market value in 1977, 1979 for taxes payable in 1978, 1980 and at 30 percent thereafter subsequent years.* The first \$12,000 market value of each tract of real estate which is rural in character and devoted or adaptable to rural but not necessarily agricultural use, used for the purpose of a homestead shall be exempt from taxation for state purposes; except as specifically provided otherwise by law.

Agricultural land as used herein, and in section 273.132, shall mean contiguous acreage of ten acres or more, primarily used during the preceding year for agricultural purposes. Agricultural use may include pasture, timber, waste, unusable wild land and land included in federal farm programs.

Real estate of less than ten acres used principally for raising poultry, livestock, fruit, vegetables or other agricultural products, shall be considered as agricultural land, if it is not used primarily for residential purposes.

Sec. 5. Minnesota Statutes 1978, Section 273.13, Subdivision 6a, is amended to read:

Subd. 6a. [HOMESTEAD OWNED BY FAMILY FARM

CORPORATION OR PARTNERSHIP.] (a) Each family farm corporation and each partnership operating a family farm shall be entitled to class 3b assessment and shall be eligible for the credit provided in subdivision 6 for one homestead occupied by a shareholder or partner thereof who is residing on the land and actively engaged in farming of the land owned by the corporation or partnership. Such a homestead shall not exceed 160 240 acres, and shall be assessed as provided in subdivision 6, notwithstanding the fact that legal title to the property may be in the name of the corporation or partnership and not in the name of the person residing thereon. "Family farm corporation" and "family farm" shall mean as defined in section 500.24.

(b) In addition to property specified in paragraph (a), any other residences owned by corporations or partnerships described in paragraph (a) which are located on agricultural land and occupied as homesteads by shareholders or partners who are actively engaged in farming on behalf of the corporation or partnership shall also be assessed as class 3b property, and be entitled to the credit provided in subdivision 6, but the property eligible shall be limited to the residence itself and as much of the land surrounding the homestead, not exceeding one acre, as is reasonably necessary for the use of the dwelling as a home, and shall not include any other structures that may be located thereon.

Sec. 6. Minnesota Statutes 1978, Section 273.13, Subdivision 7, is amended to read:

Subd. 7. [CLASS 3C, 3CC.] All other real estate and class 2a property, except as provided by classes 1 and 3cc, which is used for the purposes of a homestead, shall constitute class 3c, and shall be valued and assessed at 22 20 percent of the market value thereof in 1977, 1979 for taxes payable in 1978, 1980 and at 20 percent thereafter subsequent years. The property tax to be paid on class 3c property as otherwise determined by law, less any reduction received pursuant to section 273.135, regardless of whether or not the market value is in excess of the homestead base value, shall be reduced by 45 50 percent of the amount of such tax; provided that the amount of said reduction shall not exceed \$325 \$525. If the market value is in excess of the sum of the homestead base value, the amount in excess of that sum shall be valued and assessed at 36 33- $\frac{1}{3}$  percent of market value in 1977, 1979 for taxes payable in 1978, 1980 and at 33- $\frac{1}{3}$  percent thereafter subsequent years. The first \$12,000 market value of each tract of such real estate use for the purposes of a homestead shall be exempt from taxation for state purposes; except as specifically provided otherwise by law. Class 3cc property shall include only real estate which is used for the purposes of a homestead by (a) any blind person, if such blind person is the owner thereof or if such blind person and his or her spouse are the sole owners thereof; or (b) any person (hereinafter referred to as veteran) who: (1) served in the active military or naval service of the United States and (2) 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 (3) 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 (c) any person who: (1) is permanently and totally disabled and (2) is receiving (i) aid from any state as a result of that disability, or (ii) supplemental security income for the disabled, or (iii) workers' compensation based on a finding of total and permanent disability, or (iv) social security disability, or (v) aid under the federal railroad retirement act of 1937, 45 United States Code Annotated, Section 228b(a)5; which aid is at least 90 percent of the total income of such disabled person from all sources. Class 3cc property shall be valued and assessed at five percent of the market value thereof. 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 him an income. The property tax to be paid on class 3cc property as otherwise determined by law, less any reduction received pursuant to section 273.135, regardless of whether or not the market value is in excess of the homestead base value, for all purposes shall be reduced by 45 50 percent of the amount of such tax; provided that the amount of said reduction shall not exceed \$325 \$525. If the market value is in excess of the sum of \$28,000 \$30,000, the amount in excess of that sum shall be valued and assessed at 24 25 percent in 1977, 1979 for taxes payable in 1978 1980 and 30 percent thereafter subsequent years, in the case of agricultural land used for a homestead and 36 33-1/3 percent in the case of all other real estate used for a homestead for taxes payable in 1978 and 33-1/3 percent for taxes payable in 1979 1980 and subsequent years.

Sec. 7. Minnesota Statutes 1978, Section 273.13, Subdivision 14a, is amended to read:

Subd. 14a. [BUILDINGS AND APPURTENANCES ON LAND NOT OWNED BY OCCUPANT.] The property tax to be paid in respect of the value of all buildings and appurtenances thereto owned and used by the occupant as a permanent residence, which are located upon land subject to property taxes and the title to which is vested in a person or entity other than the occupant, for all purposes shall be reduced by 45 50 percent of the amount of the tax in respect of said value as otherwise determined by law, but not by more than \$325 \$525.

Sec. 8. Minnesota Statutes 1978, Section 273.132, is amended to read:

273.132 [STATE PAID AGRICULTURAL CREDIT.] The county auditor shall reduce the tax for school purposes on all property receiving the homestead credit pursuant to section 273.13, subdivision 6, by an amount equal to the tax levy that would be produced by applying a rate of 15 mills on the property. The county auditor shall reduce the tax for school purposes on all other agricultural lands and all real estate devoted to temporary and seasonal residential occupancy for recreational purposes, but

not devoted to commercial purposes, by an amount that would be produced by applying a rate of ten 12 mills on the property. The amounts so computed by the county auditor shall be submitted to the commissioner of revenue as part of the abstracts of tax lists required to be filed with the commissioner under the provisions of section 275.29. Any prior year adjustments shall also be certified in the abstracts of tax lists. The commissioner of revenue shall review such certifications to determine their accuracy. He may make such changes in the certification as he may deem necessary or return a certification to the county auditor for corrections.

In 1977, payment shall be made according to the procedure provided in section 273.13, subdivision 15a, for the purpose of replacing revenue lost as a result of the reduction of property taxes provided in this section. In 1978, payment shall be made pursuant to sections 124.212, subdivision 7b and 124.11, for the purpose of replacing revenue lost as a result of the reduction in property taxes provided in this section. There is appropriated from the general fund in the state treasury to the commissioner of revenue the amount necessary to make these payments in fiscal year 1978. There is appropriated from the general fund in the state treasury to the department of education the amount necessary to make these payments in fiscal year 1979 and thereafter.

Sec. 9. Minnesota Statutes 1978, Section 273.17, Subdivision 1, is amended to read:

273.17 [ASSESSMENT OF REAL PROPERTY.] Subdivision 1. In every year, on January 2, the assessor shall also assess all real property that may have become subject to taxation since the last previous assessment, including all real property platted since the last real estate assessment, and all buildings or other structures of any kind, whether completed or in process of construction, of over \$1,000 in value, the value of which has not been previously added to or included in the valuation of the land on which they have been erected. The newly assessed property shall be valued initially at a value not exceeding the average percent of market value used in the tax levies for its respective class of property in its assessment district if the market value as determined by the assessor pursuant to section 273.11, subdivision 1 exceeds by more than ten percent the limited market value established for that class of property. The assessment shall be increased to market value in annual increments as provided in section 273.11, subdivision 2 until such time as the property is reassessed. He shall make return thereof to the county auditor, with his return of personal property, showing the tract or lot on which each structure has been erected and the market value added thereto by such erection. Every assessor shall list, without revaluing, in each year, on a form to be prescribed by the commissioner of revenue, all parcels of land that shall have become homesteads or shall have ceased to be homesteads for taxation purposes since the last real estate assessment, and other parcels of land when the use of the land requires a change in classification or the land has been incorrectly classified in a previous assessment.

The county auditor shall note such change in the assessed valuation upon the tax lists, caused by a change in classification, and shall calculate the taxes for such year on such changed valuation. In case of the destruction by fire, flood, or otherwise of any building or structure, over \$100 in value, which has been erected previous to the last valuation of the land on which it stood, or the value of which has been added to any former valuation, the assessor shall determine, as nearly as practicable, how much less such land would sell for at private sale in consequence of such destruction, and make return thereof to the auditor.

Sec. 10. Minnesota Statutes 1978, Section 290A.03, Subdivision 3, is amended to read:

Subd. 3. [INCOME.] "Income" means the sum of the following:

(a) federal adjusted gross income as defined in the Internal Revenue Code of 1954 as amended through December 31, 1976; 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 Minnesota Statutes, Section 290.01, Subdivision 20, Clause (a) (1), (a) (2), (a) (3), (a) (10), (a) (13), and (a) (14);

(ii) all nontaxable income;

(iii) recognized net long term capital gains;

(iv) dividends excluded from federal adjusted gross income under section 116 of the Internal Revenue Code of 1954;

(v) cash public assistance and relief;

(vi) any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act, supplemental security income, and veterans disability pensions), 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) nontaxable interest received from the state or federal government or any instrumentality or political subdivision thereof;

(viii) workers' compensation;

(ix) unemployment benefits;

(x) nontaxable strike benefits; and

(xi) 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. 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. "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) gifts from nongovernmental sources;

(d) surplus food or other relief in kind supplied by a governmental agency; or

(e) relief granted under sections 273.012, subdivision 2 or 290A.01 to 290A.21 ; or

(f) *child support payments received under a temporary or final decree of dissolution or legal separation.*

Sec. 11. Minnesota Statutes 1978, Section 290A.03, Subdivision 11, is amended to read:

Subd. 11. [RENT CONSTITUTING PROPERTY TAXES.] "Rent constituting property taxes" means 22 23 percent of the gross rent actually paid in cash, or its equivalent, or that portion of gross rent which is paid in lieu of property taxes, in 1977 1979 or any subsequent calendar year by a claimant solely for the right of occupancy of his Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under sections 290A.01 to 290A.21 by the claimant.

Sec. 12. Minnesota Statutes 1978, Section 290A.04, Subdivision 2, is amended to read:

Subd. 2. The refund shall be paid to claimants whose property taxes payable exceed the following percentages of their income, up to the designated maximum credit amounts:

For claimants earning:

\$0 to ~~\$2,999~~ \$3,599, 0.5 percent, up to \$475;

3,000 3,600 to ~~3,999~~ 4,799, 0.6 percent, up to \$475;

4,000 4,800 to ~~4,999~~ 5,999, 0.7 percent, up to \$475;

5,000 6,000 to ~~5,999~~ 7,199, 0.8 percent, up to \$475;

6,000 7,200 to ~~6,999~~ 8,399, 0.9 percent, up to \$475;

7,000 8,400 to ~~7,999~~ 9,599, 1.0 percent, up to \$475;

8,000 9,600 to ~~8,999~~ 10,799, 1.1 percent up to \$475;

9,000 10,800 to ~~9,999~~ 11,999, 1.2 percent, up to \$475;

10,000 12,000 to ~~10,999~~ 13,199, 1.3 percent, up to \$475;

11,000 13,200 to ~~11,999~~ 14,399, 1.4 percent, up to \$475;

12,000 14,400 to ~~19,999~~ 23,999, 1.5 percent, up to \$475;

20,000 24,000 to ~~22,999~~ 27,599, 1.6 percent, up to \$475;

~~23,000~~ 27,600 to ~~\$25,000~~ 31,199, 1.8 percent, up to \$425;  
~~26,000~~ 31,200 to ~~30,000~~ 37,199, 2.0 percent, up to \$375;  
~~31,000~~ 37,200 to ~~35,000~~ 43,199, 2.2 percent, up to \$350;  
~~36,000~~ 43,200 to ~~40,000~~ 49,199, 2.4 percent, up to \$325;  
~~41,000~~ 49,200 to ~~44,000~~ 53,999, 2.6 percent, up to \$325;  
~~45,000~~ 54,000 to ~~52,000~~ 63,599, 2.8 percent, up to \$325;  
~~53,000~~ 63,600 to ~~65,000~~ 79,199, 3.0 percent, up to \$325;  
~~66,000~~ 79,200 to ~~81,000~~ 98,399, 3.2 percent, up to \$325;  
~~82,000~~ 98,400 to ~~99,000~~ 119,999, 3.5 percent, up to \$325;  
~~100,000~~ 120,000 and over, 4.0 percent, up to \$325;

provided that maximum credits for incomes above \$20,000 \$24,000 decline according to the following schedule:

between \$20,000 \$24,000 and \$26,000 \$31,000 decline \$16.67 \$13.89 per \$1,000; between \$26,000 \$31,200 and \$36,000 \$43,200 decline \$5 \$4.17 per \$1,000.

The payment made to a claimant shall be the amount of refund calculated pursuant to this subdivision, but not exceeding \$675, less the homestead credit given pursuant to section 273.13, subdivisions 6 and 7.

Sec. 13. Minnesota Statutes 1978, Section 290A.04, Subdivision 2a, is amended to read:

Subd. 2a. An additional refund shall be allowed each claimant who was not disabled or who had not attained the age of 65 by June 1 of the year in which the taxes were payable and whose claim is based on taxes paid on the home he owns in an amount equal to 35 50 percent of the amount by which property taxes payable and rent constituting property taxes exceed the sum of (a) the refund calculated pursuant to subdivision 2 and (b) the percentage of the claimant's household income specified in subdivision 2. The sum of the refunds provided in subdivision 2 and this subdivision shall not exceed the maximum amounts provided below.

For claimants earning:

~~\$0 to 10,000~~ 23,999, up to ~~\$300~~ \$1,100;  
~~20,000~~ 24,000 to ~~25,000~~ 43,199, up to \$800 \$1,100;  
~~26,000 to 35,000~~, up to \$650;  
~~36,000~~ 43,200 and over, up to \$325;

provided that maximum refunds for incomes above \$20,000 \$24,000 decline according to the following schedule:

between \$20,000 \$24,000 and \$26,000 \$43,200 decline \$25 \$40.36 per \$1,000; between \$26,000 and \$36,000 decline \$32.50 per \$1,000.

A claimant who owns his own homestead part of the year and rents part of the year may add his rent constituting property taxes to the qualifying tax on his homestead and receive the additional refund provided in subdivision 2a.

Sec. 14. Minnesota Statutes 1978, Section 290A.04, Subdivision 2b, is amended to read:

Subd. 2b. An additional refund shall be allowed each claimant who is disabled or has attained the age of 65 by June 1 of the year in which the taxes were payable in an amount equal to 50 percent of the amount by which property taxes payable or rent constituting property taxes exceed the sum of (a) the refund calculated pursuant to subdivision 2 and (b) the percentage of the claimant's household income specified in subdivision 2. The sum of the refunds provided in subdivision 2 and this subdivision shall not exceed the maximum amounts provided below.

For claimants earning:

~~\$0 to \$10,000~~ 23,999, up to \$800 \$1,000;

~~20,000 24,000 to 22,000~~ 43,199, up to \$800 \$1,000;

~~23,000 to 25,000~~, up to 763;

~~26,000 to 35,000~~, up to \$725;

~~36,000 43,200~~ and over, up to \$525;

provided that maximum refunds for incomes above \$20,000 \$24,000 decline according to the following schedule:

between ~~\$20,000 \$24,000~~ and ~~\$26,000 \$43,200~~ decline ~~\$12.50 \$3.00~~ per \$1,000; between ~~\$26,000 and \$36,000~~ decline ~~\$20~~ per ~~\$1,000 \$100~~.

In the case of a claimant who was disabled on or before June 1 or who attained the age of 65 on the date specified in subdivision 1, the refund shall not be less than the refund which the claimant's household income as defined in section 290A.03 and property tax or rent constituting property tax would have entitled him to receive under Minnesota Statutes 1974, Section 290.0618.

Sec. 15. Minnesota Statutes 1978, Section 290A.04, Subdivision 3, is amended to read:

Subd. 3. The commissioner of revenue shall construct and make available to taxpayers a comprehensive table showing the property taxes to be paid and credit allowed at various levels of income and assessment. The table shall follow the schedule of income percentage, maximums and other provisions specified in ~~subdivision subdivisions 2, 2a, 2b, and 2c~~, except that the commissioner may graduate the transition between income brackets.

For homestead property owners who are disabled or are 65 or older, as provided in subdivision 1, the commissioner shall base his determination of the credit on the gross qualifying tax reduced by the average statewide effective homestead credit percentage for taxes payable in 1975 calculated under section 273.13, subdivisions 6 and 7.

Sec. 16. Minnesota Statutes 1978, Section 290A.04, is amended by adding a subdivision to read:

**Subd. 2c. [INFLATION ADJUSTMENT.]** *For claims based on property taxes payable in 1982 and rent constituting property taxes paid in 1981 and thereafter, the income amounts in subdivisions 2, 2a, and 2b shall be adjusted for inflation. The commissioner of revenue shall determine and announce by September 1, 1981, the percentage increase from June, 1980, to June, 1981, in the revised all urban consumer price index for the Minneapolis-St. Paul metropolitan area prepared by the United States department of labor with 1967 as a base year. The income amounts in subdivisions 2, 2a and 2b shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted income amounts which shall be allowed under this subdivision for claims based on property taxes payable in 1982 and rent constituting property taxes in 1981.*

*The commissioner of revenue shall determine and announce by September 1, 1982, and each succeeding year, the percentage increase from June, 1981, to June, 1982, in the revised all urban consumer price index for the Minneapolis-St. Paul metropolitan area prepared by the United States department of labor with 1967 as a base year. The income amounts in subdivisions 2, 2a and 2b, as adjusted the previous year, shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted income amounts for claims based on property taxes payable in 1983 and rent constituting property taxes paid in 1982 and each succeeding year.*

Sec. 17. Minnesota Statutes 1978, Section 290A.04, is amended by adding a subdivision to read:

**Subd. 2d.** *If the net property taxes payable on a homestead in each of the years 1980 and 1981 increase more than ten percent over the net property taxes payable the preceding year, a claimant who is a homeowner shall be allowed an additional refund equal to 50 percent of the amount by which the increase exceeds 10 percent, up to a maximum additional refund of \$200. This subdivision shall not apply to any increase in the net property taxes payable attributable to improvements made to the homestead.*

*For purposes of this subdivision, "net property taxes payable" means property taxes payable after reductions made pursuant to section 273.13, subdivisions 6, 7 and 14a, and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivisions 2, 2a and 2b.*

*In addition to proofs required pursuant to chapter 290A, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax refund return from the preceding year, together with a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.*

Sec. 18. [APPROPRIATION.] *There is appropriated from the general fund to the commissioner of revenue the amounts necessary to make the payments provided in section 17.*

**Sec. 19. [EFFECTIVE DATES.]** *Sections 1 to 9 are effective for taxes levied in 1979, and subsequent years, payable in 1980 and subsequent years. Section 10 is effective for low income credits claimed for taxable years beginning after December 31, 1977 and for property tax refund claims based on rent paid in 1978 and property taxes payable in 1977. Sections 11 to 14 are effective for claims based on property taxes payable in 1980 and subsequent years and rent paid for occupancy only in 1979 and subsequent years. Section 16 is effective for claims based on property taxes payable in 1982 and subsequent years and rent paid for occupancy only in 1981 and subsequent years. Section 17 is effective only for property tax refunds based on the property taxes payable in 1980 and 1981.*

## ARTICLE XIII

### LEVY LIMITS

**Section 1.** Minnesota Statutes 1978, Section 275.11, Subdivision 2, is amended to read:

**Subd. 2.** In any city or statutory or home rule charter city, except those organized according to Chapter 8, Laws of 1895, in addition to the levy provided for in subdivision 1, an additional levy may be made for general and special fund purposes as herein provided:

If the Revised Consumer Price Index, as published by the United States Department of Labor, Bureau of Labor Statistics, for the city of Minneapolis (or if no such index is published for the city of Minneapolis, for the nearest city to Minneapolis for which such index is published), as of December 15 of any year (or for the date nearest to December 15 if no such index is published as of December 15), shall be above 102 (using the average for the years 1947-1949 as a base), the maximum levy limit shall, subject to the restrictions of this subdivision, be increased by  $3\frac{1}{2}$  percent for each of the first 6 points that said index may be increased and by one percent for each additional point increased above 6. A fractional point increase shall be disregarded if less than one-half point and treated as one point if one-half point, or more. In any city where more than 25 percent of the assessed valuation consists of iron ore and in any statutory city, the levy permitted by this paragraph shall be in addition to any statutory or charter limitations. In any other city, the levy authorized by this paragraph shall be made within charter limitations.

**Sec. 2.** Minnesota Statutes 1978, Section 275.50, Subdivision 5, is amended to read:

**Subd. 5.** Notwithstanding any other law to the contrary for taxes levied in 1977 1978 payable in 1978 1979 and thereafter, "special levies" means those portions of ad valorem taxes levied by governmental subdivisions to:

(a) satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any tort action,

or to pay the costs of settlements out of court against the governmental subdivision in a tort action when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, but only to the extent of the increase in levy for such judgments and out of court settlements over levy year 1970, taxes payable in 1971;

(b) pay the costs of complying with any written lawful order initially issued prior to January 1, 1977 by the state of Minnesota, or the United States, or any agency or subdivision thereof, which is authorized by law, statute, special act or ordinance and is enforceable in a court of competent jurisdiction, or any stipulation agreement or permit for treatment works or disposal system for pollution abatement in lieu of a lawful order signed by the governmental subdivision and the state of Minnesota, or the United States, or any agency or subdivision thereof which is enforceable in a court of competent jurisdiction. The commissioner of revenue shall in consultation with other state departments and agencies, develop a suggested form for use by the state of Minnesota, its agencies and subdivisions in issuing orders pursuant to this subdivision;

(c) pay the costs to a governmental subdivision for their minimum required share of any program otherwise authorized by law, including the administrative costs of social services but not administrative costs of public assistance programs or of county welfare systems, for which matching funds have been appropriated by the state of Minnesota or the United States, but only to the extent that the costs to the governmental subdivision for the program exceed those expended in calendar year 1970, subject to rules promulgated by the commissioner of revenue pursuant to the administrative procedures act. Amounts levied pursuant to this clause which are in excess of the amount necessary to meet the minimum required share of a program shall be deducted from the general levy made in the following year;

(d) pay the costs not reimbursed by the state or federal government, of payments made to or on behalf of recipients of aid under any public assistance program authorized by law;

(e) pay the costs of principal and interest on bonded indebtedness, or, effective for taxes levied in 1973 and years thereafter, to reimburse for the amount of liquor store revenues used to pay the principal and interest due in the year preceding the year for which the levy limit is calculated on municipal liquor store bonds;

(f) pay the costs of principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except current expenses or funding an insufficiency in receipts from taxes or other sources or funding extraordinary expenditures resulting from a public emergency;

(g) fund the payments made to the Minnesota state armory building commission pursuant to section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(h) provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(i) pay the amounts required to compensate for a decrease in revenues from public service enterprises, municipal liquor stores, licenses, permits, fines and forfeits and no other, to the extent that the aggregate of revenues from these sources in the calendar year preceding the year of levy are less than the aggregate of revenues from these sources in calendar year 1971. "Revenues" from a public service enterprise or a municipal liquor store shall mean the net income or loss of such public service enterprise or municipal liquor store, determined by subtracting total expenses from total revenues, and before any contribution to or from the governmental subdivision. "Fines" for a municipal court means the net amount remaining after subtracting total municipal court expenses from total collections of municipal court fines. A governmental subdivision shall qualify for this special levy only if the decrease in aggregate revenues as computed herein and divided by the population of the governmental subdivision in the preceding levy year is equal to or greater than two percent of the per capita levy limitation for the preceding levy year;

(j) pay the amounts required to compensate for a decrease in mobile homes property tax receipts to the extent that the governmental subdivision's portion of the total levy in the current levy year, pursuant to section 273.13, subdivision 3, as amended, is less than the distribution of the mobile homes tax to the governmental subdivision pursuant to section 273.13, subdivision 3, in calendar year 1971;

(k) pay the amounts required, in accordance with section 275.075, to correct for a county auditor's error of omission in levy year 1971 or a subsequent levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(l) pay amounts required to correct for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city or town with statutory city powers in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.50 to 275.56 in the preceding levy year;

(m) pay the increased cost of municipal services as the result of an annexation or consolidation ordered by the Minnesota municipal board in levy year 1971 or a subsequent levy year, but only to the extent and for the levy years as provided by the board in its order pursuant to section 414.01, subdivision 15. Special levies authorized by the board shall not exceed 50 percent of the levy

limit base of the governmental subdivision and may not be in effect for more than three years after the board's order;

(n) pay the increased costs of municipal services provided to new private industrial and nonresidential commercial development, to the extent that the extension of such services are not paid for through bonded indebtedness or special assessments, and not to exceed the amount determined as follows. The governmental subdivision may calculate the aggregate of:

(1) The increased expenditures necessary in preparation for the delivering of municipal services to new private industrial and nonresidential commercial development, but limited to one year's expenditures one time for each such development;

(2) The amount determined by dividing the overall levy limitation established pursuant to sections 275.50 to 275.56, and exclusive of special levies and special assessments, by the total taxable value of the governmental subdivision, and then multiplying this quotient times the total increase in assessed value of private industrial and nonresidential commercial development within the governmental subdivision. For the purpose of this clause, the increase in the assessed value of private industrial and nonresidential commercial development is calculated as the increase in assessed value over the assessed value of the real estate parcels subject to such private development as most recently determined before the building permit was issued. In the fourth levy year subsequent to the levy year in which the building permit was issued, the increase in assessed value of the real estate parcels subject to such private development shall no longer be included in determining the special levy.

The aggregate of the foregoing amounts, less any costs of extending municipal services to new private industrial and nonresidential commercial development which are paid by bonded indebtedness or special assessments, equals the maximum amount that may be levied as a "special levy" for the increased costs of municipal services provided to new private industrial and nonresidential commercial development. In the levy year following the levy year in which the special levy made pursuant to this clause is discontinued, one-half of the amount of that special levy made in the preceding year shall be added to the permanent levy base of the governmental subdivision;

(o) recover a loss or refunds in tax receipts incurred in non-special levy funds resulting from abatements or court action in the previous year pursuant to section 275.48;

(p) pay amounts required by law to be paid to reduce unfunded accrued liability of public pension funds, including interest thereon, in accordance with the actuarial standards and guidelines specified in sections 69.71 to 69.776 and 356.215 reduced for levy year 1977 and subsequent years by 106 percent of the amount levied for that purpose in 1976, payable in 1977. For the purpose of this special levy, the estimated receipts expected from the state of Minnesota pursuant to sections 69.011 to 69.031 or any other state aid expressly intended for the support of public pension funds

shall be considered as a deduction in determining the required levy for the normal costs of the public pension funds. No amount of these aids shall be considered as a deduction in determining the governmental subdivision's required levy for the reduction of unfunded accrued liability of public pension funds;

(q) ~~the amounts allowed under section 174.27 to establish and administer a commuter van program as allowed under section 174.27;~~

(r) *pay reasonable and necessary expenses incurred in preventing, preparing for or repairing the effects of a natural disaster. For purposes of this clause, "natural disaster" means the occurrence of or the threat of an occurrence of widespread or severe property damage, injury or loss of life resulting from natural causes, limited to fire, flood, earthquake, windstorm, wave action, oil spill, or other water contamination requiring action to avert danger or damage, volcanic activity, drought or air contamination. The emergency services division of the department of public safety shall formulate standards defining the level of property damage, injury or loss of life that has occurred or that would occur if preventive action were not taken, which will be deemed a natural disaster;*

(s) *pay the cost of complying with a law enacted by the 1971 or a subsequent legislature that directly requires a new or altered activity of the government after levy year 1977, taxes payable in 1978, but only to the extent of the increased cost of the activity resulting from legislatively mandated changes initially effective after levy year 1977, taxes payable in 1978; and*

(t) *pay the cost of complying with the social security amendments of 1977, Pub. L. 95-216, 91 Stat. 1509, but only to the extent of the resulting increased social security costs after levy year 1977, taxes payable in 1978.*

Sec. 3. Minnesota Statutes 1978, Section 275.50, Subdivision 6, is amended to read:

Subd. 6. The cost to a governmental unit of implementing section 18.023, including sanitation and reforestation, as defined in section 18.023, subdivision 1, is a "special levy" and is not subject to tax levy limitations including those contained in sections 275.50 to 275.56 and in Laws 1969, Chapter 593, as amended by Laws 1974, Chapter 108, commencing with the levy made in 1976, payable in 1977, and terminating with the levy made in 1978 1980, payable in 1979 1981. A governmental subdivision may make a supplementary levy in 1977, payable in 1978, for all costs of implementing section 18.023 incurred in calendar year 1977 for which a levy was not made in 1976, payable in 1977. For the purpose of calculating the tax levy limit base under section 275.51, for levy year 1977, taxes payable 1978, there shall be subtracted from the levy limit base of any governmental subdivision an amount equal to 112 percent of the amount levied under section 18.023 in levy year 1974, taxes payable 1975, and included in the levy limit base of the governmental subdivision as a result of Laws 1976, Chapter 437.

Sec. 4. Minnesota Statutes 1978, Section 275.51, is amended by adding a subdivision to read:

*Subd. 3e. The property tax levy limitation for governmental subdivisions in 1979 payable in 1980 and subsequent years shall be calculated as follows:*

*(a) The sum of the following amounts shall be computed:*

*(1) the property tax permitted to be levied in 1978 payable 1979 computed pursuant to Minnesota Statutes 1978, Section 275.51, Subdivision 3d, plus*

*(2) the amount of any state aids the governmental subdivision was entitled to receive in calendar year 1979 pursuant to sections 477A.01; 298.26; 298.28, subdivisions 1 and 1a; 298.281, subdivision 1; 298.282; and 294.26, plus*

*(3) one-half of the amount of the special levy authorized under section 275.50, subdivision 5, clause (i) shall be added to the permanent levy limit base of the governmental subdivision in the year following the year in which it has been discontinued as a special levy pursuant to the provisions of section 275.50, subdivision 5, clause (i).*

*(b) The sum computed in clause (a) shall be increased annually in the manner provided in section 275.52 to derive the levy limit base for successive years.*

*(c) For taxes levied in 1980 payable 1981 and subsequent years, the levy limit base is the levy limit base which was computed for the immediately preceding year under the provisions of this section increased according to the provisions of section 275.52. Any amount levied in 1976 payable 1977 under the provisions of section 275.50, subdivision 5, clauses (a), (c), (e) or (f) of the 1976 edition of Minnesota Statutes, to meet the costs of programs, services or legal requirements which cease to exist in a subsequent year shall be subtracted from the levy limit base in the year in which the programs, services or legal requirements for which the levy was made cease to exist.*

*(d) The levy limit base shall be reduced by the total amount of state formula aids pursuant to section 477A.01 and taconite taxes and aids pursuant to sections 294.26; 298.26; 298.28, subdivision 1; and 298.282, to be paid in the calendar year in which property taxes are payable. As provided in section 298.28, subdivision 1, for taxes payable in 1980 and thereafter, one cent per taxable ton of the amount distributed under section 298.28, subdivision 1, clause (4)(c) shall not be deducted from the levy limit base of the counties that receive that aid. The resulting figure is the amount of property taxes which a governmental subdivision may levy for all purposes other than those for which special levies and special assessments are made.*

Sec. 5. Minnesota Statutes 1978, Section 275.52, Subdivision 2, is amended to read:

Subd. 2. The levy limit base, as adjusted for previous increases pursuant to this section, may be increased each year by the governing body of the governmental subdivision affected thereby in the amount not to exceed ~~six~~ *eight* percent of the previous year's levy limit base *for levy years 1978 and 1979 and in an amount not to exceed six percent of the previous year's base for subsequent years.*

Sec. 6. Minnesota Statutes 1978, Section 275.52, Subdivision 5, is amended to read:

Subd. 5. For taxes levied in ~~1977~~ *1979* payable in ~~1978~~ *1980* or for taxes levied in ~~1978~~ *1980* payable in ~~1979~~ *1981* a city other than a city of the first class, town, or county not containing a city of the first class which, in the preceding levy year, levied at least 98 percent of its total limited levy amount, may determine to levy in excess of the limitation provided in sections 275.50 to 275.56 by not to exceed 10 percent of its levy limit base by passing a resolution setting forth the amount by which the levy limit is proposed to be exceeded. The resolution shall be published for four successive weeks in the official newspaper of the governmental subdivision or if there is no official newspaper, in a newspaper of general circulation therein, together with a notice fixing a date for a public hearing on the proposed increase which hearing shall be held not less than four weeks nor more than six weeks after the first publication of the resolution. Following the public hearing, the governing body may determine to take no further action, or in the alternative, adopt a resolution authorizing the levy as originally proposed, or adopt a resolution approving a levy in such lesser amount as it so determines. The resolution shall be published in the official newspaper of the governmental subdivision or if there is no official newspaper, in a newspaper of general circulation therein. If within 30 days thereafter, a petition signed by voters equal in number to five percent of the votes cast in the governmental subdivision in the last general election or 2,000 voters, whichever is less, requesting a referendum on the proposed resolution is filed with the clerk or recorder of the governmental subdivision if the governmental subdivision is a city or town, or with the county auditor if the governmental subdivision is a county, the resolution shall not be effective until it has been submitted to the voters at a general or special election and a majority of votes cast on the question of approving the resolution are in the affirmative. The commissioner of revenue shall prepare a suggested form of question to be presented at any such referendum. A levy increased pursuant to this subdivision, whether not challenged or approved at a referendum held at a special or general election held prior to October 1 in any levy year, increases the allowable levy in that same levy year and provides a permanent adjustment to the levy limit base of the governmental subdivision for future levy years. There shall be no reduction in distributions of formula aids to the governmental subdivision as a result of the additional levy.

Sec. 7. [REPEALER.] *Minnesota Statutes 1978, Section 275.51, Subdivision 3d, is repealed.*

## ARTICLE XIV

### LOCAL GOVERNMENT AIDS

Section 1. Minnesota Statutes 1978, Section 477A.01, Subdivision 1, is amended to read:

477A.01 [LOCAL GOVERNMENT AID.] Subdivision 1. The state shall distribute ~~\$52~~ ~~\$64~~ for each person residing in the territory comprising each county for the calendar year ~~1978~~ 1980 and ~~\$50~~ ~~\$70~~ for calendar year ~~1979~~ 1981 to the several taxing authorities, except school districts, with authority to impose taxes on property located in the county's territory. For purposes of this subdivision the number of persons residing in a county shall be the 1970 federal census population. For the purposes of subdivisions 1, 3, 4, 4a and 4b, the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, excluding the city of New Prague, and Washington shall be considered a single county. That portion of the city of New Prague which is in Scott county shall be treated as if it is in LeSueur county.

Sec. 2. Minnesota Statutes 1978, Section 477A.01, Subdivision 4, is amended to read:

Subd. 4. The balance of the distributions in ~~1978~~ 1980 pursuant to subdivision 1, shall be divided among the several cities and towns in the county's territory in the proportion that the product of

the city or town's 1970 federal census population or the average of the city's or town's 1970 federal census population and its current population as determined under the provisions of section 275.53, whichever is greater; times

(a) In the case of a city or town outside the metropolitan area as defined in section 473.121, subdivision 2, or a city other than a city of the first class or town inside the metropolitan area, the sum of its average city or town mill rate for the three immediately preceding years divided by three; or

(b) In the case of a first class city located within the metropolitan area, the sum of (i) 60 percent of the dollar amount of its levy limitation and its special levies plus (ii) 40 percent of the dollar amount of its actual levy, divided by its taxable value adjusted for the contributions and distribution required by chapter 473F, for each of the three immediately preceding years divided by three, times

its city or town ~~1976~~ 1978 aggregate sales ratio as determined by the commissioner of revenue bears to the sum of the product of that calculation for all cities and towns in the territory.

The balance of the distributions in ~~1979~~ 1981 pursuant to subdivision 1 shall be divided among the several cities and towns in the county's territory in the proportion that the product of

the city or town's 1970 federal census population or the average of the city's or town's 1970 federal census population and its current

population as determined under the provisions of section 275.53, whichever is greater; times

(a) In the case of a city or town outside the metropolitan area as defined in section 473.121, subdivision 2, or a city other than a city of the first class or town inside the metropolitan area, the sum of its average city or town mill rate for the three immediately preceding years divided by three; or

(b) In the case of a first class city located within the metropolitan area, the sum of (i) 60 percent of the dollar amount of its levy limitation and its special levies plus (ii) 40 percent of the dollar amount of its actual levy, divided by its taxable value adjusted for the contributions and distribution required by chapter 473F, for each of the three immediately preceding years divided by three, times

its city or town 1977 1979 aggregate sales ratio as determined by the commissioner of revenue bears to the sum of the product of that calculation for all cities and towns in the territory.

Sec. 3. [EFFECTIVE DATE.] *This article is effective the day following final enactment.*

## ARTICLE XV

### PUBLIC LANDS ALLOWANCE

Section 1. Minnesota Statutes 1978, Chapter 124, is amended by adding a section to read:

[124.311] [PUBLIC LANDS ALLOWANCE.] *Subdivision 1. Each year on September 1, the state shall pay to any district where 40 percent or more of the total land area is owned by the state, an amount equal to one dollar for each acre of land owned by the state in the district as of January 1 of the calendar year in which the payment is made.*

*For purposes of this section, "land owned by the state" shall not include tax forfeited land held by the state in trust in favor of school districts, towns, cities, counties or other taxing districts.*

*Subd. 2. In no case shall the payment authorized in subdivision 1 in a given fiscal year be greater than an amount equal to 20 mills times the 1977 adjusted assessed valuation of the district.*

*Subd. 3. The payment pursuant to this section in any fiscal year shall be reduced by the amount of any payments received by the district in the preceding fiscal year under any law distributing proceeds in lieu of ad valorem tax assessments on copper, nickel or uranium properties.*

*Subd. 4. In any district receiving a payment under the provisions of this section, the maximum permissible levy authorized by section 275.125, subdivision 2a, shall be reduced by the amount of the payment received in the year in which the levy is certified.*

*Subd. 5. Payments received pursuant to the provisions of this section shall be deposited in the district's debt service fund and*

shall be recognized as revenue and reported on the district books of account in the same manner as the taxes collected by the levy certified in the year in which the payment is received. Payments shall not exceed 75 percent of the total debt service levy for each year.

Subd. 6. For purposes of computing payments pursuant to this section, the commissioner shall consult with the state planning agency to determine in which school districts state owned land may be 40 percent or more of the total land area of the district. If the information the commissioner obtains is insufficient to determine if a particular district qualifies for aid under this section, the commissioner may require that the auditor of any county which has land within the district certify to the commissioner the data the commissioner may require to administer this section.

An auditor who is required to submit data under this section may bill the school district for which the auditor submits the data for the costs incurred in providing the data.

Sec. 2. [APPROPRIATION.] The sum of \$685,000 is appropriated from the general fund to the department of education for the purpose of making the payments pursuant to section 1 for each year in the biennium ending July 1, 1981.

## ARTICLE XVI

### SALES TAX

Section 1. Minnesota Statutes 1978, Section 297A.01, is amended by adding a subdivision 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 machinery for the preparation, seeding or cultivation of soil for growing agricultural crops, harvesting and threshing of agricultural products, and certain machinery for dairy, livestock and poultry farms, together with barn cleaners, milking systems, grain dryers, automatic feeding systems and similar installations. 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. Repair or replacement parts for farm machinery shall 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 required to be registered under chapter 297B, snowmobiles, snow blowers, lawn mowers, garden-type tractors or

*garden tillers and the repair and replacement parts for those vehicles and machines.*

Sec. 2. Minnesota Statutes 1978, Section 297A.02, is amended to read:

297A.02 [IMPOSITION OF TAX.] Except as otherwise provided in Extra Session Laws 1971, Chapter 31, Article 1, there is hereby imposed an excise tax of four percent of the gross receipts from sales at retail, as hereinbefore defined, made by any person in this state after October 31, 1971.

*Notwithstanding the foregoing, the tax imposed hereby upon sales at retail through coin-operated vending machines shall be three percent of the gross receipts of such sales, and the tax imposed upon sales at retail of farm machinery shall be two percent of the gross receipts from such sales.*

Sec. 3. Minnesota Statutes 1978, Section 297A.14, is amended to read:

297A.14 [USING, STORING OR CONSUMING TANGIBLE PERSONAL PROPERTY; ADMISSIONS; UTILITIES.] 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, there is hereby imposed on every person in this state a use tax at the rate of four percent, *or two percent in the case of farm machinery*, of the sales price of sales at retail of any of the aforementioned items made to such person after October 31, 1971, unless the tax imposed by section 297A.02 was paid on said sales price.

Motor vehicles subject to tax under this section shall be taxed at the fair market value at the time of transport into Minnesota if such motor vehicles were acquired more than three months prior to its transport into this state.

*Notwithstanding any other provisions of sections 297A.01 to 297A.44 to the contrary, the cost of paper and ink products exceeding \$100,000 in any calendar year, used or consumed in producing a publication as defined in section 297A.25, subdivision 1, clause (i) is subject to the tax imposed by this section.*

Sec. 4. Minnesota Statutes 1978, Section 297A.24, is amended to read:

297.24 [TAXES IN OTHER STATES.] If any article of tangible personal property or any item enumerated in section 297A.14 has already been subjected to a tax by any other state in respect of its sale, storage, use or other consumption in an amount less than the tax imposed by sections 297A.01 to 297A.44, then as to the person who paid the tax in such other state, the provisions of section 297A.14 shall apply only at a rate measured by the difference between the rate herein fixed and the rate by which the previous tax was computed. If such tax imposed in such other

state was ~~four percent~~ *at the rate set in section 297A.14* or more, then no tax shall be due from such person under section 297A.14.

Sec. 5. Minnesota Statutes 1978, Section 297A.25, Subdivision 1, is amended to read:

297A.25 [EXEMPTIONS.] Subdivision 1. The following are specifically exempted from the taxes imposed by sections 297A.01 to 297A.44:

(a) The gross receipts from the sale of food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products;

(b) The gross receipts from the sale of prescribed drugs and medicine intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses, therapeutic and prosthetic devices, but not including cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein;

(c) The gross receipts from the sale of and the storage, use or other consumption in Minnesota of tangible personal property, tickets, or admissions, electricity, gas, or local exchange telephone service, which under the Constitution or laws of the United States or under the Constitution of Minnesota, the state of Minnesota is prohibited from taxing;

(d) The gross receipts from the sale of tangible personal property (i) which, without intermediate use, is shipped or transported outside Minnesota and thereafter used in a trade or business or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property transported or shipped outside Minnesota and thereafter used in a trade or business outside Minnesota, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce (storage shall not constitute intermediate use); or (ii) which the seller delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(e) The gross receipts from the sale of packing materials used to pack and ship household goods, the ultimate destination of which is outside the state of Minnesota and which are not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(f) The gross receipts from the sale of and storage, use or consumption of petroleum products upon which a tax has been

imposed under the provisions of chapter 296, whether or not any part of said tax may be subsequently refunded;

(g) The gross receipts from the sale of clothing and wearing apparel except the following:

(i) all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof; watches; clocks; cases and movements for watches and clocks; gold, gold-plated, silver, or sterling flatware or hollow ware and silver-plated hollow ware; opera glasses; lorgnettes; marine glasses; field glasses and binoculars.

(ii) articles made of fur on the hide or pelt, and articles of which such fur is the component material or chief value, but only if such value is more than three times the value of the next most valuable component material.

(iii) perfume, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous and toilet powders. The tax imposed by this act shall not apply to lotion, oil, powder, or other article intended to be used or applied only in the case of babies.

(iv) trunks, valises, traveling bags, suitcases, satchels, overnight bags, hat boxes for use by travelers, beach bags, bathing suit bags, brief cases made of leather or imitation leather, salesmen's sample and display cases, purses, handbags, pocketbooks, wallets, billfolds, card, pass, and key cases and toilet cases.

(h) The gross receipts from the sale of and the storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials, including returnable containers used in packaging food and beverage products, feeds, seeds, fertilizers, electricity, gas and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used becomes an ingredient or constituent part of the property produced. Such production shall include, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products whether vegetable or animal, commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity and the production of road building materials. Such production shall not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures, used in such production and fuel, electricity, gas or steam used for space heating or lighting, are not included within this exemption; however, accessory tools, equipment and other short lived items, which are separate detachable units used in producing a direct effect upon the product, where such items have an ordinary useful life of less than 12 months, are included within the exemption provided herein;

(i) The gross receipts from the sale of and storage, use or other consumption in Minnesota of tangible personal property ~~(except as provided in section 297A.14)~~ which is used or consumed in producing any publication regularly issued at average intervals not exceeding three months, and any such publication. For purposes of this subsection, "publication" as used herein shall include, without limiting the foregoing, a legal newspaper as defined by Minnesota Statutes 1965, Section 331.02, and any supplements or enclosures with or part of said newspaper; and the gross receipts of any advertising contained therein or therewith shall be exempt. For this purpose, advertising in any such publication shall be deemed to be a service and not tangible personal property, and persons or their agents who publish or sell such newspapers shall be deemed to be engaging in a service with respect to gross receipts realized from such newsgathering or publishing activities by them, including the sale of advertising. Machinery, equipment, implement, tool, accessories, appliances, contrivances, furniture and fixtures used in such publication and fuel, electricity, gas or steam used for space heating or lighting, are not exempt;

(j) The gross receipts from all sales 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.

(k) 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;

(l) The gross receipts from sales of rolling stock and the storage, use or other consumption of such property by railroads, freight line companies, sleeping car companies and express companies taxed on the gross earnings basis in lieu of ad valorem taxes. For purposes of this clause "rolling stock" is defined as the portable or moving apparatus and machinery of any such company which moves on the road, and includes, but is not limited to, engines, cars, tenders, coaches, sleeping cars and parts necessary for the repair and maintenance of such rolling stock.

(m) The gross receipts from sales of aircraft equipment and the storage, use or other consumption of such property by airline companies taxed under the provisions of sections 270.071 to 270.079. For purposes of this clause, "aircraft equipment" includes airplanes and parts necessary for the repair and maintenance of such aircraft equipment, and flight simulators.

(n) The gross receipts from the sale of telephone central office telephone equipment used in furnishing intrastate and interstate telephone service to the public.

(o) The gross receipts from the sale of and the storage, use or other consumption by persons taxed under the in lieu provisions of chapter 298, of mill liners, grinding rods and grinding balls which are substantially consumed in the production of taconite, the ma-

terial of which primarily is added to and becomes a part of the material being processed.

(p) The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by, any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious or educational purposes if the property purchased is to be used in the performance of charitable, religious or educational functions, or 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;*

(q) The gross receipts from the sale of caskets and burial vaults;

(r) The gross receipts from the sale of cigarettes.

(s) The gross receipts from the sale of an automobile or other conveyance if the purchaser is assisted by a grant from the United States in accordance with 38 United States Code, Section 1901, as amended.

(t) The gross receipts from the sale to the licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654, if the aircraft is resold while the permit is in effect.

(u) The gross receipts from the sale of building materials to be used in the construction or remodeling of a residence when the construction or remodeling is financed in whole or in part by the United States in accordance with 38 United States Code, Sections 801 to 805, as amended. This exemption shall not be effective at time of sale of the materials to contractors, subcontractors, builders or owners, but shall be applicable only upon a claim for refund to the commissioner of revenue filed by recipients of the benefits provided in Title 38 United States Code, Chapter 21, as amended. The commissioner shall provide by regulation for the refund of taxes paid on sales exempt in accordance with this paragraph.

(v) The gross receipts from the sale of textbooks which are prescribed for use in conjunction with a course of study in a public or private school, college, university and business or trade school to students who are regularly enrolled at such institutions. For purposes of this clause a "public school" is defined as one that furnishes course of study, enrollment and staff that meets standards of the state board of education and a private school is one which under the standards of the state board of education, provides an education substantially equivalent to that furnished at a public school. Business and trade schools shall mean such schools licensed pursuant to section 141.25.

(w) The gross receipts from the sale of and the storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for the purpose of subsequently shipping or otherwise transferring

outside the state by the purchaser for use thereafter solely outside the state of Minnesota.

(x) The gross receipt from the sale of residential heating fuels in the following manner:

(i) all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use;

(ii) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April;

(iii) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat, for the billing months of November, December, January, February, March and April.

(y) *The gross receipts from either the sales to or the storage, use or consumption of tangible personal property by an organization of military service veterans or an auxiliary unit of an organization of military service veterans, provided that:*

(i) *the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation pursuant to section 501(c), clause (19), of the Internal Revenue Code as amended through December 31, 1978; and,*

(ii) *the tangible personal property which is sold to or stored, used or consumed by the organization or auxiliary unit is for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure or profit uses.*

(z) *The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by a county agricultural society incorporated pursuant to section 38.01 to be used for the purposes of sections 38.01 to 38.28.*

Sec. 6. [EFFECTIVE DATE.] *Sections 1, 2, 4 and the provisions in section 3 relating to farm machinery are effective for sales made after December 31, 1977. Section 5 and the provision in section 3 deleting the reference to paper and ink products are effective for sales made the day following final enactment.*

## ARTICLE XVII

### INHERITANCE TAX

Section 1. Minnesota Statutes 1978, Section 291.005, Subdivision 1, is amended to read:

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

(1) "Probate assets" means and includes property owned by a decedent at the time of his death required by section 524.3-706 to be listed on a personal representative's inventory and appraisal.

(2) "Non-probate assets" means and includes all property of every kind transferred from a decedent or at or by reason of the decedent's death which is subject to the inheritance tax imposed by this chapter (without regard to deductions or exemptions) and which does not consist of probate assets.

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

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

(3) "Resident decedent" means an individual whose residence at the time of his death was in Minnesota.

(4) "Nonresident decedent" means an individual who at the time of his death was not a resident of Minnesota.

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

(3) (6) "Commissioner" means and refers to the commissioner of revenue of this state or any person or body within the state department of revenue to whom he may have delegated his functions under this chapter.

(4) "Dependent child" means a natural child of the decedent, or a child adopted by the decedent who is incapable of furnishing his own support by reason of a physical or mental ailment, illness or deformity. The commissioner may request verification of the physical or mental condition of the child before allowing the exemptions and rates applicable to a dependent child under this chapter.

(5) "Stepchild" means a child who is not the decedent's natural or adopted child but is the natural or adopted child of the decedent's surviving or deceased spouse.

(7) "Internal Revenue Code" means the United States Internal Revenue Code of 1954 as amended through December 31, 1978.

Sec. 2. Minnesota Statutes 1978, Section 291.01, is amended to read:

291.01 [TAX IMPOSED.] Subdivision 1. A tax shall be and is hereby imposed upon any the transfer of property, real, personal or mixed, or any interest therein, or income therefrom in trust or otherwise, to any person, association or corporation, except county,

town or municipal corporation within the state, for strictly county, town or municipal purposes, in the following cases:

(1) When the transfer is by will or by the intestate laws of this state from any person dying possessed of the property while a resident of this state;

(2) When a transfer is by will or intestate law, of property within the state or within its jurisdiction and the decedent was a non-resident of the state at the time of his death;

(3) When the transfer is of property made by a resident or by a nonresident when such nonresident's property is within this state, or within its jurisdiction, by deed, grant, bargain, sale or gift, made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death; any transfer of the material part of the property of a deceased in the nature of a final disposition or distribution thereof made within three years prior to death, without adequate and full consideration in money or money's worth, shall, unless shown to the contrary, be deemed to have been made in contemplation of death; but no such transfer made prior to such three year period shall be deemed or held to have been made in contemplation of death; and

(4) Nothing in this chapter shall be construed as imposing a tax upon any transfer, as defined in this chapter, of intangibles, however used or held, whether in trust or otherwise, by a person, or by reason of the death of a person, who was not a resident of this state at the time of his death.

Subd. 2. Such tax shall be imposed when any such person or corporation becomes beneficially entitled, in possession or expectancy, to any property or the income thereof, by any such transfer whether made before or after the passage of this chapter.

Subd. 3. A taxable transfer under the provisions of this chapter shall be deemed to have been made:

(1) To the extent of any property with respect to which the decedent has at the time of his death general power of appointment, created on or before October 21, 1942, is exercised by the decedent

(A) by will, or

(B) by disposition which is of such nature that if it were a transfer of property owned by the decedent, such transfer would be taxable under the provisions of this chapter;

but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof. If a general power of appointment created on or before October 21, 1942, has been partially released so that it is no longer a general power of appointment, the exercise of such power shall not be deemed to be the exercise of a general power of appointment if

(a) such partial release occurred before November 1, 1950, or

(b) the donee of such power was under a legal disability to release such power on October 21, 1942; and such partial release occurred not later than six months after the termination of such legal disability.

(2) To the extent of any property with respect to which the decedent has at the time of his death a general power of appointment created after October 21, 1942, or with respect to which the decedent has at any time exercised or released such a power of appointment by a disposition which is of such nature that if it were a transfer of property owned by the decedent, such transfer would be taxable under the provisions of this chapter. A disclaimer or renunciation of such a power of appointment shall not be deemed a release of such powers. For purposes of this paragraph (2), the power of appointment shall be considered to exist on the date of the decedent's death even though the exercise of the power is subject to a precedent giving of notice or even though the exercise of the power takes effect only on the expiration of a stated period after its exercise, whether or not on or before the date of the decedent's death notice has been given or the power has been exercised.

(3) To the extent of any property with respect to which the decedent:

(A) by will; or

(B) by a disposition which is of such nature that if it were a transfer of property owned by the decedent such transfer would be taxable under the provisions of this chapter,

exercises a power of appointment created after October 21, 1942, by creating another power of appointment which can be validly exercised so as to postpone the vesting of any estate or interest in such property, or suspend the absolute ownership or power of alienation of such property, for a period ascertainable without regard to the date of the creation of the first power.

(4) The term "general power of appointment" means of power which is exercisable in favor of the decedent, his estate, his creditors or the creditors of his estate; except that:

(A) A power to consume, invade, or appropriate property for the benefit of the decedent which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the decedent shall not be deemed a general power of appointment.

(B) A power of appointment created on or before October 21, 1942, which is exercisable by the decedent only in conjunction with another person shall not be deemed a general power of appointment.

(C) In the case of a power of appointment created after October 21, 1942, which is exercisable by the decedent only in conjunction with another person:

(a) If the power is not exercisable by the decedent except in conjunction with the creator of the power, such power shall not be deemed a general power of appointment.

(b) If the power is not exercisable by the decedent except in conjunction with a person having a substantial interest in the property, subject to the power, which is adverse to exercise of the power in favor of the decedent, such power shall not be deemed a general power of appointment. For the purposes of this clause a person who, after the death of the decedent, may be possessed of a power of appointment (with respect to the property subject to the decedent's power) which he may exercise in his own favor shall be deemed as having an interest in the property and such interest shall be deemed adverse to such exercise of the decedent's power.

(c) If, after the application of clauses (a) and (b), the power is a general power of appointment and is exercisable in favor of such other person, in such power shall be deemed a general power of appointment only in respect of a fractional part of the property subject to such power, such part to be determined by dividing the value of such property by the number of such persons, including the decedent, in favor of whom such power is exercisable. For purposes of clauses (b) and (c), a power shall be deemed to be exercisable in favor of a person if it is exercisable in favor of such person, his estate, his creditors, or the creditors of his estate.

(5) The lapse of a power of appointment created after October 21, 1942, during the life of the individual possessing the power shall be considered a release of such power. The preceding sentence shall apply with respect to the lapse of powers during any calendar year only to the extent that the property, which could have been appointed by exercise of such lapsed powers, exceeded in value, at the time of such lapse, the greater of the following amounts:

(a) \$5,000 or

(b) Five percent of the aggregate value, at the time of such lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed powers could have been satisfied.

(6) For purposes of this subdivision, a power of appointment created by a will executed on or before October 12, 1942, shall be considered a power created on or before such date if the person executing such will dies before July 1, 1949, without having republished such will, by codicil or otherwise, after October 21, 1942.

Subd. 4. Whenever any property, real or personal, is held in the joint names of two or more persons, or is deposited in banks or in other institutions or depositories in the joint names of two or more persons payable to either or the survivor, upon the death of one of such persons the right of the survivor or survivors, to the immediate ownership or possession and enjoyment of such property, shall be deemed a transfer and subject to the inheritance tax imposed by this chapter, except such part thereof as may be shown to have originally belonged to the survivor or survivors and never to have been received or acquired by them from the decedent for less than

an adequate and full consideration in money or money's worth; in which case there shall be excepted only such part as is proportionate to the consideration furnished by the survivor or survivors. Provided, where any property has been acquired prior to April 29, 1935, by the decedent and spouse, as joint tenants, not in excess of one half of the value thereof shall be taxable. Provided, further, where property has been acquired at any time by gift, bequest, devise, or inheritance, by the decedent and any other person or persons, as joint tenants, the taxable portion shall be the value of a fractional part of said property to be determined by dividing the value of the property by the number of joint tenants.

Where personal property is held in joint names, such property shall be deemed as to be transferred to the survivors as provided in this subdivision unless it is established to the satisfaction of the commissioner that the decedent intended a different disposition. Upon the showing of evidence of that intent to the commissioner, the right of survivorship shall not be deemed to be a transfer to the named survivors subject to the inheritance tax, provided the survivors make the disposition according to the evidenced intention of the decedent and present to the commissioner statements signed by the transferees acknowledging receipt of the property from the named survivors; the disposition by the survivors to the transferees shall be deemed a transfer from the decedent to the transferees and shall be subject to the inheritance tax imposed by this chapter. This paragraph shall not apply to cases where the aggregate value of joint tenancy assets exceeds \$38,000.

Subd. 5. (1) The proceeds of all life or accident insurance policies whether now in force or hereafter issued, payable on account of the decedent's death shall be subject to the tax herein imposed, as follows:

(a) To the extent of the amount receivable by the executor of the decedent as insurance under policies on the life of the decedent.

(b) To the extent of the amount receivable by all other beneficiaries as insurance under policies on the life of the decedent with respect to which the decedent possessed at his death any of the incidents of ownership, exercisable either alone or in conjunction with any other person. For purposes of the preceding sentence, the term "incident of ownership" includes a reversionary interest (whether arising by the express terms of the policy or other instrument or by operation of law) only if the value of such reversionary interest exceeded five percent of the value of the policy immediately before the death of the decedent. As used in this paragraph, the term "reversionary interest" includes a possibility that the policy, or the proceeds of the policy, may return to the decedent or his estate, or may be subject to a power of disposition by him. The value of a reversionary interest at any time shall be determined (without regard to the fact of the decedent's death) by usual methods of valuation, including the use of tables of mortality and actuarial principles, pursuant to regulations prescribed by the commissioner of internal revenue or his delegate. In

determining the value of a possibility that the policy or proceeds thereof may be subject to a power of disposition by the decedent, such possibility shall be valued as if it were a possibility that such policy or proceeds may return to the decedent or this estate.

(2) Such proceeds shall be deemed a transfer within the meaning of that term as used in this chapter and a part of decedent's estate, and shall be taxable to the person or persons entitled thereto.

(3) Every corporation, partnership, association, individual, order or society authorized to transact life, accident, fraternal, mutual benefit, or death benefit insurance business which shall pay to any person, association, or corporation any insurance or death benefit in excess of \$1,000 or shall transfer any unpaid balance of, or any interest in, any annuity contract or deposit, upon the death of a resident of this state, shall give notice of such payment or transfer to the commissioner within ten days from the date thereof. Such notice shall be given on the forms prescribed by the commissioner and such notice shall set forth such information as the commissioner shall prescribe the Minnesota taxable estate of every decedent as prescribed by chapter 291.

Sec. 3. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.015] [DETERMINATION OF MINNESOTA TAXABLE ESTATE.] *The Minnesota taxable estate of a decedent shall be his federal gross estate as defined in Section 2031 of the Internal Revenue Code less the sum of:*

(1) *The value of any gifts of real property located outside this state which are otherwise includable in the federal gross estate under Section 2035(a) of the Internal Revenue Code;*

(2) *The value of property owned by the decedent at the time of his death which has its situs outside Minnesota;*

(3) *The exemptions and deductions allowed pursuant to sections 291.05, 291.051, 291.065, 291.07, and 291.08; and*

(4) *The sum of \$200,000, provided that, in the case of a non-resident decedent, this amount shall be reduced by that proportion of the value of the decedent's federal gross estate which has its situs outside of this state.*

Sec. 4. Minnesota Statutes 1978, Section 291.03, is amended to read:

291.03 [RATES.] *When the property or any beneficial interest therein passes by any such transfer where the amount of the property shall exceed in value the exemption or exemptions hereinafter specified, where applicable, The tax hereby imposed shall be :*

(1) *Where the person entitled to any beneficial interest in such property shall be the surviving spouse, minor or dependent child of the decedent, or any minor or dependent legally adopted child at*

*computed by applying to the Minnesota taxable estate the following prescribed rates:*

1- $\frac{1}{2}$  7 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 201.05, clauses (3) through (7) \$100,000.

2 8 percent on the next \$25,000 \$100,000 or part thereof.

3 9 percent on the next \$50,000 \$100,000 or part thereof.

4 10 percent on the next \$50,000 \$200,000 or part thereof.

5 11 percent on the next \$50,000 \$500,000 or part thereof.

6 percent on the next \$100,000 or part thereof.

7 percent on the next \$100,000 or part thereof.

8 percent on the next \$100,000 or part thereof.

9 percent on the next \$500,000 or part thereof.

10 12 percent on the excess over \$1,000,000.

(2) Where the person or persons entitled to any beneficial interest in such property shall be the adult child or other lineal descendant of the decedent; adult legally adopted child or issue; lineal ancestor of the decedent; stepchild as defined in section 201.005, or any child to whom such decedent for not less than ten years prior to such transfer stood in the mutually acknowledged relation of a parent; provided, such mutually acknowledged relationship began at or before the child's fifteenth birthday and was continuous for said ten years thereafter, or any lineal issue of such mutually acknowledged child; at the following prescribed rates:

2 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 201.05, clauses (3) through (7):

4 percent on the next \$25,000 or part thereof.

6 percent on the next \$50,000 or part thereof.

7 percent on the next \$100,000 or part thereof.

8 percent on the next \$200,000 or part thereof.

9 percent on the next \$600,000 or part thereof.

10 percent on the excess over \$1,000,000.

(3) Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister or a descendant of a brother or sister of the decedent; a wife or widow of a son; or a husband or widower of a daughter of the decedent; at the following prescribed rates:

5 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 201.05, clauses (3) through (7).

- 8 percent on the next \$25,000 or part thereof.
- 10 percent on the next \$50,000 or part thereof.
- 12 percent on the next \$50,000 or part thereof.
- 14 percent on the next \$50,000 or part thereof.
- 16 percent on the next \$100,000 or part thereof.
- 18 percent on the next \$100,000 or part thereof.
- 20 percent on the next \$100,000 or part thereof.
- 22 percent on the next \$500,000 or part thereof.
- 25 percent on the excess over \$1,000,000.

(4) Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate, at the following prescribed rates:

8 percent on that part of the first \$25,000 which exceeds the applicable exemption or exemptions specified in section 291.05, clauses (3) through (7).

- 10 percent on the next \$25,000 or part thereof.
- 12 percent on the next \$50,000 or part thereof.
- 14 percent on the next \$50,000 or part thereof.
- 16 percent on the next \$50,000 or part thereof.
- 18 percent on the next \$100,000 or part thereof.
- 20 percent on the next \$100,000 or part thereof.
- 22 percent on the next \$100,000 or part thereof.
- 26 percent on the next \$500,000 or part thereof.
- 30 percent on the excess over \$1,000,000.

*Provided that the amount of tax imposed by this chapter on the transfer of any estate shall not be less than the maximum tax credit allowable for state death taxes against the federal estate tax imposed with respect to that part of the decedent's estate which has a taxable situs in this state.*

Sec. 5. Minnesota Statutes 1978, Section 291.05, is amended to read:

291.05 [EXEMPTIONS.] The following exemptions from the tax are hereby allowed:

(1) Any devise, bequest, gift, or transfer : (a) to or for the use of the United States of America or any state or any political subdivision thereof for public purposes exclusively, and any devise, bequest, gift, or transfer ; (b) to or for the use of any corporation, fund, foundation, trust, or association operated within this state for

religious, charitable, scientific, literary, education or public cemetery purposes exclusively, including the encouragement of art and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or individual; and any bequest or transfer or to a trustee or trustees exclusively for such purposes, shall be exempt. Any devise, bequest, gift, or transfer; (c) to an employee stock ownership trust as defined in section 290.01, subdivision 25, shall be exempt. Where provided that, if the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the exemption shall be reduced by the product of multiplying said amount by their percentage interest in the trust.

Any devise, bequest, gift, or transfer, not to exceed \$1,000 made; (d) to a clergyman, in an amount not exceeding \$1,000, the proceeds of which are to be used for religious purposes or rites designated by the testator, shall be exempt. Any devise, bequest, gift, or transfer; and (e) to or for the use of any corporation, fund, foundation, trust, or association operated for religious, charitable, scientific, literary, education, or public cemetery purposes exclusively, including the encouragement of art, and the prevention of cruelty to children or animals, no part of which devise, bequest, gift, or transfer inures to the profit of any private stockholder or any individual, and any bequest or transfer or to a trustee or trustees exclusively for such purposes, shall be exempt, if, at the date of the decedent's death, the laws of the state under the laws of which the transferee was organized or existing, either (1) did not impose a death tax of any character, in respect of property transferred to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of this state, or (2) contained a reciprocal provision under which transfers to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of another state were exempted from death taxes of every character if such other state allowed a similar exemption to a similar corporation, fund, foundation, trust, or association, organized under the laws of such state.

(2) The homestead of a decedent, and the proceeds thereof if sold during administration, transferred to the spouse or to any minor or dependent child of the decedent, or to any minor or dependent legally adopted child of the decedent, shall be exempt to the extent of \$45,000 of the appraised value thereof. In no case shall the quantity of land considered to be the homestead of a decedent for the purpose of this exemption exceed 120 acres if the land is not included in the laid out or platted portion of a city. If the land is within a laid out or platted portion of a city, its area shall not exceed one-half of an acre. In the case of a decedent's estate wherein no property or beneficial interest therein passing by reason of death is eligible for the homestead exemption because the decedent did not have an interest in property constituting a homestead at the time of his death, there shall be allowed an exemption in lieu of the homestead exemption, in the amount of \$10,000. The exemption shall be allocated among the surviving spouse and the decedent's

natural or adopted minor or dependent children in proportion to the total amount of property or any interest therein passing to such spouse and children.

Proceeds of any insurance policy issued by the United States and generally known as war risk insurance, United States government life insurance or national service life insurance payable upon the death of any person dying on or after June 24, 1950, shall be exempt.

Proceeds of life insurance issued pursuant to Public Law 89-214 and generally known as servicemen's group life insurance payable upon the death of any person on or after September 1, 1965, shall be exempt. Claims for refunds of inheritance tax paid on such proceeds shall be accepted by the commissioner if filed with him by December 31, 1970, or within 18 months after such payment, whichever is later.

*Proceeds of payments made by the United States government as compensation for the decedent's service as a member of the armed forces of the United States during a period while he was classified as missing in action prior to being declared dead, shall be exempt. The commissioner shall make refunds for inheritance taxes paid which are attributable to payments exempt pursuant to this paragraph upon the filing of a claim by each beneficiary of the estate for his portion of the inheritance tax paid. Claims for refund must be filed with the commissioner no later than July 1, 1982.*

(3) Proceeds of payments from the United States railroad retirement fund; or from the United States as social security benefit or veterans burial benefit, shall be exempt.

(3) (i) Property or any beneficial interest therein of the clear value of \$60,000 transferred to the surviving spouse, shall be exempt.

(ii) Provided, where the amount of family maintenance allowed by the probate court is less than the maximum deductible under the provisions of section 201.10, or if no such maintenance is allowed, there shall be allowed to the surviving spouse an additional exemption equal in amount to the difference between the maximum deduction as provided by section 201.10 and the amount of such family maintenance allowed by the probate court. Further provided where no probate proceedings are had there shall be allowed to the surviving spouse an additional exemption equal to the maximum deduction allowed for family maintenance under the provisions of section 201.10.

(4) (i) Property or any beneficial interest therein of the clear value of \$30,000 transferred to each minor or dependent child of the decedent, or any minor or dependent legally adopted child of the decedent, shall be exempt.

(ii) Provided, where the decedent left no surviving spouse entitled to the exemption allowed by clause (3) of this section the exemption allowed by subparagraph (ii) of clause (3) shall be allowed to beneficiaries entitled to exemption under the provisions

of this clause. In no event shall the aggregate amount of exemption so allowed be in excess of the additional amount that would have been allowed under subparagraph (ii) of clause (3) had such paragraph been applicable.

(5) Property or any beneficial interest therein of the clear value of \$6,000 transferred to any adult child or other lineal descendant of the decedent; any adult legally adopted child; stepchild as defined in section 291.005, or any child to whom the decedent, for not less than ten years prior to his death, stood in the mutually acknowledged relation of a parent; provided, such mutually acknowledged relationship began at or before the child's fifteenth birthday, and was continuous for ten years thereafter, or any lineal issue of such adopted or mutually acknowledged child, or any lineal ancestor of the decedent, shall be exempt.

(6) Property or any beneficial interest therein of the clear value of \$1,500 transferred to any brother or sister or a descendant of a brother or sister of the decedent, a wife or widow of a son, or a husband or widower of a daughter of the decedent, shall be exempt.

(7) Property or any beneficial interest therein of the clear value of \$500 transferred to any person in any other degree of collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the decedent, or shall be a body politic or corporate not exempt under this chapter, shall be exempt.

Sec. 6. Minnesota Statutes 1978, Section 291.051, is amended to read:

291.051 [MARITAL DEDUCTION.] Subdivision 1. For the purposes of this section, the terms defined in this subdivision shall have the meaning given them herein.

"Marital exemption" means 50 percent, but not more than \$250,000, of the net taxable value passing to the surviving spouse of a decedent domiciled in Minnesota at the time of his death.

"Net taxable value" means the gross value passing to the surviving spouse, reduced by the value of real property outside Minnesota and tangible personal property permanently located outside Minnesota included in the gross value passing to the surviving spouse, and reduced by the deductions attributable to such gross value pursuant to section 291.07, except subdivision 1, clause (5), but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2), and (3), and 291.10.

"Marital exemption tax" means a tax imposed at the rates provided by this chapter on the value of property passing to the surviving spouse less the marital exemption, but without regard to the exemptions allowed to the surviving spouse by sections 291.05, clauses (1), (2) and (3) and 291.10.

Subd. 2. If the marital exemption tax on the property passing to the surviving spouse is less than a tax computed on that property under the other provisions of this chapter, the marital exemption tax shall be imposed in lieu of the tax computed under the

other provisions. For the purpose of section 3, clause (3), the value of the Minnesota taxable estate shall, except as limited by subsection (b) of Section 2056 of the Internal Revenue Code and by subdivision 2, be determined by deducting from the value of the federal gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse, but only to the extent that the interest has a taxable situs in this state and is included in determining the value of the federal gross estate. An interest in property shall be considered as passing from the decedent to his surviving spouse if it is considered as passing from the decedent to the surviving spouse under Section 2056(d) of the Internal Revenue Code.

Subd. 2. [LIMITATION.] The amount of the deduction allowed under this section for a resident decedent shall not exceed the greater of:

(a) \$250,000, or

(b) 50 percent of the value of the federal adjusted gross estate as defined in Section 2056(c)(2)(A) of the Internal Revenue Code,

reduced by an amount equal to the adjustment made, if any, for federal estate tax purposes with respect to any gift or gifts made by the decedent to his spouse after December 31, 1976 under Section 2056(c)(1)(B) of the Internal Revenue Code, and further reduced by the value of any property passing from the decedent to his surviving spouse which is exempt from estate tax under section 291.065 and is included in determining the value of the federal gross estate. In the case of a nonresident decedent, the amount of the deduction allowed under this section shall be determined without reference to subpart (a) of this subdivision.

Sec. 7. Minnesota Statutes 1978, Section 291.06, is amended to read:

291.06 [CREDIT FOR PREVIOUSLY PAID TAXES.] Where property is transferred to any person described in section 291.03, clauses (1) and (2), which can be identified as having been transferred to the decedent at death from a person who died within five years prior to the death of the decedent, and such transfer to the decedent was within the class of transfer described in said section 291.03, clauses (1) and (2), such property shall be exempt to the extent of the value thereof at the date of death of the prior decedent but not to exceed the value at the date of death of the second decedent. Provided, (1) no such exemption shall be allowed unless an inheritance tax was determined and paid to this state on the transfer thereof from the said prior decedent; (2) the exemption shall be limited to the value of property which is in excess of the amount of the exemption provided in section 291.05 allowed on the transfer to the decedent; (3) unless such previously transferred property is specifically devised or bequeathed, the exempt property for purposes of taxation shall be considered as belonging to the residue of the estate; (4) property exempt under this section shall not be included in computing the rate applicable to other transfers

to the beneficiary receiving such exempt property or can be identified as having been acquired in exchange for property so received, a credit for any transfer taxes paid pursuant to the provisions of this act or any inheritance tax paid pursuant to the provisions of Minnesota Statutes, Chapter 291 in effect prior to the effective date of this act upon that property during the preceding five years shall be allowed upon the transfer tax at his death. This credit shall not exceed the allocable portion of the tax due with respect to that property for estate tax purposes.

Sec. 8. Minnesota Statutes 1978, Section 291.065, is amended to read:

291.065 [EMPLOYEE RETIREMENT PLANS, EXEMPTION.] *To the extent included in the federal gross estate, the value of an annuity or other payment receivable by a surviving spouse or minor or dependent child of the decedent or a trust for their benefit after December 31, 1956, shall be exempt from inheritance estate tax if received under (1) an employees' trust (or under a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit sharing plan, which at the time of the decedent's separation from employment (whether by death or otherwise), or at the time of termination of the plan if earlier, met the requirement of section 401(a) of the Internal Revenue Code of 1954, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue; (2) a retirement annuity contract purchased by an employer (and not by an employees' trust) pursuant to a plan, which at the time of the decedent's separation from employment (by death or otherwise), or at the time of termination of the plan if earlier, met the requirements of paragraph (3) of section 401(a) of such code, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue; or (3) a retirement annuity contract purchased by an employer which is an organization referred to in section 503(b) (1) (2) or (3) of such code and which is exempt from tax under section 501(a) of such code, as adapted to the provisions of this chapter under regulations issued by the commissioner of revenue any plan, which at the time of the decedent's separation from employment, whether by death or otherwise, or at the time of termination of the plan if earlier, qualified under section 401, 403, 404, 405, 408 or 409 of the Internal Revenue Code; (2) a benefit plan for employees of the United States, its agencies or instrumentalities, the Federal Reserve Bank, the state of Minnesota or any of its political or governmental subdivisions or any other state or its political or governmental subdivisions; or (3) for members of a Minnesota volunteer firefighters' relief association. If such amounts payable after the death of the decedent under a plan described in clause (1) (2) or (3) are attributable to any extent to payments or contributions made by the decedent, no exemption shall be allowed for that part of the value of such amounts in the proportion that the total payments or contributions made by the decedent bears to the total payments or contributions made. For purposes of the preceding sentence, contributions or payments made by the decedent's employer or former*

employer under a trust or plan described in clause (1) (2) or (3) shall not be considered to be contributed by the decedent.

Sec. 9. Minnesota Statutes 1978, Section 291.07, Subdivision 1, is amended to read:

291.07 [DEDUCTIONS.] Subdivision 1. In determining the tax imposed by section 291.01, where, a personal representative has been appointed for the estate, or where a decree of descent for the estate has been entered under section 525.31 or where there have been summary proceedings for the estate if under section 525.51, the following deductions shall be allowed:

(1) funeral expenses;

(2) *probate reasonable legal, accounting, fiduciary and administration expenses and fees with respect to both probate and non-probate assets*, including but not limited to expenses incurred during administration in converting real and personal property held by the estate into cash;

(3) expenses of last illness unpaid at death;

(4) valid claims against *and debts of* the decedent, *unpaid at death*, which have been properly paid;

~~(5) family maintenance to the extent provided by section 291.10~~

~~(6) value of personal property to the extent of the amount allowed under the provisions of section 525.15~~

~~(7) federal estate taxes determined as follows:~~

~~(a) the value of the net estate taxable in Minnesota reduced by the deduction allowable for transfer for public, charitable and religious use as prescribed by Internal Revenue Code, Section 2055 and by the marital deduction as prescribed by Internal Revenue Code, Section 2056, shall be the numerator of a fraction;~~

~~(b) the denominator of the fraction shall be the value of the net estate everywhere reduced by the same class of deductions allowable in subparagraph (a) above;~~

~~(c) the ratio of the fraction so derived shall be multiplied by the federal estate tax due and payable to the United States Treasury.~~

~~(d) for purposes of this clause, the net estate is defined as the gross value of the estate on the applicable valuation date reduced by any unpaid mortgages on, or any indebtedness in respect of, property where the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate.~~

~~(8) other taxes which have accrued and are a lien on property in the estate at the time of death~~

~~(9) reasonable fees for legal or fiduciary services incident to non probate assets~~

~~(10)~~ (5) Minnesota and federal income taxes on "income in respect of a decedent," as computed under subdivision 3.

(6) *federal estate taxes allocable to the Minnesota taxable estate. The portion of federal estate taxes allocable to the Minnesota taxable estate shall be equal to the amount obtained by multiplying the total federal estate tax by a fraction, the numerator of which is the Minnesota taxable estate plus the amount of the federal estate tax on the estate of the decedent and the denominator of which is the federal taxable estate for federal estate tax purposes;*

(7) *real estate taxes due and payable prior to or in the year of the decedent's death with respect to real estate subject to taxation under chapter 291 and other taxes which have accrued and are a lien on property in the estate at the time of death;*

(8) *liens and mortgages on property subject to taxation under chapter 291 which are not deductible as claims or debts of the decedent.*

Sec. 10. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.075] [ALTERNATE VALUATION OF QUALIFIED PROPERTY.] *When property subject to the tax imposed by chapter 291 qualifies for valuation based on its use pursuant to section 2032A of the Internal Revenue Code, it shall have the same value for Minnesota estate tax purposes as it has for federal estate tax purposes.*

Sec. 11. Minnesota Statutes 1978, Section 291.08, is amended to read:

291.08 [NONRESIDENT ESTATES; ALLOWANCE OF DEDUCTIONS AND EXEMPTIONS.] ~~(a)~~ Where ~~any~~ a tax is due on the transfer of any property or interest therein owned by a nonresident, the following deductions and exemptions shall be allowed as provided in clauses ~~(b)~~ and ~~(c)~~ below:

~~(b)~~ Deductions:

(1) Funeral expenses to the extent incurred in Minnesota;

(2) Minnesota probate administration expense;

~~(3)~~ Family maintenance to the extent provided by section 291.10, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;

(4) Value of personal property to the extent of the amount allowed under section 525.15, reduced by the maximum amount allowed or allowable under the laws of the state of residence of the decedent;

~~(5)~~ Reasonable legal, accounting, fiduciary and administration fees and expenses allocable to both probate and nonprobate property included in the Minnesota gross estate;

(3) Federal estate taxes subject to the limitations imposed by as computed in section 291.07;

(6) Other (4) Real estate taxes which have accrued and are a lien on Minnesota property at the time of death, or which are owed to Minnesota in respect of taxable income; due and payable prior to or in the year of the decedent's death.

(5) Liens and mortgages on property included in the Minnesota gross estate.

(7) Reasonable fees for legal or fiduciary services incident to nonprobate assets taxable in Minnesota.

(c) Exemptions. The exemptions applicable to the person entitled to a beneficial interest shall be allowed as in the case of residents under section 291.05, reduced by the maximum exemption allowed or allowable under the laws of the state of residence of the decedent.

Sec. 12. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

*Subd. 1a. In all instances in which a resident decedent dies after December 31, 1979 and before January 1, 1981 leaving a federal gross estate in excess of \$161,000 and in all instances in which a resident decedent dies after December 31, 1980 leaving a federal gross estate in excess of \$175,000, and the decedent has an interest in property with a situs in Minnesota, and in all instances in which a non-resident decedent has a liability under chapter 291, the personal representative shall submit to the commissioner, on a form prescribed by the commissioner, a Minnesota estate tax return. The return shall be accompanied by a federal estate tax return and shall contain a computation of the Minnesota estate tax due. The return shall be signed by the personal representative.*

Sec. 13. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

*Subd. 2a. The commissioner may designate on the return the documents that are required to be filed together with the return in order to determine the proper valuation of assets and computation of tax. The commissioner shall not be bound by any item on the return unless he has received all required documents and unless all items of information on the return have been completed.*

Sec. 14. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

*Subd. 3a. (a) The commissioner may challenge matters of valuation or taxability of any assets reported on the return, or any deductions claimed, or the computation of tax, only if within 90 days of receipt of the return and all documents required to be filed with the return, the commissioner mails or delivers a written notice to the personal representative objecting to the return as filed and specifying the reasons for the objection.*

*(b) If the personal representative disagrees with the objection or does not wish to fully comply with the objection, he may re-*

quest that the commissioner hold a hearing on the objection. Within 30 days of receipt of a request, the commissioner shall set a time and place for hearing. Unless otherwise agreed upon, the hearing date shall not be earlier than 30 days nor later than 60 days from the date of the notice setting the hearing. The notice of hearing shall set forth the rights available to the personal representative under chapter 15. Not later than 30 days after the commissioner receives the report and recommendation of the hearing examiner, or a written waiver of his hearing rights by the personal representative, the commissioner shall issue an order determining the tax. Any such determination made by the commissioner may be appealed to the tax court as provided in section 271.09.

(c) At any time together with or after the objection, the commissioner, on his own initiative, may set a time and place for a hearing in accordance with (b) above.

(d) In his objection, or at any time thereafter, the commissioner may assess any additional tax as the facts may warrant, subject to the right of the personal representative to demand a hearing under chapter 15. If the personal representative does not demand a hearing within 90 days of the date of the assessment, the tax so assessed shall be legally due and the commissioner may proceed to collect any unpaid tax after one year from the date of death. If the commissioner later finds the tax assessment to be erroneous, he may adjust the assessment prior to collection.

(e) The commissioner shall not be required to object to any subsequent original, amended or supplemental return in order to preserve his rights. The commissioner shall not be precluded from objecting to a subsequent original, amended or supplemental return even though an original return was accepted as filed. If the commissioner had accepted an original return showing no tax due and a subsequent original, amended or supplemental return discloses additional assets not disclosed on the original return, the commissioner may object to any matter of valuation, taxability, deduction or computation of tax on the original return within 90 days of receipt of the subsequent original, amended or supplemental return.

(f) Subject to the provisions of section 291.11, the Minnesota estate tax liability shall be considered as finally determined on the date notification of acceptance is issued to the personal representative or, if no objection is filed, on the 91st day after the return, together with all other documents required to be filed with the return, is received.

(g) Subject to the time limits imposed elsewhere in this chapter, the commissioner may refund an overpayment of tax penalty or interest even though the personal representative has not made an application for refund.

Sec. 15. Minnesota Statutes 1978, Section 291.09, is amended by adding a subdivision to read:

Subd. 4a. If any estate tax return required to be filed pursuant to the provisions of this section has not been filed, the commis-

*sioner may make and file a return including a computation of the tax resulting from the transfers therein reported. At the time of the filing the commissioner shall mail copies of the return to the personal representative, if any, and to each person from whom any portion of the tax is due. The return may be objected to and a hearing held on the objections in the manner provided in subdivision 3a.*

Sec. 16. Minnesota Statutes 1978, Section 291.09, Subdivision 5, is amended to read:

Subd. 5. Notwithstanding other provisions of this chapter, when agreed in writing between the commissioner and the representative, values for purposes of the inheritance estate tax on both probate and non-probate assets shall be the same as those finally determined for purposes of the federal estate tax on a decedent's estate.

Sec. 17. Minnesota Statutes 1978, Section 291.09, Subdivision 7, is amended to read:

Subd. 7. The inheritance estate tax return, except as otherwise provided in this chapter, shall be filed with the commissioner within 12 months after the decedent's death.

Sec. 18. Minnesota Statutes 1978, Section 291.11, Subdivision 1, is amended to read:

291.11 [TIME EFFECTIVE.] Subdivision 1. [UPON DEATH; TIME OF ASSESSMENT.] (a) All taxes imposed by this chapter shall take effect at and upon the death of the person ~~from whom the transfer is made~~ whose estate is subject to taxation and shall be due and payable at the expiration of 12 months from such death, except as otherwise provided in this chapter. Provided, that any taxpayer who owes at least \$5,000 in taxes may choose to pay these taxes in five equal installments over a period of time not to exceed five years from the death of the person ~~from whom the transfer is made~~ whose estate is subject to taxation or five years from the expiration of the extension granted by the commissioner pursuant to section 291.132, whichever is later. When a taxpayer elects to pay the tax in installments, he shall notify the commissioner in writing no later than 12 months after the death of the person ~~from whom the transfer is made~~ whose estate is subject to taxation. If the taxpayer fails to pay an installment on time, the election shall be revoked and the entire amount of unpaid tax shall be due and payable 90 days after the date on which the installment was payable.

(b) (A) False return—in the case of a false or fraudulent return with the intent to evade tax, any additional tax resulting therefrom may be assessed at any time.

(B) No return—in the case of failure to file a return, the tax may be assessed at any time.

(C) Omissions—in the case where there is omitted from the estate items subject to tax under this chapter the tax on such omitted items may be assessed at any time.

In determining the items omitted, there shall not be taken into account any item which has been disclosed in the return or in a statement attached to the return in a manner adequate to apprise the commissioner of the nature and amount of such item.

(c) Where, before the expiration of the time prescribed in this chapter for the determination or adjustment of the tax, the commissioner and the taxpayer shall consent in writing to the extension of time for such determination or adjustment the tax may be determined at any time prior to the expiration agreed upon and in the manner agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

~~(d) The estate tax prescribed in section 291.34, notwithstanding the period of limitations prescribed for determination of the inheritance tax in this chapter shall be determined by the commissioner not later than 90 days following the filing of the Minnesota estate tax return with the commissioner, together with a copy of the federal audit report or the closing letter accepting the federal return as originally filed.~~

Sec. 19. Minnesota Statutes 1978, Section 291.111, Subdivision 1, is amended to read:

291.111 [TAXATION OF DISCLAIMED INTERESTS.] Subdivision 1. Transfers of any interest in real or personal property and all rights and powers relating to the same which have been duly disclaimed pursuant to the provisions of sections 501.211 and 525.532, or in any manner provided in subdivision 2 shall be subject to the inheritance *estate* tax imposed by this chapter, and acts amendatory thereof only if, and to the same extent and in the same manner as, the same would have been subject to said tax if said interests, rights or powers had been originally created in favor of and transferred to the same persons and in the same shares in which they are effectively distributed or otherwise disposed of, after giving full effect to such disclaimers, pursuant to the governing instrument, if any, and sections 501.211 and 525.532 and all other applicable law.

Sec. 20. Minnesota Statutes 1978, Section 291.132, is amended to read:

291.132 [EXTENSION TO FILE OR PAY.] *Subdivision 1.* The commissioner may extend the time for filing returns or making payment of the tax, without penalty, for a period not to exceed six months. In lieu of the six month extension, the commissioner may extend the time for payment of the tax, without penalty, for a period not to exceed two years if the payment of the tax would result in an undue hardship on the estate. The written request for the undue hardship extension shall be made to the commissioner no later than 12 months after the death of the person from whom the transfer is made. The taxpayer may elect to pay the taxes in installments as specified in section 291.11, subdivision 1, provided that the period of time for the payment of the taxes shall not exceed five years from the expiration of the extension

granted by the commissioner. Where an extension of time has been granted, interest shall be payable 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.

*Subd. 2. In lieu of an extension provided pursuant to subdivision 1 or payment of the estate tax in installments pursuant to section 291.11 on the property which qualifies under this subdivision, the commissioner may extend the time for payment of the tax on property which qualifies for valuation under section 10. The personal representative of an estate containing such property may elect to pay all or part of the tax imposed by chapter 291 in two or more, but not to exceed ten, equal installments, provided that the maximum amount of tax which may be paid in installments pursuant to this subdivision shall be an amount which bears the same ratio to the estate's tax liability under chapter 291 as the value of property determined pursuant to section 12 bears to the amount of the taxable estate. The first installment shall be paid on or before the date selected by the personal representative. The date may be no more than five years after the date prescribed by section 291.11, subdivision 1, for payment of the estate tax. Each succeeding installment shall be paid on or before that same date each year. An election under this subdivision shall be made not later than the time prescribed by section 291.11 for filing of the estate tax return and shall be made in the manner as the commissioner shall prescribe by rule.*

*Subd. 3. If the time for payment of estate tax has been extended under subdivision 2, interest shall be payable as provided in this subdivision.*

*(a) Interest payable under section 291.15 on any unpaid portion of the amount attributable to the first five years after the date prescribed by section 291.11 for payment of the tax shall be paid annually.*

*(b) Interest payable under section 291.15 on any unpaid portion of the amount attributable to any period after the five year period referred to in clause (a) shall be paid annually at the same time as, and as part of, each installment payment of the tax.*

*(c) If the executor has selected a period shorter than five years under subdivision 2 the shorter period shall be substituted for five years in clauses (a) and (b).*

Sec. 21. Minnesota Statutes 1978, Section 291.14, is amended to read:

**291.14 [PERSONAL LIABILITY OF PERSONAL REPRESENTATIVE AND TRANSFEREE.]** Subdivision 1. ~~Every tax imposed by this chapter shall be a lien upon the property embraced in any inheritance, devise, bequest, legacy, or gift until paid, and~~ The personal representative and person to whom such property which is subject to taxation under chapter 291 is transferred shall be personally liable for such tax, until its payment, to the extent of the value of such the property. ~~No such lien shall be enforced~~

against real property ; included in the probate estate, unless the state shall assert the same by filing a statement of its lien in the office of the county recorder or registrar of titles in the county wherein such real estate may be situated, within ten years after the date of any deed of distribution or decree of distribution which may be entered in the estate involved.

Subd. 1a. (1) Where an order approving distribution of property is not issued by the court, any tax due on the transfer of such property or interest to a devisee or to heirs who are entitled under the statutes of intestate succession shall be a lien upon such property until the tax imposed by this chapter is paid.

(2) The lien shall not be enforced against real property subject to the provisions of clause (1) unless the state asserts it by filing a statement of lien in the office of the county recorder or the registrar of titles in the county where the real estate is situated within ten years from the date of recording a copy of the death record of the testate or intestate decedent, as the case may be, together with a statement by the commissioner acknowledging receipt of an inventory and appraisal listing the real property.

(3) When the tax on property subject to the provisions of this subdivision has been paid, or if there be deposited with the commissioner a sum of money in an amount equal to the tax which, in the judgment of the commissioner may be due upon the transfer of the property, or if there is no tax required to be paid, the commissioner shall certify on an affidavit prescribed by him or instrument of conveyance that the lien for inheritance tax has been satisfied or has been waived, as the case may be. The affidavit or instrument of conveyance so certified may be recorded as are other instruments affecting the title to real estate.

Subd. 2. (1) Except as provided in clause (4) of this subdivision, where a lien for inheritance tax imposed under this chapter may be enforced against real property transferred to surviving joint tenants, or upon property transferred by a decedent during such decedent's lifetime, the surviving joint tenants or the transferees of the property so transferred by the decedent shall file on a form prescribed by the commissioner a schedule of non-probate assets listing the property or interest taxable. Any tax due on the transfer of such property or interest to the surviving joint tenants or to the transferees of the property so transferred by the decedent shall be reported on an inheritance tax return filed with the commissioner pursuant to section 201.00, and shall be a lien upon the interest of the surviving joint tenants or the transferees, until paid, and the surviving joint tenants or the transferees shall be personally liable for such tax to the extent of the value of such property.

(2) No lien shall be enforced against real property subject to the provision of clause (1) of this subdivision unless the state shall assert the same by filing a statement of such lien in the office of the county recorder or registrar of titles in the county wherein such real estate may be situated within ten years from the date of recording a copy of the death record of the deceased joint ten-

ant or deceased transferor, together with a copy of the schedule of non-probate assets required to be filed with the commissioner pursuant to clause (1) of this subdivision, which copy shall have been duly acknowledged by the commissioner.

(3) Where the tax on property subject to the provisions of clause (1) of this subdivision has been paid, or if there is deposited with the commissioner cash in an amount equal to the tax which, in the judgment of the commissioner, may be due upon the transfer of such property, or if there is no tax required to be paid, the commissioner shall certify on an affidavit of survivorship remainderman, described by the commissioner, that the lien has been satisfied or waived as the case may be. The affidavit so certified may be recorded as are other instruments affecting the title to real estate.

(4) (a) (i) When the decedent's death occurred subsequent to April 20, 1930, the provisions of this clause shall apply to the spouse, minor or dependent natural or adopted child of the decedent, or to the combination of classes of persons included herein;

(ii) When decedent's death occurred in the period beginning on April 21, 1930, and ending April 25, 1949, the provisions of this clause shall apply to the spouse, minor or dependent natural or adopted child or any other issue of the decedent, or to any combination of classes of persons included in this subparagraph (ii);

(b) Where the homestead is held in joint tenancy with the right of survivorship by the decedent and persons meeting the conditions described in (a) above, an affidavit in the form and manner prescribed by the commissioner, may be delivered to the county recorder or the registrar of titles. Such affidavit shall declare

(i) that the surviving joint tenant or tenants were members of the classes described in (a) above at the date of decedent's death (if any of the surviving joint tenants were minors, state date of such minor's birth);

(ii) that the property described as the homestead was owned and occupied by the decedent as his principal dwelling place at date of death;

(iii) that the quantity of land included in such property is not in excess of 120 acres and not included in the laid out or platted portion of any city. If the land is within a laid out or platted portion of a city, its area shall not exceed one-half of an acre;

(iv) that the gross market value of such property at date of death was not in excess of \$45,000;

(v) the affidavit to be delivered to the county recorder or registrar of titles shall have attached thereto a certified copy of the death certificate with respect to the death of the deceased joint tenant.

The affidavit shall be in lieu of an affidavit of survivorship certified by the commissioner and shall extinguish the lien imposed on such property by clause (2) of this subdivision, and shall be

recorded or filed as a document affecting the title to the real estate. The county recorder or registrar of titles shall not be required to verify the declarations made in such affidavit.

(c) A copy of the affidavit (which need not bear a copy of the death certificate) shall be supplied to the county recorder or registrar of titles; he will forward this copy to the commissioner at his office in St. Paul, Minnesota.

(d) Where it appears that a schedule of non-probate assets would otherwise not be required to be filed, the property, the lien on which has been extinguished in accordance with the provisions of paragraph (a) above, need not be reported on a schedule of non-probate assets.

Subd. 4. The lien of the state for inheritance taxes payable by a personal representative shall not extend to any right acquired by a bona fide purchaser, mortgagee, or lessee through any conveyance made by such personal representative, provided that such personal representative delivers to the county recorder or registrar of titles, as the case may be, a declaration that the property described therein has been sold to a bona fide purchaser, or has been mortgaged or leased, as the case may be. The declaration so submitted shall have attached thereto a certified copy of letters evidencing the appointment of such personal representative. The county recorder or registrar of titles shall submit a copy of such declaration to the commissioner at his office in St. Paul, Minnesota, without any requirement that the statements made therein by such personal representative have been verified. The lien so extinguished with respect to such bona fide purchaser, mortgagee or lessee shall not be reinstated or challenged by the commissioner.

Sec. 22. Minnesota Statutes 1978, Section 291.19, Subdivision 3, is amended to read:

Subd. 3. Any personal representative, trustee, heir or legatee of a nonresident decedent desiring to transfer property having its situs in this state may make application to the commissioner of revenue for the determination of whether there is any tax due to the state on account of the transfer of the decedent's property and such applicant shall furnish to the commissioner of revenue therewith an affidavit setting forth a description of all property owned by the decedent at the time of his death and having its situs in the state of Minnesota, the value of such property at the time of said decedent's death; also when required by the commissioner of revenue, a description of and statements of the true value of all the property owned by the decedent at the time of his death and having its situs outside the state of Minnesota, and also a schedule or statement of the valid claims against the estate of the decedent, including the expenses of his last sickness and funeral and the expenses of administering his estate, to the extent that such claims were incurred within this state. Such person shall also, on request of the commissioner of revenue, furnish to the latter a certified copy of the last will of the decedent in case he died testate, or an affidavit setting forth the names, ages and residences of the heirs at law of the

decedent in case he died intestate and the proportion of the entire estate of such decedent inherited by each of said persons ; and the relation, if any, with each legatee, devisee, heir, or transferee sustained to the decedent or person from whom the transfer was made . Such affidavits shall be subscribed and sworn to by the personal representative of the decedent or some other person having knowledge of the facts therein set forth.

Sec. 23. Minnesota Statutes 1978, Section 291.20, Subdivision 1, is amended to read:

291.20 [SAFETY DEPOSIT COMPANIES NOT TO TRANSFER FUNDS.] Subdivision 1. No person holding securities or assets belonging at the time of death of a decedent to him or to him and another or others as joint tenants, or having on deposit funds in excess of \$1,000 to the credit of a decedent, or to the decedent and another or others as joint tenants, or to the credit of the decedent as trustee for another or others, or renting a safe deposit box or other place of safekeeping to a decedent, individually or as joint tenant or tenant in common, shall deliver or transfer the same to any person, or permit any person to have access thereto, unless notice of the time and place of such intended transfer or access be served upon the county treasurer, personally or by representative, in which event the county treasurer, personally or by representative, may examine said securities, assets, funds or contents of such safe deposit box, at the time of such delivery, transfer or access. If, upon such examination the county treasurer or his representative shall for any cause deem it advisable that such securities, assets or funds should not be immediately delivered or transferred, or access to said safe deposit box or other place of safekeeping should not immediately be granted, he may forthwith notify in writing such person to defer delivery or transfer or access, as the case may be, for a period not to exceed ten days from the date of such notice, and thereupon it shall be the duty of the person notified to defer such delivery, transfer or access until the time stated in such notice or until prior revocation thereof. Failure to serve the notice first above mentioned, or to allow such examination, or to defer delivery or transfer of such securities, assets, or funds, or to refuse access to such safe deposit box or other place of safekeeping for the time stated in the second of such notices, shall render such person liable to the payment of the tax due, not exceeding \$1,000, upon the transfer of said securities, assets, or funds, or upon securities, assets, or moneys in such safe deposit box or other place of safekeeping, pursuant to the provisions of this act; provided, however, that nothing herein contained shall subject such person to liability for the payment of any such tax unless such person had knowledge of the death of the decedent prior to such delivery or transfer of such securities, assets, or funds, or entry to said safe deposit box or other place of safekeeping. The word "person" as used herein shall include individual persons, safe deposit companies, banks, trust companies, savings and loan associations, partnerships and all other organizations.

Any person seeking access to any safe deposit box upon the death of any person who at the time of his death was a tenant thereof either individually or as joint tenant or tenant in common, or seeking to withdraw securities, assets or funds belonging to the decedent or which decedent had the right to withdraw, shall notify the person renting such safe deposit box or holding such securities, assets or funds of the decedent's death. Any person who wilfully fails to give the notice of the death of the decedent required by this paragraph with intent to evade taxes due hereunder shall be guilty of a misdemeanor. It shall be a complete defense to any prosecution under the provisions of this subdivision that no inheritance estate tax was due from the decedent's estate.

Sec. 24. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.215] [VALUATION OF ESTATE; REPORTING.] *Subdivision 1. The valuation of all property includable in the Minnesota taxable estate of a decedent shall be subject to review and approval of the commissioner of revenue.*

*Subd. 2. Before the final settlement of an estate the personal representative shall furnish an amended estate tax return listing all property and taxable transfers or other events of which he has become aware since the first estate tax return was made which would result in a change in either the amount of the estate tax initially determined or the statements made by the affiant therein. He also shall furnish copies of any documents or records and any other information relating to the estate or its value upon request of the commissioner of revenue.*

*Subd. 3. The personal representative shall file an amended estate tax return within 90 days after any amended estate tax return is filed pursuant to the provisions of the United States Internal Revenue Code. If no amended federal estate tax return is filed but the federal estate tax return is changed or corrected, the change or correction shall be reported to the commissioner of revenue within 90 days after the final determination of the change or correction is made. Upon receipt of an amended federal estate tax return or upon notification of any change or correction made on the federal estate tax return, the commissioner of revenue may reassess the estate tax.*

Sec. 25. Minnesota Statutes 1978, Section 291.27, is amended to read:

291.27 [UNPAID TAX; OMITTED PROPERTY.] *If any tax is due and unpaid under the provisions of this chapter, the representative, the county attorney of the county in which an estate is probated, the attorney general or the commissioner may apply to the probate court for a citation, citing the persons liable to pay such tax to appear before the court on a day specified, not more than three months from the date of such citation, and show cause why the tax should not be paid. The judge of the probate court, upon such application, and whenever it shall appear to him that*

any such tax accruing under this chapter has not been paid as required by law, shall issue such citation, and the service of such citation, and the time, manner, and proof thereof, and the hearing and determination thereon, shall conform, as near as may be, to the provisions of the probate code of this state, and whenever it shall appear that any such tax is due and payable and the payment thereof cannot be enforced under the provisions of this chapter in the probate court, the person or corporation from whom the same is due is hereby made liable to the state for the amount of such tax.

Any tax due and unpaid under the provisions of this chapter may be enforced and collected from any transferee of property included in the Minnesota estate by action in a the court of administration of the estate of the decedent or in a court of general jurisdiction by the personal representative of any estate, or by action, in the name of the state, brought by the attorney general, the county attorney or the commissioner in the name of the state.

Any property which for any cause is omitted from an appraisal, inventory, or schedule of non probate assets the Minnesota estate tax return so that its value is not taken into consideration in the determination of the inheritance taxes estate tax, may be subsequently taxed against the persons receiving the same, or any part thereof, to the same effect as if included in the original appraisal, inventory, schedule of non probate assets, inheritance estate tax return and determination, except that any personal representative of an estate discharged from his trust in the meantime shall not be liable for the payment of such tax. When any property has been thus omitted in the determination of an inheritance estate tax, such taxes the tax thereon may be determined and recovered in a civil action brought by the attorney general or the commissioner, in the name of the state, in any court of general jurisdiction, or may be presented to collection by citation and subsequent proceedings in the probate court wherein the estate was administered.

Sec. 26. Minnesota Statutes 1978, Chapter 291, is amended by adding a section to read:

[291.48] [PUBLICITY OF RETURNS; INFORMATION.] *It shall be unlawful for the commissioner or any other public official, employee or former employee to divulge or otherwise make known in any manner any particulars set forth or disclosed in any report or return required by chapter 291 or 292 or information acquired while examining or auditing any taxpayer's liability for taxes thereunder, except in connection with a proceeding involving taxes due under chapter 291 or 292 from the taxpayer making the return. The commissioner may furnish a copy of any return or report to any official of the United States or any state having duties to perform in respect to the assessment or collection of any inheritance, estate, or gift tax, if the taxpayer is required by the laws of the United States or of the other state to make a return therein. Nothing herein contained shall be*

*construed to prohibit the commissioner from publishing statistics so classified as not to disclose the identity of particular property, decedents, heirs, or personal representatives, returns or reports and the contents thereof. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.*

*The return of a decedent or donor shall, upon written request, be open to inspection by or disclosure to (a) the administrator, executor, or trustee of his estate, and (b) any heir at law, next of kin, or beneficiary under the will of the decedent, and any other person whose basis in property is determined in whole or part by values set forth in the return, or (c) a donee of the property, but only if the commissioner finds that the heir, next of kin, beneficiary or other person or donee has a material interest which will be affected by information contained therein.*

Sec. 27. Minnesota Statutes 1978, Section 291.33, Subdivision 1, is amended to read:

291.33 [PAYMENTS TO COUNTIES.] Subdivision 1. On or before the first of November in each year the commissioner shall determine the net amount of ~~inheritance tax, Minnesota estate tax~~ and interest collected thereon which has been paid to the commissioner during the fiscal year ending June 30 next preceding from estates in each of the several counties of this state wherein probate proceedings have been had or where, if no probate proceedings have been required, wherein are located the probate courts that would have had venue under the provisions of section 524.3-201, had there been assets of decedents subject to probate.

For purposes of this subdivision net amount shall be the total amount paid from each of the several counties under the provisions of this chapter, during the appropriate fiscal year, reduced by the refunds made by the commissioner applicable to each of the several counties under the provisions of this chapter, during the same fiscal year.

Sec. 28. Minnesota Statutes 1978, Section 352.15, Subdivision 1, is amended to read:

352.15 [EXEMPTION FROM PROCESS AND TAXATION.] Subdivision 1. None of the moneys, annuities, or other benefits mentioned herein shall be assignable either in law or in equity or be subject to execution, levy, attachment, garnishment, or other legal process, or to any state income tax or state inheritance estate tax, ~~except that none shall be exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.~~ Provided, however, 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 ac-

count with his spouse. The board of directors may prescribe the conditions under which such payments will be made.

Sec. 29. Minnesota Statutes 1978, Section 353.15, is amended to read:

353.15 [NONASSIGNABILITY AND EXEMPTION OF ANNUITIES AND BENEFITS FROM JUDICIAL PROCESS AND TAXATION.] No money, annuity, or benefit provided for in this chapter is assignable or subject to a power of attorney, execution, levy, attachment, garnishment, or legal process, including actions for divorce, legal separation, and child support, or to any state income tax or state inheritance estate tax, except that none shall be exempt from taxation under chapter 201, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. Provided, however, 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 his spouse. The association may prescribe the conditions under which such payment will be made. 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. 30. Minnesota Statutes 1978, Section 354.10, is amended to read:

354.10 [FUND NOT SUBJECT TO ASSIGNMENT OR PROCESS; BENEFICIARIES.] The right of a teacher to avail himself of the benefits provided by this chapter, is a personal right only and shall not be assignable. All moneys to the credit of a teacher's account in the fund or any moneys payable to him from the fund shall belong to the state of Minnesota until actually paid to the teacher or his 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 his beneficiary, including actions for divorce, legal separation, and child support, shall be null and void and the same shall be exempt from garnishment or levy under attachment or execution and from all taxation by the state of Minnesota, except that none shall be exempt from taxation under chapter 291, unless transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit. Provided however, 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 his or her

spouse. The board shall prescribe the conditions which shall govern these procedures. 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. Any beneficiary designated by a teacher under the terms of this chapter, may be changed or revoked by the teacher at his pleasure, in such manner as the board may prescribe. In case a designated beneficiary dies before the teacher designating him dies, and a new beneficiary is not designated, the teacher's estate shall be the beneficiary.

Sec. 31. Minnesota Statutes 1978, 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 such teacher or member in a corporation organized as a "Teachers Retirement Fund Association" under sections 354A.03 to 354A.10, and all moneys, rights, and interests or annuities due or to become due to such teacher, member, or annuitant, or their beneficiaries, from any such association shall not be assignable, shall be exempt from garnishment, attachment, and execution or sale on any final process issued from any court and shall not be subject to the inheritance estate tax provisions of this state if transferred to a surviving spouse or minor or dependent child of the decedent or a trust for their benefit.

Sec. 32. Minnesota Statutes 1978, Section 524.3-706, is amended to read:

524.3-706 [DUTY OF PERSONAL REPRESENTATIVE; INVENTORY AND APPRAISEMENT.] Within three months after his appointment, a personal representative, who is not a special administrator or a successor to another representative who has previously discharged this duty, shall prepare and file with the court or registrar and mail to the surviving spouse, if there be one, and to all residuary distributees an inventory of property owned by the decedent at the time of his death, listing it with reasonable detail, and indicating as to each listed item, its fair market value as of the date of the decedent's death, and the type and amount of any encumbrance that may exist with reference to any item.

The personal representative shall also mail a copy of the inventory to interested persons or creditors who request it, and shall file an executed copy of the Minnesota inheritance tax return with the court or registrar.

Sec. 33. Minnesota Statutes 1978, Section 524.3-916, is amended to read:

524.3-916 [APPORTIONMENT OF ESTATE TAXES.] (a) For purposes of this section:

(1) "estate" means the gross estate of a decedent as determined for the purpose of federal estate tax and the estate tax payable to this state;

(2) "person" means any individual, partnership, association, joint stock company, corporation, government, political subdivision, governmental agency, or local governmental agency;

(3) "person interested in the estate" means any person entitled to receive, or who has received, from a decedent or by reason of the death of a decedent any property or interest therein included in the decedent's estate. It includes a personal representative, conservator, and trustee;

(4) "state" means any state, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico;

(5) "tax" means the federal estate tax and the state estate tax determined by the commissioner of revenue pursuant to ~~section 291.34~~ *chapter 291* and interest and penalties imposed in addition to the tax;

(6) "fiduciary" means personal representative or trustee.

(b) Unless the will or other written instrument otherwise provides, the tax shall be apportioned among all persons interested in the estate. The apportionment is to be made in the proportion that the value of the interest of each person interested in the estate bears to the total value of the interests of all persons interested in the estate. The values used in determining the tax are to be used for that purpose. If the decedent's will or other written instrument directs a method of apportionment of tax different from the method described in this code, the method described in the will or other written instrument controls.

(c)(1) The court in which venue lies for the administration of the estate of a decedent, on petition for the purpose may determine the apportionment of the tax.

(2) If the court finds that it is inequitable to apportion interest and penalties in the manner provided in subsection (b), because of special circumstances, it may direct apportionment thereof in the manner it finds equitable.

(3) If the court finds that the assessment of penalties and interest assessed in relation to the tax is due to delay caused by the negligence of the fiduciary, the court may charge him with the amount of the assessed penalties and interest.

(4) In any action to recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with this code the determination of the court in respect thereto shall be prima facie correct.

(d) (1) The personal representative or other person in possession of the property of the decedent required to pay the tax may withhold from any property distributable to any person interested

in the estate, upon its distribution to him, the amount of tax attributable to his interest. If the property in possession of the personal representative or other person required to pay the tax and distributable to any person interested in the estate is insufficient to satisfy the proportionate amount of the tax determined to be due from the person, the personal representative or other person required to pay the tax may recover the deficiency from the person interested in the estate. If the property is not in the possession of the personal representative or the other person required to pay the tax, the personal representative or the other person required to pay the tax may recover from any person interested in the estate the amount of the tax apportioned to the person in accordance with Laws 1975, Chapter 347.

(2) If property held by the personal representative is distributed prior to final apportionment of the tax, the distributee shall provide a bond or other security for the apportionment liability in the form and amount prescribed by the personal representative.

(e) (1) In making an apportionment, allowances shall be made for any exemptions granted, any classification made of persons interested in the estate and for any deductions and credits allowed by the law imposing the tax.

(2) Any exemption or deduction allowed by reason of the relationship of any person to the decedent or by reason of the purposes of the gift inures to the benefit of the person bearing such relationship or receiving the gift; but if an interest is subject to a prior present interest which is not allowable as a deduction, the tax apportionable against the present interest shall be paid from principal.

(3) Any deduction for property previously taxed and any credit for gift taxes or death taxes of a foreign country paid by the decedent or his estate inures to the proportionate benefit of all persons liable to apportionment.

(4) Any credit for inheritance, succession or estate taxes or taxes in the nature thereof applicable to property or interests includable in the estate, inures to the benefit of the persons or interests chargeable with the payment thereof to the extent proportionately that the credit reduces the tax.

(5) To the extent that property passing to or in trust for a surviving spouse or any charitable, public or similar gift or devisee is not an allowable deduction for purposes of the tax solely by reason of an inheritance tax or other death estate tax imposed upon and deductible from the property, the property is not included in the computation provided for in subsection (b) hereof, and to that extent no apportionment is made against the property. The sentence immediately preceding does not apply to any case if the result would be to deprive the estate of a deduction otherwise allowable under section 2053(d) of the Internal Revenue Code of 1954, as amended, of the United States, relating to deduction for state death taxes on transfers for public, charitable, or religious uses.

(f) No interest in income and no estate for years or for life or other temporary interest in any property or fund is subject to apportionment as between the temporary interest and the remainder. The tax on the temporary interest and the tax, if any, on the remainder is chargeable against the corpus of the property or funds subject to the temporary interest and remainder.

(g) Neither the personal representative nor other person required to pay the tax is under any duty to institute any action to recover from any person interested in the estate the amount of the tax apportioned to the person until the expiration of the three months next following final determination of the tax. A personal representative or other person required to pay the tax who institutes the action within a reasonable time after the three month period is not subject to any liability or surcharge because any portion of the tax apportioned to any person interested in the estate was collectible at a time following the death of the decedent but thereafter became uncollectible. If the personal representative or other person required to pay the tax cannot collect from any person interested in the estate the amount of the tax apportioned to the person, the amount not recoverable shall be equitably apportioned among the other persons interested in the estate who are subject to apportionment.

(h) A personal representative acting in another state or a person required to pay the tax domiciled in another state may institute an action in the courts of this state and may recover a proportionate amount of the federal estate tax, of an estate tax payable to another state or of a death duty due by a decedent's estate to another state, from a person interested in the estate who is either domiciled in this state or who owns property in this state subject to attachment or execution. For the purposes of the action the determination of apportionment by the court having jurisdiction of the administration of the decedent's estate in the other state is prima facie correct.

Sec. 34. Minnesota Statutes 1978, Section 524.3-1001, is amended to read:

**524.3-1001 [FORMAL PROCEEDINGS TERMINATING ADMINISTRATION; TESTATE OR INTESATE; ORDER OF DISTRIBUTION, DECREE, AND GENERAL PROTECTION.]**

(a) (1) A personal representative or any interested person may petition for an order of complete settlement of the estate. The personal representative may petition at any time, and any other interested person may petition after one year from the appointment of the original personal representative except that no petition under this section may be entertained until the time for presenting claims which arose prior to the death of the decedent has expired. The petition may request the court to determine testacy, if not previously determined, to consider the final account or compel or approve an accounting and distribution, to construe any will or determine heirs and adjudicate the final settlement and distribution of the estate. After notice to all interested persons and hearing the court may enter an order or orders, on appropriate conditions, determining the persons en-

titled to distribution of the estate, and, as circumstances require, approving settlement and directing or approving distribution of the estate and discharging the personal representative from further claim or demand of any interested person.

(2) In such petition for complete settlement of the estate, the petitioner may apply for a decree. Upon the hearing, if in the best interests of interested persons, the court may issue its decree which shall determine the persons entitled to the estate and assign the same to them in lieu of ordering the assignment by the personal representative. The decree shall name the heirs and distributees, state their relationship to the decedent, describe the property, and state the proportions or part thereof to which each is entitled. In the estate of a testate decedent, no heirs shall be named in the decree unless all heirs be ascertained.

(3) In solvent estates, the hearing may be waived by written consent to the proposed account and decree of distribution or order of distribution by all heirs or distributees, and the court may then enter its order allowing the account and issue its decree or order of distribution.

(4) The court shall have the power in its decree or order of distribution to waive the lien of inheritance estate taxes, find that the taxes have been satisfied by payment or, decree the property subject to the lien; provided, however, where a decree or order for distribution is issued, the personal representative shall not be discharged until all property is paid or transferred to the persons entitled thereto, and has otherwise fully discharged his trust. If objections are filed with the court by the commissioner of revenue, no discharge shall be issued until the objections are determined. ~~The court shall send a copy of the decree, upon issuance, to the commissioner of revenue. If no objection is filed, the court shall have the power to settle and distribute the estate and discharge the personal representative without regard to tax obligations.~~

(b) If one or more heirs or devisees were omitted as parties in, or were not given notice of, a previous formal testacy proceeding, the court, on proper petition for an order of complete settlement of the estate under this section, and after notice to the omitted or unnotified persons and other interested parties determined to be interested on the assumption that the previous order concerning testacy is conclusive as to those given notice of the earlier proceeding, may determine testacy as it affects the omitted persons and confirm or alter the previous order of testacy as it affects all interested persons as appropriate in the light of the new proofs. In the absence of objection by an omitted or unnotified person, evidence received in the original testacy proceeding shall constitute prima facie proof of due execution of any will previously admitted to probate, or of the fact that the decedent left no valid will if the prior proceedings determined this fact.

Sec. 35. Minnesota Statutes 1978, Section 525.091, Subdivision 1, is amended to read:

525.091 [DESTRUCTION AND REPRODUCTION OF PROBATE RECORDS.] Subdivision 1. The clerk of court of any county upon order of the probate judge may destroy all the original documents in any proceeding of record in his office five years after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in his office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; ~~inheritance tax return or schedule of non-probate assets; inheritance tax return waiver or self assessed inheritance tax return;~~ orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state ~~inheritance estate~~ taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

(b) In guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents.

(c) In mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

(d) Except for the enumerated documents described in this subdivision, the clerk of probate court may destroy all other original documents in any proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding in the probate court is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safe-keeping and those containing wills of decedents not adjudicated upon.

Sec. 36. Minnesota Statutes 1978, Section 525.091, Subdivision 2, is amended to read:

Subd. 2. The clerk of probate court of any county upon order of the probate judge may destroy the original record books as enumerated in this subdivision provided a Minnesota state ar-

chives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original record book is on file in his office.

Enumerated original record books:

(a) All record books kept for recording in compliance with section 525.03, clauses (3), (4), (5) and (6).

(b) All record books kept for inheritance tax purposes in compliance with section 291.29, subdivisions 1 and 2, after the expiration of 15 years from the date of the last proceeding entered therein.

Sec. 37. Minnesota Statutes 1978, Section 525.312, is amended to read:

525.312 [DECREE OF DESCENT.] Upon the filing of such petition, the court shall fix the time and place for the hearing thereof, notice of which shall be given pursuant to section 524.1-401. Notice of the hearing, in the form prescribed by court rule, shall also be given under direction of the clerk of court by publication once a week for two consecutive weeks in a legal newspaper in the county where the hearing is to be held, the last publication of which is to be at least ten days before the time set for hearing. Upon proof of the petition and of the will if there be one, or upon proof of the petition and of an authenticated copy of a will duly proved and allowed outside of this state in accordance with the laws in force in the place where proved, if there be one, the court shall allow the same and enter its decree of descent assigning the real or personal property, or any interest therein, to the persons entitled thereto pursuant to the will or such authenticated copy, if there be one, otherwise pursuant to the laws of intestate succession in force at the time of the decedent's death. The court may appoint two or more disinterested persons to appraise the property. No decree of descent shall be entered until the inheritance tax, if any, has been determined and paid.

Sec. 38. Minnesota Statutes 1978, Section 525.71, is amended to read:

525.71 [APPEALABLE ORDERS.] Appeals to the district court may be taken from any of the following orders, judgments, and decrees issued by a judge of the court under chapters 524 or 525:

- (1) An order admitting, or refusing to admit, a will to probate;
- (2) An order appointing, or refusing to appoint, or removing, or refusing to remove, a representative other than a special administrator or special guardian;
- (3) An order authorizing, or refusing to authorize, the sale, mortgage, or lease of real estate, or confirming, or refusing to confirm, the sale or lease of real estate;
- (4) An order directing, or refusing to direct, a conveyance or lease of real estate under contract;

(5) An order permitting, or refusing to permit, the filing of a claim, or allowing or disallowing a claim or counterclaim, in whole or in part, when the amount in controversy exceeds \$100;

(6) An order setting apart, or refusing to set apart, property, or making, or refusing to make, an allowance for the spouse or children;

(7) An order determining, or refusing to determine, venue; an order transferring, or refusing to transfer, venue;

(8) An order directing, or refusing to direct, the payment of a bequest or distributive share when the amount in controversy exceeds \$100;

(9) An order allowing, or refusing to allow, an account of a representative or any part thereof when the amount in controversy exceeds \$100;

(10) An order adjudging a person in contempt;

(11) An order vacating a previous appealable order, judgment, or decree; an order refusing to vacate a previous appealable order, judgment, or decree alleged to have been procured by fraud or misrepresentation, or through surprise or excusable inadvertence or neglect;

(12) A judgment or decree of partial or final distribution or an order determining or confirming distribution or any order of general protection;

(13) An order entered pursuant to section 576.142;

(14) An order granting or denying restoration to capacity;

(15) An order made directing, or refusing to direct, the payment of representative's fees or attorneys' fees, and in such case the representative and the attorney shall each be deemed an aggrieved party and entitled to take such appeal;

(16) An order, judgment, or decree relating to or affecting inheritance estate taxes or refusing to amend, modify, or vacate such an order, judgment, or decree; but nothing herein contained shall abridge the right of direct review by the supreme court;

(17) An order extending the time for the settlement of the estate beyond five years from the date of the appointment of the representative.

Sec. 39. Minnesota Statutes 1978, Section 525.74, is amended to read:

525.74 [DIRECT APPEAL TO SUPREME COURT.] A party aggrieved may appeal direct to the supreme court from an order determining or refusing to determine inheritance estate taxes upon a hearing on a prayer for reassessment and redetermination. Within 30 days after service of notice of the filing of such order, the appellant shall serve a notice of appeal upon all parties adversely interested or upon their attorneys and upon the probate judge. An appellant, other than the state, the veterans' administration,

or a representative appealing on behalf of the estate, shall file in the probate court a bond in such amount as that court may direct, conditioned to prosecute the appeal with due diligence to a final determination, pay all costs and disbursements and abide the order of the court therein. The notice of appeal with proof of service and the bond, if required, shall be filed in the probate court within ten days after the service of such notice and the appellant shall pay to such court the sum of \$15, of which \$10 shall be transmitted to the clerk of the supreme court, as provided by law for appeals in civil actions.

Such appeal shall stay all proceedings on the order appealed from. When a party in good faith gives due notice of appeal from such order and omits through mistake to do any other act necessary to perfect the appeal, or to stay proceedings, the court may permit an amendment on such terms as may be just. Upon perfection of the appeal, the probate court shall transmit to the clerk of the supreme court the \$10 aforementioned together with a certified copy of the notice of appeal and bond, if required. The filing thereof shall vest in the supreme court jurisdiction of the cause, and records shall be transmitted to the supreme court, and records and briefs shall be printed, served, and filed, and such appeal shall be heard and disposed of as in the case of appeals in civil actions from the district court. If a settled case be necessary, the probate court may settle a case upon the application of any party. The notice of the hearing upon such application and the case proposed to be settled shall be served on all other parties interested in the appeal at least eight days prior to the hearing.

Sec. 40. Minnesota Statutes 1978, Section 525.841, is amended to read:

525.841 [ESCHEAT RETURNED.] In all such cases the commissioner of finance shall be furnished with a certified copy of the court's order assigning the escheated property to the persons entitled thereto, and upon notification of payment of the inheritance estate tax, the commissioner of finance shall draw his warrant on the state treasurer, or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11.08 or 94.09 to 94.16, then the warrant shall be for the appraised value as established during the administration of the decedent's estate. There is hereby annually appropriated from any moneys in the state treasury not otherwise appropriated an amount sufficient to make payment to all such designated persons. No interest shall be allowed on any amount paid to such persons.

Sec. 41. [REPEALER.] *Minnesota Statutes 1978, Sections 3A.08; 291.02; 291.07, Subdivisions 2 and 2a; 291.09, Subdivisions 1, 2, 3 and 4; 291.10; 291.11, Subdivisions 2, 3, 4, 5, 6, 7, 8 and 9; 291.12, Subdivision 4; 291.19, Subdivision 5; 291.20, Subdivision 3; 291.21, Subdivision 2; 291.22; 291.23; 291.24; 291.25; 291.26; 291.29, Subdivisions 1, 2, 3 and 4; 291.30; 291.34; 291.35; 291.36; 291.37; 291.38; 291.39; 291.40; 292.01; 292.02; 292.03; 292.031;*

292.04; 292.05; 292.06; 292.07; 292.08; 292.09; 292.105; 292.111; 292.112; 292.12; 292.125; 292.14; and 292.15 are repealed.

Sec. 42. *There is appropriated for fiscal years 1980, 1981 and 1982 from the general fund to the commissioner of revenue the amounts necessary to make the refunds provided by section 5.*

Sec. 43. [EFFECTIVE DATE.] *The provisions of section 5 which relate to payments for military service while the decedent was missing in action shall be effective for estates of decedents declared dead after January 1, 1975. The provisions of section 26 shall be effective the day following final enactment and shall relate to returns filed pursuant to chapters 291 and 292 prior to and after the effective date of this article. The remainder of this article is effective for estates of decedents dying after December 31, 1979 and gifts made after December 31, 1979.*

## ARTICLE XVIII

### GIFTS TO MINORS

Section 1. Minnesota Statutes 1978, Section 292.04, is amended to read:

292.04 [EXEMPTIONS.] The following transfers by gift shall be exempt from and excluded in computing the tax imposed by this chapter:

(1) Gifts to or for the use of the United States of America or any state or any political subdivision thereof for exclusively public purposes;

(2) Gifts to or for the use of any fund, foundation, trust, association, organization or corporation operated within this state for religious, charitable, scientific, literary, or educational purposes exclusively, including the promotion of the arts, or the conduct of a public cemetery, if no part thereof inures to the profit of any private shareholder or individual. Gifts to or for the use of any corporation, fund, foundation, trust, or association operated for religious, charitable, scientific, literary, or educational purposes, including the promotion of the arts, or the conduct of a public cemetery, no part of which inures to the profit of any private shareholders or individual, shall be exempt, if at the date of the gift, the laws of the state under the laws of which the donee is organized or existing either (1) do not impose a gift tax in respect of property transferred to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of this state, or (2) contain a reciprocal provision under which gifts to a similar corporation, fund, foundation, trust, or association organized or existing under the laws of another state are exempt from gift taxes if such other state allows a similar exemption to a similar corporation, fund, foundation, trust, or association, organized or existing under the laws of such state;

(3) Gifts to a fraternal society, order, or association operating under the lodge system, but only if such gifts are to be used exclusively for the purposes designated in clause (2);

(4) Gifts to or for the use of posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized within the state of Minnesota and if such gifts are to be used exclusively for the purposes designated in clause (2);

(5) All property transferred, money, service, or other thing of value, paid, furnished, or delivered by any person, corporation, organization, or association to his or its employees, or to any organization of his or its employees, directly or indirectly, or to any person, firm, or corporation for them or it, including payments to cover insurance, sickness, and death benefits, pensions, relief activities, or to any other employees benefit fund of any kind, and medical service to such employees and their families;

(6) The first \$3,000 in value of gifts (other than of future interests in property) made to any person by the donor during any calendar year. No part of a gift to a minor donee shall be considered a gift of future interest in property for purposes of this clause if it complies with the provisions of the Minnesota uniform gifts to minors act, chapter 527, or if it is a transfer for the benefit of a minor, and if the property and income therefrom:

(a) May be expended by or for the benefit of the donee before his attaining the age of 18 21 years; and

(b) Will to the extent not so expended

(1) pass to the donee on his attaining the age of 18 21 years and

(2) in the event the donee dies before attaining the age of 18 21 years, be payable to the estate of the donee, or as he may appoint under a general power of appointment as defined in section 2514(C) of the Internal Revenue Code of 1954;

(7) Gifts to an employee stock ownership trust as defined in section 290.01, subdivision 5. Where the beneficiaries of a stock ownership trust include the transferor, his spouse, children, grandchildren, parents, siblings or their children, the amount of the exemption shall be reduced by the product of multiplying said amount by their percentage interest in the trust.

*Sec. 2. [REFUND.] Persons who paid gift taxes after June 1, 1973 on a transfer excludable pursuant to section 1 shall be entitled to a refund of taxes paid provided a claim is made to the commissioner pursuant to the procedures of section 292.12.*

*Sec. 3. [APPROPRIATION.] There is appropriated from the general fund to the commissioner of revenue the amount necessary to make the refunds provided by section 2.*

*Sec. 4. [EFFECTIVE DATE.] This article is retroactively effective June 1, 1973.*

## ARTICLE XIX

### TRUST AND ESTATE INCOME

Section 1. Minnesota Statutes 1978, Section 290.23, is amended by adding a subdivision to read:

*Subd. 16. [INCOME FROM OUT-OF-STATE PROPERTY.] There shall be allowed as a deduction in computing the taxable net income of a trust or an estate the amount of income or gains from tangible personal or real property having a situs outside this state allocated to this state according to the provisions of section 290.17, subdivision 1.*

**Sec. 2. [EFFECTIVE DATE.]** *This article is effective for taxable years beginning after December 31, 1978.*

## ARTICLE XX

### CAPITAL GAINS ON DISSOLUTION

Section 1. Minnesota Statutes 1978, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. [GROSS INCOME.] 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; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended.

For each of the taxable years beginning after December 31, 1960 and prior to January 1, 1971, the term "gross income" in its application to individuals, estates, and trusts, shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through December 31, 1970 for the applicable taxable year, with the modifications specified in this section.

For each of the taxable years beginning after December 31, 1970, the term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes 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 section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1970, shall be in effect for taxable years beginning after December 31, 1970 and prior to January 1, 1973.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1972, shall be in effect for taxable years beginning after December 31, 1972.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1973, shall be in effect for taxable years beginning after December 31, 1973.

(iv) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for taxable years beginning after December 31, 1974.

(v) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of chapter 290 at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income or obligations of any state other than Minnesota or a political subdivision of any such other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for such reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for such previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Min-

nesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954, as amended through December 31, 1976, to the extent of the credit under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24; and

(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101; and

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

*(12) To the extent deducted in computing the taxpayer's federal adjusted gross income for the taxable year, losses realized upon a transfer of property to the spouse of the taxpayer in exchange for the release of the spouse's marital rights;*

~~(12)~~ (13) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, as amended through December 31, 1976, if the nonprofit corporation is domiciled outside of Minnesota;

~~(13)~~ (14) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, as amended through December 31, 1976, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, as amended through December 31, 1976, except for that portion of such exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

~~(14)~~ (15) The amount of any excluded gain realized by a trust on the sale or exchange of property as defined in section 641(c) (1).

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

(1) Interest income on obligations of any authority, commission or instrumentality of the United States to the extent includi-

ble in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to fifty per centum of such portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of such securities but includible in gross income for federal income tax purposes;

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from such losses;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether such amount is received as a refund or credited to another taxable year's income tax liability;

(6) To the extent included in federal adjusted gross income, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of 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, 404, 405, 408 or 409 of the Internal Revenue Code of 1954, as amended through December 31, 1977. The maximum amount of this subtraction shall be \$7,200 less than sum of (a) social security retirement benefits received during the taxable year, (b) railroad retirement benefits received during the taxable year, and (c) the amount by which the individual's federal adjusted gross income exceeds \$13,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$7,200 less the sum of social security retirement benefits and railroad retirement benefits; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$13,000;

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954, as amended through December 31, 1976, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

*(8) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain realized upon a transfer of property to the spouse of the taxpayer in exchange for the release of the spouse's marital rights;*

~~(8)~~ (9) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later; and

~~(9)~~ (10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed after December 31, 1977 and before January 1, 1982 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60.

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from such corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of such stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and said corporation is liquidated or the individual shareholder disposes of his stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, such shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972

the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that such reserve is distributed to shareholders such distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that such amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1(2) in computing Minnesota inheritance tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have such amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

Sec. 2. Minnesota Statutes 1978, Section 290.14, is amended to read:

290.14 [GAIN OR LOSS ON DISPOSITION OF PROPERTY, BASIS.] 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 the cost to the taxpayer of such property, with the following exceptions:

(1) If the property should have been included in the last inventory, it shall be the last inventory value thereof;

(2) If the property was acquired by gift, it shall be the same as it would be if it were being sold or otherwise disposed of by the

last preceding owner not acquiring it by gift; if the facts required for this determination cannot be ascertained, it shall be the fair market value as of the date, or approximate date, of acquisition by such last preceding owner, as nearly as the requisite facts can be ascertained by the commissioner;

(3) If the property was acquired by gift through an inter vivos transfer in trust, it shall be the same as it would be if it were being sold or otherwise disposed of by the grantor;

(4) Except as otherwise provided in this clause (4), the basis of property in the hands of a person acquiring the property from a decedent or to whom the property passed from a decedent shall, if not sold, exchanged or otherwise disposed of before the decedent's death by such person, be the fair market value of the property at the date of decedent's death.

For the purposes of the preceding paragraph, the following property shall be considered to have been acquired from or to have passed from the decedent:

(a) Property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent;

(b) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

(c) Property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

(d) Property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will;

(e) In the case of a decedent's dying after December 31, 1956, property acquired from the decedent by reason of death, form of ownership, or other conditions (including property acquired through the exercise or non-exercise of a power of appointment), if by reason thereof the property is required to be included in determining the value of the decedent's gross estate for Minnesota inheritance tax purposes. In such case, if the property is acquired before the death of the decedent, the basis shall be the amount determined under the first paragraph of this clause reduced by the amount allowed to the taxpayer as deductions in computing taxable net income under this chapter or prior Minnesota income tax laws for exhaustion, wear and tear, obsolescence, amortization, and depletion on such property before the death of the decedent. Such basis shall be applicable to the property commencing on the death of the decedent. This paragraph shall not apply to annuities described in section 290.08; and property described in paragraphs (a), (b), (c) and (d) of this clause (4).

Clause (4) shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under section 290.077. Nor shall it apply to restricted stock options described in section 290.078 which the employee has not exercised at death.

(5) If the property was acquired after December 31, 1932, upon an exchange described in section 290.13, subdivision 1, the basis shall be the same as in the case of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized upon such exchange under the law applicable to the year in which the exchange was made. If the property so acquired consisted in part of the type of property permitted by section 290.13, subdivision 1, to be received without the recognition of gain or loss, and in part of other property, the basis provided in this clause shall be allocated between the properties, other than money, received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. This clause shall not apply to property acquired by a corporation by the issuance of its stock or securities as the consideration, in whole or in part, for the transfer of the property to it;

(6) If substantially identical property was acquired in the place of stocks or securities which were sold or disposed of and in respect of which loss was not allowed as a deduction under section 290.09, subdivision 5, the basis in the case of property so acquired shall be the same as in the case of the stock or securities so sold or disposed of, increased by the excess of the repurchase price of such property over the sale price of such stock or securities, or decreased by the excess of the sale price of such stock or securities over the repurchase price of such property;

(7) If the property was acquired after December 31, 1932, as the result of a compulsory or involuntary conversion described in section 290.13, subdivision 5, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law applicable to the year in which such conversion was made, determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(8) Neither the basis nor the adjusted basis of any portion of real property shall, in the case of a lessor of such property, be increased or diminished on account of income derived by the lessor in respect of such property and excludable from gross income under section 290.08, subdivision 14.

If an amount representing any part of the value of real property attributable to buildings erected or other improvements made by a lessee in respect of such property was included in gross income of the lessor for any taxable year beginning before Jan-

uary 1, 1943, the basis of each portion of such property shall be properly adjusted for the amount so included in gross income.

*(9) If the property was acquired by the taxpayer as a transfer of property in exchange for the release of the taxpayer's marital rights, the basis of the property shall be the same as it would be if it were being sold or otherwise disposed of by the person who transferred the property to the taxpayer.*

**Sec. 3. [EFFECTIVE DATE.]** *This article is effective for taxable years beginning after December 31, 1978."*

Further, amend the title, as follows:

Delete the title and insert:

"A bill for an act relating to taxation; expanding the taxable net income brackets for individuals, estates and trusts; increasing credits for certain low income taxpayers; increasing the credits against income tax and providing new personal credits for certain taxpayers; providing inflation adjustments; increasing the credit for political contributions; providing a political contribution deduction; providing computation of charitable contribution deductions; reducing certain income tax rates; providing an exclusion of \$12,000 for pension income; providing an exclusion from income for certain payments to members of the armed forces; reducing the income tax rate applicable to corporations; providing an investment credit; providing a pollution control credit; abolishing the inheritance tax; establishing an estate tax; repealing the gift tax; increasing local government aids; providing a residential energy credit; providing for an ad valorem tax on railroads; eliminating the limited market value; increasing the homestead base value; reducing certain property assessment ratios and increasing certain property tax credits; extending agricultural homestead treatment to noncontiguous lands; increasing certain property tax refund credits and providing an additional credit; providing for certain levies; providing an allowance for state owned lands; reducing the rate of sales and use tax on farm machinery; exempting certain sales from the sales tax; subtracting certain capital gains realized in divorce settlements; providing retroactive gift tax exemption for certain gifts to minors; appropriating money; amending Minnesota Statutes 1978, Sections 272.02, Subdivision 1; 273.11; 273.122; 273.13, Subdivisions 4, 6, 6a, 7 and 14a; 273.132; 273.17, Subdivision 1; 275.11, Subdivision 2; 275.50, Subdivisions 5 and 6; 275.51, by adding a subdivision; 275.52, Subdivisions 2 and 5; 290.01, Subdivision 20; 290.012, Subdivision 3; 290.06, Subdivisions 1, 2c, 3c, 3d, 9, 9a, 11 and by adding subdivisions; 290.09, Subdivisions 2, 28 and by adding a subdivision; 290.091; 290.095, by adding a subdivision; 290.14; 290.21, Subdivision 3; 290.23, by adding a subdivision; 290.26, Subdivision 2; 290.361, Subdivision 2; 290.971, Subdivisions 1, 3 and 6; 290.972, Subdivisions 1, 3 and 5; 290A.03, Subdivisions 3 and 11; 290.04, Subdivisions 2, 2a, 2b, 3, and by adding subdivisions; 291.005, Subdivision 1; 291.01; 291.03; 291.05; 291.051; 291.06; 291.065; 291.07, Subdivision 1;

291.08; 291.09, Subdivisions 5, 7 and by adding subdivisions; 291.11, Subdivision 1; 291.111, Subdivision 1; 291.132; 291.14; 291.19, Subdivision 3; 291.20, Subdivision 1; 291.27; 291.33, Subdivision 1; 292.04; 295.02; 297A.01, by adding a subdivision; 297A.02; 297A.14; 297A.24; 297A.25, Subdivision 1; 352.15, Subdivision 1; 353.15; 354.10; 354A.11; 477A.01, Subdivisions 1 and 4; 524.3-706; 524.3-916; 524.3-1001; 525.091, Subdivisions 1 and 2; 525.312; 525.71; 525.74; and 525.841; Chapters 124, by adding a section; 270, by adding sections; 291, by adding sections; and 298, by adding a section; repealing Minnesota Statutes 1978, Sections 3A.08; 275.51, Subdivision 3d; 290.06, Subdivisions 3e and 12; 290.21, Subdivision 3a; 290.971, Subdivision 5; 291.02; 291.07, Subdivisions 2 and 2a; 291.09, Subdivisions 1, 2, 3 and 4; 291.10; 291.11, Subdivisions 2, 3, 4, 5, 6, 7, 8 and 9; 291.12, Subdivision 4; 291.19, Subdivision 5; 291.20, Subdivision 3; 291.21, Subdivision 2; 291.22; 291.23; 291.24; 291.25; 291.26; 291.29, Subdivisions 1, 2, 3 and 4; 291.30; 291.34; 291.35; 291.36; 291.37; 291.38; 291.39; 291.40; 292.01; 292.02; 292.03; 292.031; 292.04; 292.05; 292.06; 292.07; 292.08; 292.09; 292.105; 292.111; 292.112; 292.12; 292.125; 292.14; 292.15; 295.01, Subdivisions 2 and 3; 295.02; 295.03; 295.04; 295.05; 295.12; 295.13; and 295.14."

The question was taken on the adoption of the amendment.

Mr. Coleman moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 18 and nays 42, as follows:

Those who voted in the affirmative were:

Ashbach	Dunn	Kirchner	Pillsbury	Sillers
Bang	Engler	Knaak	Renneke	Ueland, A.
Bernhagen	Frederick	Knutson	Rued	
Brataas	Jensen	Ogdahl	Sieloff	

Those who voted in the negative were:

Anderson	Hughes	Menning	Peterson	Strand
Benedict	Humphrey	Merriam	Purfeerst	Stumpf
Chenoweth	Johnson	Moe	Schaaf	Tennessen
Coleman	Keefe, S.	Nelson	Schmitz	Vega
Davies	Kleinbaum	Nichols	Setzepfandt	Wegener
Dieterich	Knoll	Olhoff	Sikorski	Willet
Gearity	Lessard	Olson	Spear	
Gunderson	Luther	Penny	Staples	
Hanson	McCutcheon	Perpich	Stokowski	

The motion did not prevail. So the amendment was not adopted.

Mr. Sieloff moved to amend H. F. No. 1495, as amended by the Senate May 14, 1979, as follows:

(The text of the amended House File is identical to S. F. No. 1567.)

Page 52, after line 13, insert:

"Sec. 20. Minnesota Statutes 1978, Section 290A.04, is amended by adding a subdivision to read:

*Subd. 2c. If the net property taxes payable on a homestead in each of the years 1980 and 1981 increase more than ten percent over the net property taxes payable the preceding year, a claimant who is a homeowner shall be allowed an additional refund equal to the amount by which the increase exceeds ten percent. This subdivision shall not apply to any increase in the net property taxes payable attributable to improvements made to the homestead.*

*For purposes of this subdivision, "net property taxes payable" means property taxes payable after reductions made pursuant to section 273.13, subdivision 6, 7 and 14a, and after the deduction of tax refund amounts for which the claimant qualifies pursuant to subdivisions 2, 2a and 2b.*

*In addition to proofs required pursuant to chapter 290A, each claimant under this subdivision shall file with the property tax refund return a copy of the property tax statement for taxes payable in the preceding year or other documents required by the commissioner.*

Sec. 21. [APPROPRIATION.] *There is appropriated from the general fund to the commissioner of revenue the amounts necessary to make the payments provided in section 12."*

Page 52, line 27, after the period insert: "Section 20 is effective only for property tax refunds based on property taxes payable in 1980 and 1981."

Page 52, line 27, delete "21" and insert "23"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 17, after "amounts" insert "and providing an additional refund"

Page 2, line 6, after "2b," delete "and" and after "3" insert "and by adding a subdivision"

The question was taken on the adoption of the amendment.

Mr. McCutcheon moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 20 and nays 41, as follows:

Those who voted in the affirmative were:

Ashbach	Dunn	Keefe, J.	Ogdahl	Sieloff
Bang	Engler	Kirchner	Pillsbury	Sillers
Bernhagen	Frederick	Knaak	Renneke	Ueland, A.
Brataas	Jensen	Knutson	Rued	Ulland, J.

Those who voted in the negative were:

Anderson	Humphrey	Merriam	Purfeerst	Strand
Benedict	Johnson	Moe	Schaaf	Tennessen
Chmielewski	Keefe, S.	Nelson	Schmitz	Vega
Coleman	Kleinbaum	Nichols	Setzepfandt	Wegener
Dieterich	Knoll	Olhoft	Sikorski	Willet
Gearty	Lessard	Olson	Solon	
Gunderson	Luther	Penny	Spear	
Hanson	McCutcheon	Perpich	Staples	
Hughes	Menning	Peterson	Stokowski	

The motion did not prevail. So the amendment was not adopted.

Mr. Jensen moved to amend H. F. No. 1495, as amended by the Senate May 14, 1979, as follows:

(The text of the amended House File is identical to S. F. No. 1567.)

Page 18, line 32, delete "a subdivision" and insert "subdivisions"

Page 19, after line 24, insert:

*"Subd. 3g. [INFLATION ADJUSTMENT.] The commissioner of revenue shall determine and announce by September 1, 1980, the percentage increase from June, 1979, to June, 1980, in the revised all urban consumer price index for the Minneapolis-St. Paul metropolitan area prepared by the United States department of labor with 1967 as a base year. The taxable net income brackets in subdivision 2c and the income exclusion amounts contained in subdivision 3d shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted taxable net income brackets and exclusion amounts for the taxable year beginning after December 31, 1979.*

*The commissioner of revenue shall determine and announce by September 1, 1981, and each succeeding year, the percentage increase from June, 1980, to June, 1981, and each year thereafter, in the revised all urban consumer price index described above. The taxable net income brackets in subdivision 2c and the income exclusion amounts contained in subdivision 3d as adjusted in the previous year shall be increased by that percentage rounded to the nearest dollar to produce the inflation adjusted taxable net income brackets and exclusion amounts for the taxable year beginning after December 31, 1980, and each succeeding taxable year."*

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "providing an inflation adjustment;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 18 and nays 37, as follows:

Those who voted in the affirmative were:

Ashbach	Frederick	Knaak	Renneke	Ueland, A.
Bernhagen	Jensen	Knutson	Rued	Ulland, J.
Brataas	Keefe, J.	Ogdahl	Sieloff	
Engler	Kirchner	Pillsbury	Sillers	

Those who voted in the negative were:

Anderson	Humphrey	Menning	Perpich	Stumpf
Benedict	Johnson	Merriam	Schaaf	Tennessen
Chmielewski	Keefe, S.	Moe	Setzepfandt	Vega
Dieterich	Kleinbaum	Nelson	Sikorski	Wegener
Gearty	Knoll	Nichols	Spear	Willet
Gunderson	Lessard	Olhoft	Staples	
Hanson	Luther	Olson	Stokowski	
Hughes	McCutcheon	Penny	Strand	

The motion did not prevail. So the amendment was not adopted.

Mr. Sieloff moved to amend H. F. No. 1495, as amended by the Senate May 14, 1979, as follows:

(The text of the amended House File is identical to S. F. No. 1567.)

Page 25, lines 28 to 33, delete the new language

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 19 and nays 40, as follows:

Those who voted in the affirmative were:

Ashbach	Engler	Kirchner	Pillsbury	Sillers
Bang	Frederick	Knaak	Renneke	Ueland, A.
Bernhagen	Jensen	Knutson	Rued	Ulland, J.
Brataas	Keefe, J.	Ogdahl	Sieloff	

Those who voted in the negative were:

Anderson	Hughes	McCutcheon	Penny	Staples
Benedict	Humphrey	Menning	Perpich	Stokowski
Chmielewski	Johnson	Merriam	Peterson	Strand
Coleman	Keefe, S.	Moe	Schaaf	Stumpf
Dieterich	Kleinbaum	Nelson	Schmitz	Tennessen
Gearty	Knoll	Nichols	Setzepfandt	Vega
Gunderson	Lessard	Olhoft	Sikorski	Wegener
Hanson	Luther	Olson	Spear	Willet

The motion did not prevail. So the amendment was not adopted.

H. F. No. 1495 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

Mr. McCutcheon moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 62 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Chmielewski	Gearty	Johnson	Knoll
Ashbach	Coleman	Gunderson	Keefe, J.	Knutson
Bang	Dieterich	Hanson	Keefe, S.	Lessard
Benedict	Dunn	Hughes	Kirchner	Luther
Bernhagen	Engler	Humphrey	Kleinbaum	McCutcheon
Brataas	Frederick	Jensen	Knaak	Menning

Merriam	Penny	Schaaf	Spear	Ulland, J.
Moe	Perpich	Schmitz	Staples	Vega
Nelson	Peterson	Setzepfandt	Stokowski	Wegener
Nichols	Pillsbury	Sieloff	Strand	Willet
Ogdahl	Purfeerst	Sikorski	Stumpf	
Olhoff	Renneke	Sillers	Tennessen	
Olson	Rued	Solon	Ueland, A.	

So the bill, as amended, passed and its title was agreed to.

Without objection, the Senate reverted to the Order of Business of Reports of Committees.

#### REPORTS OF COMMITTEES

Mr. Coleman from the Subcommittee on Bill Scheduling, to which were referred S. F. Nos. 1570, 1569, 437, 1548, 1032, 519, 977 and H. F. Nos. 643, 555, 912 makes the following report:

That the above Senate Files and House Files be placed on the General Orders Calendar in the order indicated.

That there were no other bills before the Subcommittee on which floor action was requested.

Mr. Coleman moved the adoption of the foregoing committee report. The motion prevailed. Report adopted.

#### MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Menning moved that H. F. No. 1037 be withdrawn from the Committee on Finance and re-referred to the Committee on Rules and Administration for comparison with S. F. No. 1041 now on Special Orders. The motion prevailed.

Mr. Hanson moved that H. F. No. 257 be withdrawn from the Committee on Taxes and Tax Laws and re-referred to the Committee on Rules and Administration for comparison with S. F. No. 977 now on Special Orders. The motion prevailed.

#### RECESS

Mr. Coleman moved that the Senate do now recess until 8:30 o'clock p.m. The motion prevailed.

The hour of 8:30 o'clock p.m. having arrived, the President called the Senate to order.

#### MEMBERS EXCUSED

Mr. Olson was excused from the Session of today until 4:45 o'clock p.m. Mr. Laufenburger was excused from the Session of today at 5:15 o'clock p.m. Messrs. Peterson, Penny and Strand were excused from the Session of today from 5:00 to 5:30 o'clock p.m. Mr. Sikorski was excused from the Session of today from 5:00 to 5:45 o'clock p.m. Mr. Lessard was excused from the Session of today from 5:15 to 6:00 o'clock p.m.

**CALL OF THE SENATE**

Mr. Hanson imposed a call of the Senate. The following Senators answered to their names:

Benedict	Hughes	Merriam	Schaaf	Strand
Brataas	Humphrey	Moe	Schmitz	Stumpf
Chmielewski	Johnson	Nelson	Setzepfandt	Tennessen
Davies	Keefe, S.	Nichols	Sikorski	Vega
Dieterich	Kleinbaum	Olson	Solon	Wegener
Gearty	Lessard	Penny	Spear	Willet
Gunderson	Luther	Perpich	Staples	
Hanson	Menning	Purfeerst	Stokowski	

The Sergeant at Arms was instructed to bring in the absent members.

Without objection, the Senate reverted to the Order of Business of Messages From the House.

**MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House accedes to the request of the Senate for the return of House File No. 1386 for further consideration.

H. F. No. 1386: A bill for an act relating to the city of St. Paul; fixing the rate of the franchise fee for utility supplies to residential dwellings.

House File No. 1386 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives  
Returned May 14, 1979

**RECONSIDERATION**

Mr. Dieterich moved that the vote whereby H. F. No. 1386 was passed by the Senate on May 10, 1979, be now reconsidered. The motion prevailed.

Mr. Dieterich moved that the amendment made to H. F. No. 1386 by the Committee on Rules and Administration in the report adopted May 3, 1979, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H. F. No. 1386: A bill for an act relating to the city of St. Paul; fixing the rate of the franchise fee for utility supplies to residential dwellings.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 38 and nays 0, as follows:

Those who voted in the affirmative were:

Brataas	Hanson	McCutcheon	Perpich	Staples
Chmielewski	Hughes	Menning	Peterson	Stokowski
Coleman	Humphrey	Merriam	Purfeerst	Strand
Davies	Johnson	Moe	Schaaf	Stumpf
Dieterich	Keefe, S.	Nelson	Schmitz	Vega
Dunn	Knoll	Olhoft	Sikorski	Willet
Gearty	Lessard	Olson	Sillers	
Gunderson	Luther	Penny	Spear	

So the bill passed and its title was agreed to.

#### SPECIAL ORDER

H. F. No. 534: A bill for an act relating to Murray County; allowing the county and local government units to participate in a federal railroad assistance program.

Mr. Menning moved to amend H. F. No. 534 as follows:

Page 1, line 7, after "County" insert ", Goodhue County"

Page 1, line 8, after "County" insert "and Goodhue County"

Amend the title as follows:

Page 1, line 2, delete "County" and insert "and Goodhue Counties"

The motion prevailed. So the amendment was adopted.

H. F. No. 534 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 36 and nays 1, as follows:

Those who voted in the affirmative were:

Brataas	Hughes	Menning	Purfeerst	Strand
Chmielewski	Humphrey	Moe	Schaaf	Tennessen
Davies	Johnson	Nelson	Schmitz	Vega
Dieterich	Keefe, S.	Olhoft	Setzepfandt	Willet
Dunn	Knoll	Olson	Sikorski	
Gearty	Lessard	Penny	Sillers	
Gunderson	Luther	Perpich	Staples	
Hanson	McCutcheon	Peterson	Stokowski	

Mr. Merriam voted in the negative.

So the bill, as amended, passed and its title was agreed to.

#### SPECIAL ORDER

S. F. No. 960: A bill for an act relating to retirement; providing for a proportionate annuity at age 65 or older with one year of service; increasing the maximum earnings amount for a re-employed annuitant; amending Minnesota Statutes 1978, Sections 352.115, Subdivision 10; 353.37, Subdivision 1; 354.44, Subdivisions 1a and 5; 354A.21; and 356.32, Subdivision 1.

Mr. Strand moved to amend S. F. No. 960, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1978, Section 352.01, Subdivision 11, is amended to read:

Subd. 11. [ALLOWABLE SERVICE.] "Allowable service" means:

(1) Any service rendered by an employee for which on or before July 1, 1957, he was entitled to allowable service credit on the records of the system by reason of employee contributions in the form of salary deductions, payments in lieu of salary deductions, or in any manner authorized by Minnesota Statutes 1953, Chapter 352, as amended by Laws 1955, Chapter 239, or

(2) Any service rendered by an employee for which on or before July 1, 1961, he elected to obtain credit for service by making payments to the fund pursuant to Minnesota Statutes 1961, Section 352.24, or

(3) *Except as provided in clause (11)*, any service rendered by an employee after July 1, 1957, for any calendar month in which he is paid salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041, or

(4) *Except as provided in clause (11)*, any service rendered by an employee after July 1, 1957 for any calendar month for which payments in lieu of salary deductions are made, deposited and credited in the fund, as provided in section 352.27 and Minnesota Statutes 1957, Section 352.021, Subdivision 4.

(For purposes of paragraphs (3) and (4) of this subdivision, any salary paid for a fractional part of any calendar month is deemed the compensation for the entire calendar month. The board of directors of the Minnesota state retirement system shall establish rules governing the accrual of allowable service credit for less than full time employment.), or

(5) The period of absence from their duties by employees who by reason of injuries incurred in the performance thereof are temporarily disabled and for which disability the state is liable under the workers' compensation law until the date authorized by the director for the commencement of payments of a total and permanent disability benefit from the retirement fund, or

(6) The unused portion of an employee's annual leave allowance for which he is paid salary, or

(7) Any employee who made payment in installments in order to obtain additional service credit but failed to make the final payment on or before July 1, 1962 shall be entitled to have credit for all service for which the payments he made will entitle him under the provisions of Minnesota Statutes 1961, Section 352.24. In determining "the service for which the payments he made will

entitle him" service credit shall extend retroactively from the latest service for which he made payment, or

(8) Former state employees who hold numbered certificates of deferred annuity who again become state employees shall surrender such certificates and shall be entitled to full credit for the service covered by the surrendered certificates, or

(9) Any service covered by refundment repaid as provided in section 352.23 but does not include service rendered as an employee of the adjutant general for which the person has credit with the federal civil service retirement system, or

(10) Any service prior to the effective date of Laws 1978, Chapter 538 by an employee of the transit operating division of the metropolitan transit commission or by an employee on an authorized leave of absence from the transit operating division of the metropolitan transit commission who is employed by the labor organization which is the exclusive bargaining agent representing employees of the transit operating division which was credited by the metropolitan transit commission—transit operating division employees retirement fund or any of its predecessor plans or funds as past, intermediate, future, continuous or allowable service as defined in the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on December 31, 1977, or

(11) *Any service by an employee of the metropolitan transit commission-transit operating division who is employed part time for less than 32 hours per week or 1,664 hours per year for which the employee is paid salary from which deductions are made, deposited and credited in the fund, including deductions made, deposited and credited as provided in section 352.041 or for which payments in lieu of salary deductions are made, deposited and credited in the fund as provided in section 352.27 shall be credited on a fractional basis either weekly or annually based upon the relationship that the number of hours of service bears to either 40 hours per week or 2,080 hours per year, with any salary paid for the fractional service credited on the basis of the rate of salary applicable for a full time week or a full time year.*

Sec. 2. Minnesota Statutes 1978, Section 352.01, Subdivision 16, is amended to read:

Subd. 16. [YEAR OF ALLOWABLE SERVICE.] "Year of allowable service" for any employee other than an employee of the metropolitan transit commission-transit operating division who is employed part time for less than 32 hours per week or 1,664 hours per year means any 12 calendar months not necessarily consecutive in which an employee is entitled to allowable service credit. It also means 12 months credit each calendar year for teachers in the state universities and state institutions who may or may not receive compensation in every month in the calendar year. *For an employee of the metropolitan transit commission-transit operating division who is employed part time for less than 32 hours per week or 1,664 hours per year the term means at*

*least 1,664 hours of employment by the metropolitan transit commission-transit operating division during a year of 12 consecutive calendar months in which an employee is entitled to allowable service credit.*

Sec. 3. Minnesota Statutes 1978, Section 352.115, Subdivision 10, is amended to read:

Subd. 10. [RE-EMPLOYMENT OF ANNUITANT.] Should any retired employee again become entitled to receive salary or wages from the state, *or any employer who employs state employees as that term is defined in section 352.01, subdivision 2,* other than salary or wages received as a temporary employee of the legislature during a legislative session, ~~his~~ *the* annuity or retirement allowance shall cease when ~~he~~ *the retired employee* has earned ~~\$2,000~~ *\$3,280* or more in any calendar year during which *the retired employee has not attained the age of at least 65 or when the retired employee has earned \$4,500 or more in any calendar year during which the person has attained the age of at least 65.* The annuity shall be resumed when state service terminates, or, if the retired employee is still employed at the beginning of the next calendar year, at the beginning of such calendar year, and payment shall again terminate when ~~he~~ *the retired employee* has earned ~~\$3,000~~ *the applicable re-employment earnings maximum specified in this subdivision.* No payroll deductions for the retirement fund shall be made from the earnings of *a re-employed retired employee.* If ~~such~~ *the* retired employee is granted a sick leave without pay, but not otherwise, the annuity or retirement allowance shall be resumed during the period of sick leave. No change shall be made in the monthly amount of such annuity or retirement allowance because of such employment.

Sec. 4. Minnesota Statutes 1978, Section 352.22, Subdivision 1, is amended to read:

352.22 [REFUND OR DEFERRED ANNUITIES.] Subdivision 1. [SERVICE TERMINATION.] Any employee who ceases to be a state employee by reason of termination of state service, shall be entitled to a ~~refundment~~ *refund* provided in subdivision 2 or a deferred retirement annuity as provided in subdivision 3. Application for a ~~refundment~~ *refund* may be made ~~60~~ *30* or more days after the termination of state service if the applicant has not again become a state employee required to be covered by the system; ~~except that employees who attain mandatory retirement age and are required to retire and who are not eligible to receive an annuity under sections 352.115 or 352.72, may apply for refundment without any waiting period.~~

Sec. 5. Minnesota Statutes 1978, Section 352.22, Subdivision 10, is amended to read:

Subd. 10. [OTHER REFUNDS.] Former employees covered by the system who are or who shall become members of the highway patrolmen's retirement association, ~~the state police officers retirement fund;~~ *the state teacher's retirement association or employees*

of the University of Minnesota excluded from coverage under the system by action of the board of regents; or labor service employees, excluded from coverage under section 352.01, subdivision 2B, (26); or employees of the adjutant general who under federal law effectually elect membership in a federal retirement system; or officers or employees of the senate or house of representatives, excluded from coverage under section 352.01, subdivision 2B(8), shall be entitled to a refundment without any waiting period, in an amount equal to their respective accumulated contributions without interest make application for a refund of their accumulated contributions plus interest as provided in subdivision 2, upon the expiration of 30 days or more after their coverage ceases, notwithstanding their continuance in state service but in positions not covered by this chapter.

Sec. 6. Minnesota Statutes 1978, Section 352.95, is amended to read:

352.95 [DISABILITY BENEFITS.] An employee who becomes totally and permanently disabled while in a covered correctional position shall have his disability benefit rights determined under section 352.113 except that when such person becomes 55 years of age he shall be deemed to be retired and shall be entitled to receive the benefit provided under section 352.113, subdivision 3, whether or not disabled at such age. An employee who receives a disability benefit shall not be entitled to an annuity under section 352.93, even though otherwise qualified, until reemployed in a covered correctional position for a period of at least one year. Subdivision 1. Any covered correctional employee less than 55 years of age who shall become disabled and physically unfit to perform the duties of the position as a direct result of an injury, sickness, or other disability incurred in or arising out of any act of duty which shall render the employee physically or mentally unable to perform the duties, shall be entitled to a disability benefit based on covered correctional service only, in an amount equal to 50 percent of the average salary defined in section 352.93, plus an additional two percent for each year of covered correctional service in excess of 20 years pro-rated for completed months, to a maximum monthly benefit of 75 percent of the average monthly salary.

Subd. 2. Any covered correctional employee who after not less than five years of covered correctional service, before reaching the age of 55 shall become disabled and physically unfit to perform the duties of the position because of sickness or injury occurring while not engaged in covered employment, shall be entitled to a disability benefit based on covered correctional service only. The disability benefit shall be computed as provided in section 352.93, subdivisions 1 and 2, and computed as though the employee had at least 10 years of covered correctional service.

Subd. 3. No application for disability benefits shall be made until after the last day physically on the job. The disability benefit shall begin to accrue the day following the last day for which the employee is paid sick leave or annual leave, but in no event earlier than 60 days prior to the date the application is filed.

*Subd. 4. The director shall have the employee examined by at least two licensed physicians designated by the medical advisor. These physicians shall make written reports to the director concerning the employee's disability, including medical opinions as to whether he or she is disabled within the meaning of this section. The director shall also obtain written certification from the employer stating whether the employee is on sick leave of absence because of a disability which will prevent further service to the employer, and as a consequence the employee is not entitled to compensation from the employer. If upon the consideration of the reports of the physicians and such other evidence as may have been supplied by the employee or others, the medical advisor finds the employee disabled within the meaning of this section, he shall make appropriate recommendation to the director in writing, together with the date from which the employee has been disabled, and the director shall thereupon determine the propriety of authorizing payment of a disability benefit as provided in this section. Unless payment of a disability benefit has terminated because the employee is no longer disabled, or because he or she has reached age 62, the disability benefit shall cease with the last payment received by the disabled employee or which had accrued in his or her lifetime. During the time that disability benefits are paid, the director shall have the right at reasonable times to require the disabled employee to submit proof of the continuance of the disability claimed. If any examination indicates to the medical advisor that the employee is no longer disabled, the disability payment shall be discontinued upon reinstatement to state service or within 60 days of such finding, whichever is sooner.*

*Subd. 5. The disability benefit paid to an employee hereunder shall terminate when the employee reaches age 62. At that time he or she shall be deemed to be a retired employee and may then elect to receive a normal retirement annuity computed in the manner provided in section 352.115 or an optional annuity as provided in section 352.116, subdivision 3, based on the same length of service as used in the calculation of the disability benefit. The reduction for retirement prior to age 65 as provided in section 352.116, subdivision 1, shall not be applicable. The savings clause provision of section 352.93, subdivision 3, shall be applicable.*

*Subd. 6. If the employee is entitled to receive a disability benefit as provided in subdivision 1 or 2 and has credit for less covered correctional service than the length of service upon which the correctional disability benefit is based, and also has credit for regular plan service, the employee shall be entitled to a disability benefit or deferred retirement annuity based on the regular plan service only for that service which when combined with the correctional service exceeds number of years on which the correctional disability benefit is based. The disabled employee who also has credit for regular plan service must in all respects qualify under the provisions of section 352.113 to be entitled to receive a disability benefit based on the regular plan service, except that the service may be combined to satisfy length of service requirements. Any deferred annuity to which the employee may be entitled*

*based on regular plan service shall be augmented as provided in section 352.72 while the employee is receiving a disability benefit under this section.*

*Subd. 7. Should the disabled employee resume a gainful occupation and his or her earnings are less than the salary received at the date of disability or the salary currently paid for similar positions, or should the employee be entitled to receive workers' compensation benefits, the disability benefit shall be continued in an amount which when added to such earnings and workers' compensation benefits does not exceed the salary received at the date of disability or the salary currently paid for similar positions, whichever is higher, provided the disability benefit in such case does not exceed the disability benefit originally authorized and in effect.*

Sec. 7. Minnesota Statutes 1978, Section 353.37, Subdivision 1, is amended to read:

353.37 [PUBLIC RE-EMPLOYMENT OF ANNUITANT.] Subdivision 1. [EFFECT ON ANNUITY.] The annuity of a person otherwise eligible therefor under this chapter shall be suspended if ~~he~~ *the person* re-enters and ~~for as long as he~~ *the person* remains in public service as a non-elective employee of a governmental subdivision, if ~~his~~ *he* earned compensation for ~~such~~ *the re-employment service equals or exceeds \$3,000* \$3,280 in any calendar year during which ~~he~~ *he* has not attained the age of at least 65 or equals or exceeds \$4,500 in any calendar year during which ~~he~~ *he* has attained the age of at least 65. The suspension of the annuity shall commence as of the first of the month in which the maximum permitted compensation is exceeded as herein provided, but shall ~~not~~ *only* apply to ~~any~~ *those* months in which the annuitant is ~~not~~ *not* actually employed in non-elective service in a position covered by this chapter. Any annuitant of the association, who is elected to public office after ~~his~~ *his* retirement shall be entitled to hold such office and receive ~~his~~ *the* annuity otherwise payable from the public employees retirement association. Upon proper showing by an annuitant that ~~this~~ *ineligibility* ~~the reason for the suspension of the annuity payments~~ no longer exists, the monthly annuity payments shall be resumed. Public service performed by an annuitant subsequent to ~~his~~ *his* retirement under this chapter ~~does~~ *shall* not increase or decrease ~~the amount of any annuity when payments thereof are payment of the annuity~~ *is resumed*. The annuitant ~~is~~ *shall* not be required to make any further contributions to the retirement fund by reason of this subsequent public service.

Sec. 8. Minnesota Statutes 1978, Section 354.05, Subdivision 2, is amended to read:

Subd. 2. [TEACHER.] The word "teacher" includes any person who has rendered, is rendering, or shall hereafter render, service as a teacher, supervisor, principal, superintendent, or librarian in the public schools of the state, located outside of the corporate limits of the cities of the first class, in the state universities, or in any charitable or state institution including penal and corrective institutions supported, in whole or in part, by public funds, or who has

been engaged, is engaged, or shall hereafter be engaged, in educational administration in connection with the state public school system, including the state university system and state community college system, but excluding the university of Minnesota, whether the position be a public office or an employment, not including members of any general governing or managing board or body connected with such systems, or the officers of common, independent, special, or associated school districts, or unorganized territory. The term shall also include an employee of the teachers retirement association employed subsequent to July 1, 1969, and any nurse, counselor, social worker or psychologist who has rendered, is rendering or shall hereafter render service in the public schools as defined above or in state universities. The term shall also include any person who renders teaching service on a part time basis and who also renders other services for a school district. In such cases, the teachers retirement association shall have the authority to determine whether all or none of such combined employment will be covered by the teachers retirement association. The term does not mean any person who works for such school or institution as an independent contractor. ~~During any fiscal year,~~ The term also does not mean a person who works for a school or institution on a part time basis ~~where provided:~~ *(1) the person was not required to make contributions to the fund during the current fiscal year; (2) the person has certified that he has established and is contributing to an individual retirement account; provided that based on non-teaching employment; and (3) the certification is made annually and is made on a form prescribed by the executive director.* The term shall not include any person employed in subsidized on-the-job training, work experience or public service employment as an enrollee under the federal comprehensive employment and training act from and after March 30, 1978, unless the person has as of the later of March 30, 1978 or the date of employment sufficient service credit in the retirement fund to meet the minimum vesting requirements for a deferred retirement annuity, or the employer agrees in writing on forms prescribed by the executive director to make the required employer contributions, including any employer additional contributions, on account of that person from revenue sources other than funds provided under the federal comprehensive training and employment act, or the person agrees in writing on forms prescribed by the executive director to make the required employer contribution in addition to the required employee contribution.

Sec. 9. Minnesota Statutes 1978, Section 354.06, Subdivision 2, is amended to read:

Subd. 2. [OFFICERS; EMPLOYEES; EXPENSES OF FUND.] The board shall annually elect one of its members as president, . It shall elect an executive director, and fix his salary , who. *The executive director shall serve during the pleasure of the board and be the executive officer of the board, with such duties as the board shall prescribe. The board shall employ all other clerks and employees necessary to properly administer the fund. The cost and expense of administering the provisions of sections 354.05 to 354.10 this chapter shall be paid by the fund. The executive director shall*

*be appointed by the board on the basis of fitness, experience in the retirement field and leadership ability. The executive director shall have had at least five years of experience on the administrative staff of a major retirement system.*

Sec. 10. Minnesota Statutes 1978, Section 354.44, Subdivision 1a, is amended to read:

Subd. 1a. [MANDATORY RETIREMENT.] Notwithstanding the provisions of sections 43.30 or 197.45 to 197.48, a member shall terminate employment on August 31, 1976, or at the end of the academic year in which the member reaches the age of 65, whichever is later. For purposes of this subdivision, academic year shall be deemed to end August 31. A member who terminates employment at any time during the academic year at the end of which such person is required to terminate employment pursuant to this subdivision age 65 or older shall, for the purpose of determining eligibility for a proportionate retirement annuity, be considered to have been required to terminate employment at age 65 or earlier older pursuant to this subdivision section 356.32. Nothing contained in this subdivision shall preclude an employer unit covered by this chapter from employing a retired teacher as a substitute or part time teacher; provided, no teacher required to terminate employment by this subdivision shall resume membership in the retirement association by virtue of employment as a substitute or part time teacher; provided further that upon having earned \$3,000 \$4,500 in any academic year from employment as a substitute or part time teacher, any person over the age of 65 years shall terminate employment for the remainder of that academic year.

Sec. 11. Minnesota Statutes 1978, Section 354.44, Subdivision 5, is amended to read:

Subd. 5. [RESUMPTION OF TEACHING.] A teacher Any person who retired under any provision of any retirement law applicable to schools and institutions covered by the provisions of this chapter and has thereafter resumed teaching in any school or institution to which such sections apply shall continue to receive payments in accordance with such annuity except that during any quarter in which his the person's income from such the teaching service for any person under the age of 65 exceeds the sum of \$800 \$820 and for any person over the age of 65 but under the age of 72 exceeds the sum of \$1,125 ; the amount in excess of \$800 the applicable re-employment income maximum specified in this subdivision shall be deducted from the annuity payable for the quarter immediately following the quarter in which the excess amount was earned. After a member person has reached the age of 72 he , the person shall receive his the annuity in full regardless of the amount of income.

Sec. 12. Minnesota Statutes 1978, Section 354.44, is amended by adding a subdivision to read:

Subd. 8. Payment of an annuity or benefit for a given month shall be mailed during the first week of that month. Evidence of receipt of the check issued in payment of an annuity or bene-

*fit shall be submitted quarterly by the payee or a banking institution on a form prescribed by the executive director. In the event the required evidence of receipt form is not submitted, future annuities or benefits will be withheld until the form is submitted.*

Sec. 13. Minnesota Statutes 1978, Section 354.47, Subdivision 1, is amended to read:

**354.47 [REFUND AFTER DEATH.]** Subdivision 1. **[DEATH BEFORE RETIREMENT.]** (1) If a member dies before retirement and is covered under the provisions of section 354.44, subdivision 2, and neither an optional annuity, nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1 is payable to the survivors of a basic member, there shall be paid to his surviving ~~dependent~~ spouse or if there is no surviving ~~dependent~~ spouse to his designated beneficiary an amount equal to his accumulated deductions with interest credited to his account to the date of death.

(2) If a member dies before retirement and is covered under the provisions of section 354.44, subdivisions 6 and 7, and neither an optional annuity nor reversionary annuity, nor the benefit described in section 354.46, subdivision 1 is payable to the survivors of a basic member, there shall be paid to his surviving ~~dependent~~ spouse or if there is no surviving ~~dependent~~ spouse to his designated beneficiary an amount equal to his accumulated deductions credited to his account as of June 30, 1957 and from July 1, 1957 to the date of death his accumulated deductions plus interest at the rate of three and one-half percent per annum compounded annually.

(3) The amounts payable in clauses (1) or (2) are in addition to the amount payable in section 354.62, subdivision 5, for the member's variable annuity account.

Sec. 14. Minnesota Statutes 1978, Section 354A.21, is amended to read:

**354A.21 [MANDATORY RETIREMENT; PROPORTIONATE ANNUITY.]** Notwithstanding the provisions of sections 197.45 to 197.48 or 354A.05, a teacher subject to the provisions of this chapter shall terminate employment on August 31, 1976, or at the end of the academic year in which such teacher reaches the age of 65, whichever is later. For purposes of this section, an academic year shall be deemed to end August 31. A teacher who terminates employment at any time during the academic year at the end of which such person is required to terminate employment pursuant to this section and who has less than the minimum required number of years of service to otherwise qualify for a retirement annuity shall be entitled upon application to a proportionate retirement annuity based on service prior to termination. Nothing contained in this subdivision shall preclude a district from employing a retired teacher as a substitute teacher; provided, no teacher required to terminate employment by this section shall resume membership in the retirement association

by virtue of employment as a substitute teacher; provided further that upon having earned \$3,000 \$4,500 in any academic year from employment as a substitute teacher, any person over the age of 65 years shall terminate employment for the remainder of that academic year.

Sec. 15. Minnesota Statutes 1978, Section 356.32, Subdivision 1, is amended to read:

356.32 [PROPORTIONATE ANNUITY AT AGE 65.] Subdivision 1. [PROPORTIONATE RETIREMENT ANNUITY.] Notwithstanding any provision to the contrary of the laws governing any of the retirement funds referred to in subdivision 2, any person who is employed in a position covered by an active member of any such applicable fund, who has credit for at least three years one year but less than ten years of allowable service in such fund or a combination of such one or more of the applicable funds, and who is required to terminate service pursuant to a mandatory retirement statute, or who terminates active service at age 65 or older for any reason shall be entitled upon making written application on the form prescribed by executive director or executive secretary of the fund to a proportionate retirement annuity from each such applicable fund in which he the person has allowable service credit; . The proportionate annuity shall be calculated under the applicable laws governing annuities based upon his allowable service credit at the time of mandatory retirement; provided, however, that and the person's average salary for the highest five successive years of allowable service or the average salary for the entire period of allowable service if less than five years. Nothing in this section shall prevent the actuarial imposition of the appropriate early retirement reduction of an annuity for which application is made commences prior to normal retirement age.

Sec. 16. Minnesota Statutes 1978, Section 473.417, is amended to read:

473.417 [ADDITIONAL EMPLOYER OBLIGATION TO AMORTIZE UNFUNDED ACCRUED LIABILITIES.] In order to amortize the additional unfunded accrued liability incurred by the Minnesota state retirement system as a result of the consolidation of the metropolitan transit commission—transit operating division employees retirement fund, and to place the metropolitan transit commission on an equivalent basis with the other employing units and agencies having employees covered by the Minnesota state retirement system, the metropolitan transit commission shall make an annual contribution to the Minnesota state retirement system in addition to the employer contribution specified in section 352.04, subdivision 3. The additional contribution shall be an amount equal to three and eight-tenths percent of the salaries of employees of the transit operating division on each payroll abstract, commencing July 1, 1978, and payable for a period of 20 years until the unfunded accrued liability amount of \$7,260,518 plus compound interest from July 1, 1978 at the rate of six percent per annum on the average unpaid balance is amortized, as determined by the executive director of the Minnesota state retirement system.

Sec. 17. Minnesota Statutes 1978, Section 473.418, is amended to read:

**473.418 [DISABILITY AND SURVIVORSHIP COVERAGE.]**  
From and after the effective date of Laws 1978, Chapter 538, the metropolitan transit commission shall provide for all active employees of the transit operating division of the metropolitan transit commission disability and survivorship coverage which, when added to the disability benefit or the survivorship benefit payable from the Minnesota state retirement system pursuant to sections 352.113 or 352.12, subdivision 2, will at least equal the disability benefit or the survivorship benefit which that employee at the time of disability or the employee's surviving spouse at the time of the death of the employee while on active duty would have been entitled to receive under the disability benefit or survivor of active employee deceased while on active duty benefit provisions of the metropolitan transit commission—transit operating division employees retirement fund plan document in effect on December 31, 1977. *The metropolitan transit commission shall not be required to provide any supplementary disability benefit coverage or benefit amount to replace the amount of any reduction in any disability payable from the Minnesota state retirement system due to the receipt of benefits under the workers' compensation law unless no offset of the amount of workers' compensation benefits from the amount of a disability benefit was required pursuant to the provisions of article ten of the metropolitan transit commission-transit operating division employees retirement fund plan document in effect on December 31, 1977.* The metropolitan transit commission may elect to provide the additional disability and survivorship coverage either through contract with an insurance carrier or through self insurance. If the commission elects to provide the coverage through an insurance contract, the chairman of the metropolitan transit commission is authorized to request bids from, or to negotiate with, insurance carriers and to enter into contracts with carriers which in the judgment of the commission are best qualified to underwrite and service this insurance benefit coverage. The commission shall consider factors such as the cost of the contracts as well as the service capabilities, character, financial position and reputation with respect to carriers under consideration, as well as any other factors which the commission deems appropriate. The disability and survivorship insurance contract with the particular insurance carrier shall be for a uniform term of at least one year, but may be made automatically renewable from term to term in absence of notice of termination by either party. The disability and survivorship insurance contract shall contain a detailed statement of benefits offered, maximums, limitations and exclusions. A summary description of the essential terms of the contract shall be provided by the commission to the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission and to each active employee of the transit operating division. The determination of whether the disability or survivorship insurance coverage meets the minimum requirements of this section shall

be made by the commission upon consultation with the executive director of the Minnesota state retirement system. If the disability or survivorship coverage provided by the metropolitan transit commission fails at any time after the effective date of Laws 1978, Chapter 538 to meet the requirements of this section as to the level of disability or survivorship coverage to be provided, the deficiency in the actual benefits provided shall continue to be an obligation of the commission. Notwithstanding any provisions of chapter 179 to the contrary, the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission may meet and bargain with the commission on an increase in the level of disability or survivor of active employee deceased while on active duty coverage to be provided by the commission at the same time that wages and other terms and conditions of employment are considered.

Sec. 18. Laws 1978, Chapter 538, Section 21, is amended to read:

Sec. 21. [RETROACTIVE EFFECT.] This act shall have retroactive application for any person who, on or after January 1, 1978, but prior to July 1, 1978,

(a) terminates active service from the transit operating division of the metropolitan transit commission with less than ten years of active service;

(b) terminates active service from the transit operating division of the metropolitan transit commission with at least ten years of active service;

(c) becomes so disabled that the person is unable to continue to perform his duties as an active employee of the transit operating division of the metropolitan transit commission within the meaning of article ten of the most recent collective bargaining agreement in force between the metropolitan transit commission and the labor organization which is the exclusive bargaining agent representing employees of the transit operating division of the metropolitan transit commission and has at least five years of active service; or

(d) becomes the surviving spouse of a former active employee of the transit operating division of the metropolitan transit commission who dies as a result of an accident which occurs during his employment with the transit operating division.

Any person obtaining the status described in clause (a) shall be entitled, *upon application*, to receive *either* a refund of employee contributions under section 352.22, subdivision 2a *or a retirement allowance computed in the manner provided in article seven and payable at the minimum age specified in article eight of the metropolitan transit commission-transit operating division employees retirement fund document in effect on December 31, 1977. Any retirement allowance payable pursuant to this section shall be payable on the first day of the month next following the filing of the application and the first allowance check or warrant*

*shall include payment retroactive to the date of retirement. If any person has taken a refund of employee contributions pursuant to this section and article 12 of the metropolitan transit commission-transit operating division employees retirement fund document in effect on December 31, 1977 prior to the effective date of this act, the person shall, notwithstanding that the person is no longer an active employee, be entitled to repay the refund plus interest at the rate of six percent per annum compounded annually from the date of the refund to the date of repayment. Any person obtaining the status described in clause (b) who is at least age 55 shall be entitled to receive an annuity under section 352.115, subdivisions 2 and 3, notwithstanding that the person had not attained the minimum age specified in section 352.115, subdivision 1, at the time of the commencement of the annuity; provided, however, that the early retirement reduction factor specified in section 352.116, subdivision 1, shall apply unless the age of the person at the commencement of the annuity was at least 65 if the person had credit for ten or more years of service, or was at least age 62 if the person had credit for 30 or more years of service. Any person obtaining the status described in clause (c) shall be entitled to receive a benefit in an amount equal to the accrued retirement annuity computed pursuant to section 352.115, subdivisions 2 and 3, without the reduction for early commencement of the benefit set forth in section 352.116, with a minimum disability benefit of \$130 per month and a maximum disability benefit of the amount of the disability benefit which, when added to any earnings from partial or total re-employment, shall not exceed 85 percent of the current top rate of salary paid to the employment position classification held by the person at the time of the occurrence of the disability. Upon the commencement of a disability under this section, section 352.113, subdivisions 1 through 11 shall not be considered applicable to that person. Any person obtaining the status described in clause (d) shall be entitled to receive a benefit in an amount equal to the benefit provided by section 352.12, subdivision 2, notwithstanding the fact that the former active employee may not have attained one of the ages or have been credited with one of the lengths of service specified in that subdivision.*

Any person entitled to receive an increase pursuant to section 10 of this act shall be entitled to receive the increase retroactively to January 1, 1978. The first payment of retirement allowances or annuities, disability benefits, survivorship annuities or survivorship benefits shall include the retroactive amounts.

**Sec. 19. [METROPOLITAN TRANSIT COMMISSION-TRANSIT OPERATING DIVISION EMPLOYEES; CREDIT FOR MILITARY SERVICE.]** *Any employee of the metropolitan transit commission operating division who was on a leave of absence to enter military service on July 1, 1978, who has not taken a refund of employee contributions as authorized by article 12 of the metropolitan transit commission-transit operating division employees retirement fund document or Minnesota Statutes, Section 352.22, Subdivision 2a, and who returns to service as an em-*

*ployee of the metropolitan transit commission-transit operating division upon discharge from military service as provided in Minnesota Statutes, Section 192.262 shall be entitled to receive allowable service credit for the period of military service. If an employee has taken a refund of employee contributions as authorized, and would otherwise be entitled to receive allowable service credit pursuant to this section, the employee shall be entitled to receive allowable service credit for the period of military service upon repayment to the executive director of the Minnesota state retirement system of the amount refunded plus interest at the rate of six percent per annum compounded annually from the date on which the refund was taken to the date of repayment. No employee shall be entitled to receive allowable service credit for any voluntary extensions of military service at the instance of the employee beyond any initial period of enlistment, induction or call to active duty.*

Sec. 20. *Minnesota Statutes 1978, Section 352.22, Subdivision 11, is repealed.*

Sec. 21. *This act is effective the day following final enactment.* "

Delete the title in its entirety and insert:

"A bill for an act relating to retirement; various retirement funds; providing for a proportionate annuity at age 65 or older with one year of service; increasing the maximum earnings amount for a re-employed annuitant; clarifying applications for refunds from the Minnesota state retirement system; providing an occupational disability benefit in the Minnesota state retirement system correctional employees retirement plan; establishing qualifications for the executive director of the teachers retirement association; requiring annuitants and benefit recipients of the teachers retirement association to file quarterly evidence of receipt cards; removing the requirement for dependency for entitlement to certain refunds from the teachers retirement association; clarifying the amortization obligation of the metropolitan transit commission to the Minnesota state retirement system; calculating service credit for certain part time transit operating division employees covered by the Minnesota state retirement system; clarifying the provision of minimum disability coverage by the metropolitan transit commission; providing a retirement annuity from the Minnesota state retirement system to certain former transit operating division employees; providing for a purchase of service credit of certain military service leaves of absence for transit operating division employees; amending Minnesota Statutes, 1978, Sections 352.01, Subdivisions 11 and 16; 352.115, Subdivision 10; 352.22, Subdivisions 1 and 10; 352.95; 353.37, Subdivision 1; 354.05, Subdivision 2; 354.06, Subdivision 2; 354.44, Subdivisions 1a, 5 and by adding a subdivision; 354.47, Subdivision 1; 354A.21; 356.32, Subdivision 1; 473.417; 473.418; and Laws 1978, Chapter 538, Section 21; repealing Minnesota Statutes 1978, Section 352.22, Subdivision 11."

The motion prevailed. So the amendment was adopted.

Mr. Davies moved to amend the Strand amendment to S. F. No. 960, adopted by the Senate May 14, 1979, as follows:

Page 24, after line 8, insert:

**"Sec. 20. [LIMITATION ON NONFORFEITABLE ENTITLEMENT TO BENEFIT INCREASE.]** *No current annuitant, disabliant or survivor benefit recipient and no active or inactive member of any retirement fund to which this act applies shall acquire a nonforfeitable interest in, or entitlement to, any modification in the benefit plan of the fund contained in this act or be entitled to bring any action based on any modification in the benefit plan of the fund contained in this act until a period of two years commencing with the date on which the benefit plan modification becomes effective has expired."*

Renumber the sections in sequence

The motion prevailed. So the amendment to the Strand amendment was adopted.

S. F. No. 960: A bill for an act relating to retirement; various retirement funds; providing for a proportionate annuity at age 65 or older with one year of service; increasing the maximum earnings amount for a re-employed annuitant; clarifying applications for refunds from the Minnesota state retirement system; providing an occupational disability benefit in the Minnesota state retirement system correctional employees retirement plan; establishing qualifications for the executive director of the teachers retirement association; requiring annuitants and benefit recipients of the teachers retirement association to file quarterly evidence of receipt cards; removing the requirement for dependency for entitlement to certain refunds from the teachers retirement association; clarifying the amortization obligation of the metropolitan transit commission to the Minnesota state retirement system; calculating service credit for certain part time transit operating division employees covered by the Minnesota state retirement system; clarifying the provision of minimum disability coverage by the metropolitan transit commission; providing a retirement annuity from the Minnesota state retirement system to certain former transit operating division employees; providing for a purchase of service credit of certain military service leaves of absence for transit operating division employees; amending Minnesota Statutes 1978, Sections 352.01, Subdivisions 11 and 16; 352.115, Subdivision 10; 352.22, Subdivisions 1 and 10; 352.95; 353.37, Subdivision 1; 354.05, Subdivision 2; 354.06, Subdivision 2; 354.44, Subdivisions 1a, 5 and by adding a subdivision; 354.47, Subdivision 1; 354A.21; 356.32, Subdivision 1; 473.417; 473.418; and Laws 1978, Chapter 538, Section 21; repealing Minnesota Statutes 1978, Section 352.22, Subdivision 11.

Was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 39 and nays 5, as follows:

Those who voted in the affirmative were:

Benedict	Frederick	Luther	Purfeerst	Staples
Bernhagen	Gearty	McCutcheon	Rued	Stokowski
Brataas	Gunderson	Menning	Schaaf	Strand
Chmielewski	Hanson	Moe	Schmitz	Stumpf
Davies	Hughes	Nelson	Setzepfandt	Ulland, J.
Dieterich	Johnson	Olhoft	Sieloff	Vega
Dunn	Kirchner	Peterson	Sillers	Willet
Engler	Knoll	Pillsbury	Solon	

Those who voted in the negative were:

Lessard	Merriam	Penny	Perpich	Tennessen
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So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

S. F. No. 961: A bill for an act relating to retirement; volunteer firefighters' relief association and independent nonprofit fire-fighting corporations; providing for a flexible statutory service pension maximum; providing a procedure for the recognition of a funding surplus in the calculation of the financial requirements of a relief association and the minimum obligation of a municipality; clarifying the calculation of the time period for the amortization of unfunded accrued liabilities of volunteer firefighters' relief associations; clarifying and updating various ambiguous and obsolete provisions regarding the fire state aid program, the authorization of retirement benefits for volunteer firefighters and the mandated guidelines for the financing of volunteer firefighters' relief associations; amending Minnesota Statutes 1978, Sections 69.771; 69.772, Subdivisions 1, 2, 3, 4, 5, 6, and by adding a subdivision; 69.773; and 69.774; and Laws 1963, Chapter 429, Section 1; Laws 1967, Chapters 575, Sections 1, Subdivision 1; and 2; 829, Section 1; Laws 1969, Chapters 526, Section 2a, as added; 664, Section 1; Laws 1971, Chapters 114, Section 10; 127, Section 1; 140, Section 7; and 214, Sections 1, as amended, and 2; Laws 1973, Chapters 304, Section 4; and 472, Section 1, as amended; Laws 1975, Chapter 237, Sections 1 and 2; Laws 1976, Chapter 209, Section 1; Laws 1977, Chapter 374, Sections 41; 50, Subdivision 2; 51; and 57; Laws 1978, Chapter 685, Sections 1 and 4; repealing Minnesota Statutes 1978, Sections 69.04; 69.055; 69.06; 69.22; 69.23; 69.24; 69.66; 69.67; 69.68; 69.691; 424.30; and 424.31; Laws 1959, Chapter 324; Laws 1965, Chapters 592, Section 1; and 598, Section 1; Laws 1967, Chapters 575, Section 1, Subdivision 2; 742, Section 1; 815, Sections 1 and 2, Subdivision 1; and 831; Laws 1969, Chapters 252, Section 1, Subdivisions 1 and 2; 526, Sections 1 and 2; 530; 644, Section 1; 714; 719, Section 1; 877; 1088, Section 2, Subdivision 1; and 1105, Sections 1, 2 and 3; Laws 1971, Chapters 2; 114, Section 3, Subdivision 2; 140, Section 1; 184, Section 1, Subdivisions 1 and 2; 200; and 233; Laws 1973, Chapters 30, Section 1, Subdivision 1; 33; 166; 170; 173; 175; 181; 182; 280; 283, Section 1; 288; 304, Section 1, Subdivision 2; 311; and 464; Laws 1974, Chapters 112; Laws 1975, Chapters 36; 43; 117; 118; 119; 124; 125; 178; 197; 229, Section 1; 306, Section 33, Subdi-

visions 1 and 2; and 367; Laws 1976, Chapters 71; 97; 100, Section 1, Subdivisions 1 and 3; 206; 208; 214; 267; 272, Section 2; and 288, Section 1; Laws 1977, Chapters 294; 295; and 374, Section 50, Subdivision 1; Laws 1978, Chapters 599, Section 1, Subdivisions 2 and 3; 606; 617, Section 1; 622; 631; 673; 683, Sections 1 and 2, Subdivision 1; 753, Section 2, Subdivisions 1 and 1a; and 754.

Mr. Peterson moved to amend S. F. No. 961, as follows:

Page 3, line 20, delete the new language

Page 3, delete lines 21 and 22

Page 3, line 23, delete "and the"

Page 4, line 1, after "The" reinstate the stricken language

Page 4, line 2, reinstate the stricken language and delete "state auditor"

Page 4, line 22, delete "33" and insert "12"

Page 8, delete lines 7 to 33 and insert:

"*Subd. 2a. [DETERMINATION OF ACCRUED LIABILITY FOR RECIPIENTS OF INSTALLMENT PAYMENTS.] Each firefighters' relief association which pays a lump sum service pension in installment payments to a retired firefighter pursuant to section 12, subdivision 8, shall determine the accrued liability of the special fund of the firefighters' relief association relative to each retired member receiving a lump sum service pension in installment payments calculated individually as the sum of each future installment payment discounted at an interest rate of five percent, compounded annually, from the date the installment payment is scheduled to be paid to December 31. The sum of the accrued liability attributable to each retired member of the relief association receiving a lump sum service pension in installment payments shall be the total additional accrued liability of the special fund of the relief association as of December 31, and shall be added to the accrued liability of the special fund of the relief association calculated pursuant to subdivision 2 for purposes of calculating the financial requirements of the relief association and the minimum obligation of the municipality pursuant to subdivision 3.*"

Page 9, delete lines 1 to 14

Page 23, line 12, after "included" delete the balance of the line

Page 23, line 13, before "in" delete the new language and strike the old language

Page 27, line 11, after "association." insert "In the case of a member who has completed at least ten years of active service as an active member of the municipal fire department to which the relief association is associated or of the independent nonprofit firefighting corporation to which the relief association is subsidiary on the date that the volunteer firefighters' relief association is es-

*established and incorporated, the requirement that the member complete at least ten years of active membership with the volunteer firefighter's relief association or volunteer firefighters' account prior to separation from active service may be waived by the board of trustees of the relief association if the member completes at least ten years of inactive membership with the volunteer firefighters' relief association or volunteer firefighters' account prior to the payment of the service pension. During the period of inactive membership, the member shall not be entitled to receive any disability benefit coverage, shall not be entitled to receive any additional service credit towards computation of a service pension, and shall be deemed to have the status of a person entitled to a deferred service pension pursuant to subdivision 7."*

Page 35, line 17, after "installments" insert a period and delete the balance of the line and insert:

*"The election of installment payments shall be irrevocable and shall be made by the retiring member in writing and filed with the secretary of the relief association no later than 30 days prior to the commencement of payment of the service pension. The amount of the installment payments shall be determined so that the present value of the aggregate installment payments computed at an interest rate of five percent, compounded annually, is equal to the amount of the single lump sum payment which would have been made had the installment payments option not been elected. The payment of each installment shall include interest at the rate of five percent, compounded annually on the reserve supporting the remaining installment payments as of the date on which the previous installment payment was paid computed from the date on which the previous installment payment was paid to the date of payment for the current installment payment."*

Page 35, delete lines 18 to 33 and page 36, delete lines 1 to 4

Page 37, line 11, delete "state auditor" and insert "commissioner of insurance"

Page 37, line 13, delete "state auditor" and insert "commissioner of insurance"

Page 37, line 22, delete "state auditor" and insert "commissioner of insurance"

Page 38, line 22, after "be" delete the balance of the line

Page 38, delete lines 23 to 25

Page 38, line 26, delete "4, shall not be"

Page 45, line 11, after "state" insert "as of December 31 of the year preceding the filing of the report"

Page 46, delete lines 4 to 6

Page 46, line 7, delete "(13)" and insert "(10)"

Page 46, line 8, delete "(14)" and insert "(11)"

Page 46, line 9, delete "(15)" and insert "(12)"

Page 46, delete lines 10 to 12

Page 46, line 13, delete "(18)" and insert "(13)"

Page 46, line 14, delete "(19)" and insert "(14)"

Page 46, line 15, delete "(20)" and insert "(15)"

Page 46, delete lines 16 and 17

Page 46, line 18, delete "(22)" and insert "(16)"

Page 46, line 20, delete "(23)" and insert "(17)"

Page 46, line 21, delete "(24)" and insert "(18)"

Page 46, line 23, delete "(25)" and insert "(19)"

Page 46, line 25, delete "(26)" and insert "(20)"

Page 46, line 27, delete "(27)" and insert "(21)"

Page 46, line 27, delete ", and" and insert a period

Page 46, delete lines 28 and 29

Page 62, after line 25, insert:

*"To the extent that he deems it to be necessary or practical, the commissioner of insurance may specify and issue procedures, forms or mathematical tables for use in performing the calculations required pursuant to section 25 or section 12, subdivision 8."*

The motion prevailed. So the amendment was adopted.

Mr. Davies moved to amend S. F. No. 961 as follows:

Page 62, after line 31, insert:

*"Sec. 45. [LIMITATION ON NONFORFEITABLE ENTITLEMENT TO BENEFIT INCREASE.] No current annuitant, disabilitant or survivor benefit recipient and no active or inactive member of any retirement fund to which this act applies shall acquire a nonforfeitable interest in, or entitlement to, any modification in the benefit plan of the fund contained in this act or be entitled to bring any action based on any modification in the benefit plan of the fund contained in this act until a period of two years commencing with the date on which the benefit plan modification becomes effective has expired."*

Renumber the sections in sequence

The motion prevailed. So the amendment was adopted.

S. F. No. 961 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 55 and nays 0, as follows:

Those who voted in the affirmative were:

Ashbach	Frederick	Lessard	Perpich	Solon
Benedict	Gearty	Luther	Peterson	Spear
Bernhagen	Gunderson	McCutcheon	Pillsbury	Staples
Brataas	Hanson	Menning	Purfeerst	Stokowski
Chenoweth	Hughes	Merriam	Renneke	Strand
Chmielewski	Humphrey	Moe	Rued	Stumpf
Coleman	Johnson	Nelson	Schaaf	Tennessee
Davies	Keefe, S.	Nichols	Schmitz	Ueland, A.
Dietrich	Kirchner	Olhoft	Setzepfandt	Ulland, J.
Dunn	Kleinbaum	Olson	Sieloff	Vega
Engler	Knoll	Penny	Sikorski	Willet

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

S. F. No. 1191: A bill for an act relating to insurance; providing for changes in the operation and funding of the comprehensive health association; requiring identification of certain insurers; setting premium standards; changing the effective dates of certain mandated benefits; amending Minnesota Statutes 1978, Sections 62E.02, Subdivision 10, and by adding a subdivision; 62E.04, Subdivision 4; 62E.06; Subdivision 1; 62E.08; 62E.10; 62E.11; 62E.13, Subdivision 2; 62E.14, Subdivision 1; and Chapter 62E, by adding a section; repealing Minnesota Statutes 1978, Section 62E.10, Subdivision 5.

Mr. Sikorski moved to amend S. F. No. 1191 as follows:

Strike the Sikorski amendment to S. F. No. 1191, adopted by the Senate May 11, 1979, and amend S. F. No. 1191 as follows:

Page 12, line 20, after the period, insert "*The provisions of section 62E.11, subdivision 8, shall expire on July 1, 1981.*"

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski moved to amend the Perpich amendment to S. F. No. 1191, adopted by the Senate May 11, 1979, as follows:

Page 2 of the Perpich amendment, line 24, in clause (14), after "Transportation" insert "(i)"

Page 2 of the Perpich amendment, line 26, at the end of clause (14), before the period, insert "; or (ii) to a kidney dialysis center for treatment"

The motion prevailed. So the amendment to the Perpich amendment was adopted.

S. F. No. 1191: A bill for an act relating to insurance; providing for changes in the operation and funding of the comprehensive health association; requiring identification of certain insurers; setting premium standards; changing the effective dates of certain mandated benefits; amending Minnesota Statutes 1978, Sections 62E.02, Subdivision 10, and by adding a subdivision; 62E.04, Subdivision 4; 62E.06, Subdivision 1; 62E.08; 62E.10; 62E.11; 62E.13,

Subdivision 2; 62E.14, Subdivision 1; and Chapter 62E, by adding a section; repealing Minnesota Statutes 1978, Section 62E.10, Subdivision 5.

Was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 56 and nays 0, as follows:

Those who voted in the affirmative were:

Ashbach	Gearty	Luther	Pillsbury	Strand
Bang	Gunderson	McCutcheon	Purfeerst	Stumpf
Benedict	Hanson	Menning	Renneke	Tennessee
Bernhagen	Hughes	Merriam	Rued	Ueland, A.
Brataas	Humphrey	Moe	Schaaf	Ulland, J.
Chenoweth	Johnson	Nelson	Schmitz	Vega
Chmielewski	Keefe, S.	Nichols	Setzepfandt	Wegener
Davies	Kirchner	Olhoff	Sieloff	Willet
Dieterich	Kleinbaum	Olson	Sikorski	
Dunn	Knaak	Penny	Sillers	
Engler	Knoll	Perpich	Staples	
Frederick	Lessard	Peterson	Stokowski	

So the bill, as amended, passed and its title was agreed to.

#### SPECIAL ORDER

H. F. No. 748: A bill for an act relating to retirement; actuarial reporting law; implementing a procedure to extend the period for the amortization of unfunded liabilities in the event of changes in actuarial assumptions or increases in annuities and benefits; amending Minnesota Statutes 1978, Sections 356.215, Subdivision 4; 356.22, Subdivision 2; 422A.08, Subdivision 2; and 422A.39, Subdivision 2.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 53 and nays 6, as follows:

Those who voted in the affirmative were:

Ashbach	Hanson	McCutcheon	Peterson	Staples
Bang	Hughes	Menning	Pillsbury	Stokowski
Benedict	Humphrey	Merriam	Purfeerst	Strand
Brataas	Johnson	Moe	Renneke	Stumpf
Chenoweth	Keefe, J.	Nelson	Schaaf	Tennessee
Chmielewski	Keefe, S.	Nichols	Schmitz	Ueland, A.
Dieterich	Kirchner	Ogdahl	Setzepfandt	Vega
Dunn	Kleinbaum	Olhoff	Sieloff	Wegener
Frederick	Knoll	Olson	Sikorski	Willet
Gearty	Knutson	Penny	Sillers	
Gunderson	Luther	Perpich	Spear	

Those who voted in the negative were:

Bernhagen	Engler	Lessard	Rued	Ulland, J.
Davies				

So the bill passed and its title was agreed to.

**SPECIAL ORDER**

H. F. No. 313: A bill for an act relating to public employees; reimbursing university systems for expenses of certain athletic leaves of absence; amending Minnesota Statutes 1978, Section 15.62, Subdivision 3.

Mr. Schaaf moved to amend H. F. No. 313 as follows:

Page 1, line 18, after "granted" insert "and occurring on or after July 1, 1979."

Page 1, delete line 19

The motion prevailed. So the amendment was adopted.

H. F. No. 313 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Ashbach	Gunderson	Lessard	Perpich	Staples
Bang	Hanson	Luther	Peterson	Stokowski
Benedict	Hughes	McCutcheon	Pillsbury	Strand
Bernhagen	Humphrey	Menning	Purfeerst	Stumpf
Brataas	Johnson	Merriam	Renneke	Tennesen
Chenoweth	Keefe, J.	Moe	Rued	Ueland, A.
Chmielewski	Keefe, S.	Nelson	Schaaf	Ulland, J.
Davies	Kirchner	Nichols	Schmitz	Vega
Dieterich	Kleinbaum	Ogdahl	Setzepfandt	Wegener
Dunn	Knaak	Olhoff	Sieloff	Willet
Engler	Knoll	Olson	Sikorski	
Gearty	Knutson	Penny	Solon	

So the bill, as amended, passed and its title was agreed to.

**SPECIAL ORDER**

H. F. No. 508: A bill for an act relating to unemployment compensation; exempting family corporation shareholder's income from contribution rate; amending Minnesota Statutes 1978, Section 268.04, Subdivision 12.

Mr. Engler moved to amend H. F. No. 508 as follows:

Page 12, line 13, delete the new language

The motion prevailed. So the amendment was adopted.

H. F. No. 508 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Ashbach	Gunderson	Lessard	Perpich	Solon
Bang	Hanson	Luther	Peterson	Staples
Benedict	Hughes	McCutcheon	Pillsbury	Stokowski
Bernhagen	Humphrey	Menning	Purfeerst	Strand
Chenoweth	Jensen	Merriam	Renneke	Tennessen
Chmielewski	Johnson	Moe	Rued	Ueland, A.
Davies	Keefe, J.	Nelson	Schaaf	Ulland, J.
Dieterich	Keefe, S.	Nichols	Schmitz	Vega
Dunn	Kirchner	Ogdahl	Setzepfandt	Wegener
Engler	Kleinbaum	Olhoft	Sieloff	Willet
Frederick	Knaak	Olson	Sikorski	
Gearty	Knutson	Penny	Sillers	

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

H. F. No. 1018: A bill for an act relating to no-fault automobile insurance; providing disability and income loss benefits for certain persons who lose unemployment compensation benefits as a result of accidental injury; amending Minnesota Statutes 1978, Section 65B.44, Subdivision 3.

Mr. Sikorski moved to amend H. F. No. 1018 as follows:

Page 1, after line 9, insert:

"Section 1. Minnesota Statutes 1978, Section 65B.44, Subdivision 2, is amended to read:

Subd. 2. [MEDICAL EXPENSE BENEFITS.] Medical expense benefits shall reimburse all reasonable expenses for necessary medical, surgical, x-ray, optical, dental, chiropractic, and rehabilitative services, including prosthetic devices, prescription drugs, necessary ambulance and all other reasonable transportation expenses incurred in traveling to receive covered medical benefits. hospital, extended care and nursing services. Hospital room and board benefits may be limited, except for intensive care facilities. to the regular daily semi-private room rates customarily charged by the institution in which the recipient of benefits is confined. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of this state for an injured person who relies upon spiritual means through prayer alone for healing in accordance with his religious beliefs. Medical expense loss includes medical expenses accrued prior to the death of a person notwithstanding the fact that benefits are paid or payable to the decedent's survivors. Medical expense benefits for rehabilitative services shall be subject to the provisions of section 65B.45."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, after "insurance;" insert "providing for coverage of certain medical benefits under automobile insurance policies;"

Page 1, line 7, delete "Subdivision" and insert "Subdivisions 2 and"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 36 and nays 19, as follows:

Those who voted in the affirmative were:

Benedict	Humphrey	Menning	Purfeerst	Tennessen
Chenoweth	Johnson	Moe	Schaaf	Vega
Chmielewski	Keefe, J.	Nelson	Setzepfandt	Wegener
Davies	Keefe, S.	Nichols	Sikorski	Willet
Gearty	Kleinbaum	Olhoff	Solon	
Gunderson	Knoll	Olson	Spear	
Hanson	Lessard	Penny	Staples	
Hughes	Luther	Peterson	Stumpf	

Those who voted in the negative were:

Ashbach	Dunn	Kirchner	Ogdahl	Strand
Bang	Engler	Knaak	Pillsbury	Ueland, A.
Bernhagen	Frederick	Knutson	Renneke	Ulland, J.
Dieterich	Jensen	Merriam	Rued	

The motion prevailed. So the amendment was adopted.

Mr. Davies moved to amend H. F. No. 1018 as follows:

Page 1, line 17, after the period, insert "*until December 31, 1979, and \$250 per week thereafter*"

Page 2, line 7, before the period, insert "*until December 31, 1979, and \$250 per week thereafter*"

Page 2, after line 22, insert:

"Sec. 2. Minnesota Statutes 1978, Section 65B.44, Subdivision 6, is amended to read:

Subd. 6. [SURVIVORS ECONOMIC LOSS BENEFITS.] Survivors economic loss benefits, in the event of death occurring within one year of the date of the accident, caused by and arising out of injuries received in the accident, are subject to a maximum of \$200 per week *until December 31, 1979, and \$250 per week thereafter,*" and shall cover loss accruing after decedent's death of contributions of money or tangible things of economic value, not including services, that his surviving dependents would have received for their support during their dependency from the decedent had he not suffered the injury causing death.

For the purposes of definition under sections 65B.41 to 65B.71, the following described persons shall be presumed to be dependents of a deceased person: (a) a wife is dependent on a husband with whom she lives at the time of his death; (b) a husband is dependent on a wife with whom he lives at the time of her death; (c) any child while under the age of 18 years, or while over that age but physically or mentally incapacitated from earning, is dependent on the parent with whom he is living or from whom he is receiving support regularly at the time of the death of such parent. Questions of the existence and the extent of dependency shall be questions of fact, considering the support regularly received from the deceased.

Payments shall be made to the dependent, except that benefits to a dependent who is a child or an incapacitated person may be paid to the dependent's surviving parent or guardian. Payments shall be terminated whenever the recipient ceases to maintain a status which if the decedent were alive would be that of dependency.

Sec. 3. Minnesota Statutes 1978, Section 65B.44, Subdivision 7, is amended to read:

Subd. 7. [SURVIVOR'S REPLACEMENT SERVICES LOSS.] Survivors replacement services loss benefits shall reimburse expenses reasonably incurred by surviving dependents after the date of the decedent's death in obtaining ordinary and necessary services in lieu of those the deceased would have performed for their benefit had he not suffered the injury causing death, minus expenses of the survivors avoided by reason of the decedent's death. These benefits shall be subject to a maximum of \$200 per week until December 31, 1979, and \$250 per week thereafter."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, after the semicolon, insert

"increasing the weekly maximum for disability and income loss benefits, survivor's economic loss benefits and survivor's replacement services loss;"

Page 1, line 7, delete "Subdivision" and insert "Subdivisions"

Page 1, line 7, after "3" insert ", 6 and 7"

The motion did not prevail. So the amendment was not adopted.

H. F. No. 1018 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 49 and nays 8, as follows:

Those who voted in the affirmative were:

Bang	Gearly	Luther	Perpich	Spear
Benedict	Gunderson	McCutcheon	Peterson	Stokowski
Brataas	Hughes	Menning	Pillsbury	Stumpf
Chenoweth	Humphrey	Merriam	Schaaf	Tennessen
Chmielewski	Johnson	Moe	Schmitz	Ueland, A.
Davies	Kirchner	Nelson	Setzepfandt	Ulland, J.
Dieterich	Knaak	Nichols	Sieloff	Vega
Dunn	Knoll	Olhoft	Sikorski	Wegener
Engler	Knutson	Olson	Sillers	Willet
Frederick	Lessard	Penny	Solon	

Those who voted in the negative were:

Ashbach	Jensen	Purfeerst	Rued	Strand
Bernhagen	Ogdahl	Renneke		

So the bill, as amended, passed and its title was agreed to.

**SPECIAL ORDER**

H. F. No. 222: A bill for an act relating to the public service commission and public service department; regulating commissioners' and employees' conflicts of interest; amending Minnesota Statutes 1978, Section 216A.035.

Mr. Luther moved to amend H. F. No. 222, as amended by the Committee on Commerce, adopted by the Senate May 9, 1979, as follows:

Page 1, line 20, strike "commission" and delete "or public service"

Delete the amendment to page 1, line 23

Page 1, line 23, after "department" insert "*who is in the civil service schedule A or management classification level and whose duties are related to public utilities or transportation regulation*"

The motion prevailed. So the amendment was adopted.

**CALL OF THE SENATE**

Mr. Luther imposed a call of the Senate for the balance of the proceedings on H. F. No. 222. The following Senators answered to their names:

Ashbach	Hughes	Luther	Purfeerst	Stokowski
Bang	Humphrey	McCutcheon	Renneke	Strand
Benedict	Jensen	Menning	Rued	Stumpf
Bernhagen	Johnson	Merriam	Schaaf	Tennessee
Chmielewski	Keefe, J.	Moe	Schmitz	Ueland, A.
Coleman	Keefe, S.	Nelson	Setzepfandt	Ulland, J.
Davies	Kirchner	Ogdahl	Sikorski	Vega
Dunn	Knaak	Olson	Sillers	Wegener
Engler	Knoll	Penny	Solon	Willet
Frederick	Knutson	Peterson	Spear	
Gunderson	Lessard	Pillsbury	Staples	

The Sergeant at Arms was instructed to bring in the absent members.

H. F. No. 222 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 38 and nays 23, as follows:

Those who voted in the affirmative were:

Benedict	Hughes	McCutcheon	Perpich	Stokowski
Chenoweth	Humphrey	Menning	Schaaf	Stumpf
Chmielewski	Jensen	Merriam	Schmitz	Tennessee
Coleman	Johnson	Moe	Setzepfandt	Ulland, J.
Davies	Keefe, S.	Nelson	Sieloff	Vega
Gearty	Kleinbaum	Olhoff	Sikorski	Willet
Gunderson	Knoll	Olson	Spear	
Hanson	Luther	Penny	Staples	

Those who voted in the negative were:

Bang	Frederick	Lessard	Purfeerst	Strand
Bernhagen	Keefe, J.	Nichols	Renneke	Ueland, A.
Brataas	Kirchner	Ogdahl	Rued	Wegener
Dunn	Knaak	Peterson	Sillers	
Engler	Knutson	Pillsbury	Solon	

So the bill, as amended, passed and its title was agreed to.

#### MOTIONS AND RESOLUTIONS—CONTINUED

Mr. Coleman moved that the Senate do now adjourn until 1:30 o'clock p.m., Tuesday, May 15, 1979. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate