

# House Research Act Summary

**CHAPTER:** 3

**SESSION:** 2005 First Special Session

**TOPIC:** Omnibus Tax Bill

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## Table of Contents

### Act Page

<a href="#">Article 1: Property Taxes</a>	2	2
<a href="#">Article 2: Property Tax Aids and Credits</a>	9	55
<a href="#">Article 3: Income and Franchise Taxes</a>	10	63
<a href="#">Article 4: Federal Update</a>	13	85
<a href="#">Article 5: Sales and Use Taxes</a>	18	115
<a href="#">Article 6: Special Taxes</a>	24	159
<a href="#">Article 7: Economic Development</a>	30	181
<a href="#">Article 8: Tax Shelters</a>	34	198
<a href="#">Article 9: Department of Revenue Electronic Payments</a>	39	216

## Article 1: Property Taxes

### Overview

1. Extends the phase-out schedule for limited market value by two years
2. Reinststitutes the low-income rental housing classification (4d), but with more restrictive qualification criteria than under the old 4d classification. Provides a 4d class rate of 0.75 percent.
3. Reduces and restructures the classification of homestead resort property (class 1c)
4. Freezes the shares of the state general tax between commercial-industrial and seasonal recreational property classes based on their relative shares of the tax in payable 2002
5. Contains a number of provisions designed to improve the uniformity of property tax assessments. Requires the Department of Revenue to produce reports and develop assessment standards
6. Freezes the taconite production tax rate for 2005 at the 2004 level.
7. Increases payments in lieu of taxes (PILT) for land utilization project (LUP) land in Lake of the Woods, Beltrami, and Roseau counties.
8. Provides one-year valuation reductions for qualifying properties with defects due to mold or lead hazard contamination when the defect has been corrected.
9. Delays the Bloomington repayment to the fiscal disparities pool by three years.

- 1 **Manufactured home delinquent taxes.** Clarifies that a manufactured home park owner is not required to pay the personal property taxes as a condition of transferring title on a manufactured home to the park owner, for a manufactured home that is to be destroyed or moved to a site and destroyed. Effective day following final enactment.
- 2 **Commissioner to notify county auditor.** Requires the Commissioner of Transportation to notify the county auditor of any taxable real property acquired by MnDOT.
- 3 **Institutions of purely public charity.** Clarifies that in determining whether rental housing property qualifies for a property tax exemption as an institution of pure public charity, government rent assistance and government financing assistance or tax credits provided to the owner are not gifts or donations to the owner in making that determination.

Effective for taxes payable in 2004 and thereafter.

- 4 **Wind energy conversation systems.** Provides that if approved by the county where the property is located, land on which a wind energy conversion system is located must be

valued and classified based on the most probable use of the property if it were not improved with the system. Effective for assessment year 2005 and thereafter.

- 5 **Property subject to taconite production tax or net proceeds tax.** Corrects a Department of Revenue technical provision enacted in the 2005 regular session (Laws 2005, Chapter 151, article 5, section 6).
- 6 **Biomass Electric Generation Facility Personal Property.** Provides an exemption for attached machinery and other personal property that is part of an electric generation facility that generates up to 30 megawatts of installed capacity. The facility must be designed to utilize at least 90 percent waste biomass as a fuel, not be owned by a public utility, be located within a city of the first class, have its primary location at a former garbage transfer station, and be designed to have the capability to provide baseload energy and district heating. Construction of the facility must be commenced between January 1, 2004, and January 1, 2008. The proposed facility will be located in Minneapolis and will supply energy to the former Sears site (Midtown Exchange).
- 7 **Training and education of property tax personnel.** Requires every assessor to attend and participate in a seminar that focuses on ethics, professional conduct and the need for standardized assessment practices at least once every four years, beginning with the four-year educational licensing period starting July 1, 2004. Applies to all assessors licensed for one or more year in the four-year period. The seminar is to be developed and given by the commissioner of revenue. Effective the day following final enactment.
- 8 **Extends limited market value.** Extends the phase-out schedule of LMV for two years, applicable to the same types of property as under current law (residential, agricultural, timber, and seasonal recreational only). For taxes payable in 2006 and 2007 (assessment years 2005 and 2006), increases in taxable property value will be limited to 15 percent, or 25 percent of the difference between the current value and the previous year's limited value. These are the same parameters that are in effect for taxes payable in 2005. Under the revised phase-out schedule, the last year of limited market value is assessment year 2008 (taxes payable year 2009).
- 9 **Valuation reduction for homesteads damaged by mold.** Allows homeowners a one-year valuation reduction equal to the cost of repairing the homestead damage due to mold contamination. The cost of repairing the damage must be at least \$20,000 to qualify for valuation reduction.

Provided the qualifying criteria are met, the county board must grant the reduction in market value. A denial of a reduction by the county board may be appealed to the tax court. If the county board takes no action on the application within 90 days after its receipt, it is considered approved. Provides that in the assessment year following the assessment year when a valuation reduction was made under this section, any market value added by the assessor as a result of curing the mold condition is considered attributable to new construction. Effective for applications filed on or after September 1, 2005.

- 10 **Lead hazard market value reduction.** Allows cities to authorize a valuation reduction program for lead hazard reduction, provided that the city establishes guidelines for the program and designates a city agency to certify completion of qualifying projects for individual properties. Provides that owners of property in an authorizing city classified as homestead, residential non-homestead or low-income apartments may receive a one-year valuation reduction. Only projects with a cost of at least \$3,000 originating after July 1, 2005, and completed before July 1, 2010, are eligible for valuation reduction. The one-year valuation reduction is equal to the cost incurred, up to a maximum of \$20,000. Provides that any market value added by the assessor as a result of the lead hazard mitigation is considered an increase in value due to new construction. Effective the day following final enactment.

- 11 Open space valuation; polo.** Includes real estate devoted to polo in the list of uses that qualify for the open space valuation and tax deferment program (This program is similar to “Green Acres”, but is a recreational and open space program.) Effective for taxes payable in 2006 and thereafter.
- 12 Homestead used for licensed child care.** Provides that if a homestead property (single family, duplex, or triplex) is used to provide licensed child care, that portion must be classified as part of the homestead property. Effective for taxes payable in 2006, and thereafter.
- 13 Manufactured homes; designation as personal property.** Provides that a manufactured home shall be personal property (and correspondingly valued and taxed as personal property) if it is located in a manufactured home park but is not the homestead of the park owner. This will allow a manufactured home (located in a park) to be sold and the title transferred by paying only the tax liability on that manufactured home. Transactions of this kind have not been done uniformly and in some instances, the total property taxes due on these homes (homes owned by the park owner) and the park land, have been required to be paid at the time of selling or transferring one of these manufactured homes owned by the park owner. This change affects only the timing of when taxes are paid, but does not affect the amount of taxes actually due.

Effective payable 2006 and thereafter. (Requires the current assessment rolls to be adjusted to reflect any changes when making these manufactured homes personal property.)

**14 Certification of low-income rental property.**

**Subd. 1. Requirement.** Provides that low-income rental property is entitled to classification as class 4d property if at least 75 percent of the units are:

- (1) subject to a housing assistance payments contract under Section 8 of the U.S. Housing Act of 1937, as amended;
- (2) rent-restricted and income-restricted units of a qualified low-income housing project receiving tax credits under section 42(g) of the Internal Revenue Code; or
- (3) financed by the Rural Housing Service of the U.S. Department of Agriculture and receive payments under the rental assistance program under Section 521(a) of the Housing Act of 1949; or
- (4) subject to rent and income restrictions under terms of financial assistance provided by the federal government or the state of Minnesota. The restrictions must require the units to be occupied by residents whose household income at the time of occupancy does not exceed 60 percent of the greater of area or state median income as adjusted for family size and require that rents for the assisted units must not exceed 30 percent of the same income threshold.

Clauses (1) to (3) are those referred to as “deemed” units under the old 4d classification system.

Provides that the units are valued using the “normal” approach to value without regard to restricted rents.

**Subd. 2. Application.** (a) Requires an application for certification to be filed by March 31 of the levy year, or at a later date if the Housing Finance Agency (MHFA)

deems practicable. Provides that the application be filed with MHFA, on a form prescribed by the agency.

(b) Requires the application to contain the property identification number and evidence that the property qualifies under subdivision 1.

(c) Allows the MHFA to charge an application fee approximately equal to its administrative costs, but not to exceed \$10 per unit. The revenue from the fees collected must be deposited in the housing development fund.

**Subd. 3. Certification.** Requires the MHFA to certify to the appropriate county or city assessor by June 1 of each levy year, the qualifying properties and the number of units in the buildings that qualify.

Effective for taxes payable in 2006 and thereafter, except that the application date in subdivision 2 is extended to August 31, 2005, and the certification date in subdivision 3 is extended to September 30, 2005.

15

**Class 1c; homestead resorts.** Restructures the classification and taxation of homestead resort (1c) property. Currently, class 1c is at a uniform class rate of one percent and is limited by area—all property value within an area of 800 feet by 500 feet in depth measured away from the lakeshore (an area often referred to as “the box”), but not exceeding 100 feet of lakeshore for each cabin or campsite, qualifies as class 1c, with the remaining value classified as 4c.

This section eliminates “the box”, includes all of the resort value in class 1c, and provides a three-tier structure based on value only:

- the first \$500,000 of market value has a class rate of 0.55 percent (tier I),
- the next \$1,700,000 has a class rate of one percent (tier II), and

any remaining value has a class rate of 1.25 percent (tier III). Any value in tier III is subject to the state general levy.

The section also clarifies that the home of the resort owner is treated the same as other residential homestead property, and its value is not included in considering the tiers of class 1c. As under current law, any portion of the resort property that does not qualify for the seasonal classification (such as a restaurant or gift shop) is classified as commercial and not included in class 1c.

16

**Class 4d low-income housing.** Reinststitutes class 4d property for qualifying low-income rental housing certified to the assessor by the Minnesota Housing Finance Agency (MHFA) under section 0, with a class rate of 0.75 percent of market value. (*Note: the new definition of class 4d is more restrictive than the definition used under the 4d classification in effect prior to 2004, see section 0.*)

Provides that if only a portion of the units in a building qualify as low-income rental housing units, then only those units qualify for class 4d. The proportion of units qualifying for class 4d determines the proportion of the land value classified as 4d.

Provides that the market value is based on the normal approach to value using unrestricted

rents, in the same manner as other apartment property.

Effective for taxes payable in 2006 and thereafter.

Also strikes a sentence relating to the change in homestead resort classification in section 0 and makes a technical correction to a provision enacted in the 2005 regular session (Laws 2005, Chapter 151, article 3, section 12).

**17 Vacant commercial-industrial properties; disparity reduction credit.** Authorizes a city to establish a program to encourage redevelopment, better utilization of property, and elimination of blighting influences. The city will have the authority to revoke eligibility of individual commercial industrial properties to receive the disparity reduction credit if:

- (1) for the previous three or more consecutive years prior to the current assessment year, it has been (i) condemned, dangerous, or having multiple housing or building code violations; (ii) condemned and illegally occupied; and (iii) either occupied or unoccupied, during which time the local enforcement officer has issued an order to correct nuisance conditions; or
- (2) for the previous five or more consecutive years prior to the current assessment year, the property has been unoccupied and not utilized for a commercial industrial purpose

The city program must provide standards for determining whether a property is vacant, written assessment notice by the city or county to the property owner informing the owner that the property's eligibility will be revoked unless the property meets certain standards, and opportunity to appeal the revocation at the local and county board of appeal and equalization. Effective for assessment year 2006, taxes payable in 2007 and thereafter.

**18 Local board of appeal and equalization.** Clarifies a provision of law prohibiting a local board of appeal and equalization from making a favorable adjustment in value or classification for a property when the assessor is not allowed access to inspect the interior of the property. The clarification specifies that the provision applies only when the owner has expressly refused the assessor access. Effective for the 2006 assessment and thereafter.

**19 Seasonal recreational tax capacity.** Provides that the third tier of class 1c property is subject to the state general tax (see section 0). Effective for taxes payable in 2006 and thereafter.

**20 Apportionment and levy of the state general tax.** Provides that the state general tax will be permanently apportioned into a commercial-industrial share at 95 percent and a seasonal recreational share at 5 percent. (This is the approximate breakout of the state general tax for taxes payable in 2002, the first year of the state general tax. The breakout for taxes payable in 2005 is 92.8 percent commercial-industrial versus 7.2 percent seasonal recreational.)

Provides that the commissioner of revenue shall annually certify separate state tax rates for commercial-industrial property and seasonal recreational property.

**21 Date to certify levies and tax rates.** Changes the deadline for county auditors to certify levy and tax rate information to other county auditors with respect to taxing jurisdictions that cross county boundaries to October 5. The date under current law is September 20, and this is unworkable since school districts do not certify their levies until September 30. Effective the day following final enactment.

**22 Notice of proposed property taxes; supplemental information; Ramsey County library.** Provides that a county, city or school district may include supplemental information with the statement of proposed property taxes, if authorized by the county

board. The supplemental information may include the impact of state aid changes, inflation, population change, state and federal action or other financial factors that are deemed appropriate.

Also provides that the notice of proposed property taxes for Ramsey County may separately list any amount levied for library purposes from the remaining amount of the county's levy.

23 **Truth-in-taxation joint hearing; Aitkin County.** Authorizes Aitkin County, the City of Aitkin and Independent School District No. 1, or any two of them, to hold their initial public hearings under the truth in taxation process jointly. The hearing must be held on the second Tuesday of December each year. The advertisement regarding the hearing may be a joint advertisement.

24 **Truth-in-taxation joint hearing; Nobles County.** Authorizes Nobles County, the City of Worthington, and Independent School District No. 518 of Worthington, or any two of them, to hold a joint public hearing under the truth-in-taxation law. The hearing is required to be held on the second Tuesday of December. The advertisement regarding the hearing may be a joint advertisement.

25 **Cruelty to animals special levy.** Provides that a levy by a city or county for the local society for the prevention of the cruelty to animals is a special levy, and therefore not subject to levy limits. If a city or a county opts to use this special levy, its levy in the previous levy year for this purpose must be deducted from its levy limit base. (Currently, the overall levy limits under sections 275.70-275.75 are not in effect.)

26 **Property tax statement; Ramsey County library levy and regional rail authorities.** Provides that if Ramsey County levies for public library service, the levy amount for that purpose may be listed separately from the remaining county levy amount on the property tax statement.

Requires any metropolitan county that levies for its regional rail authority, to list the amount of the regional rail authority levy separately from the county levy on the property tax statement.

Also makes technical changes to certain aid references. Effective for property tax statements for taxes payable in 2006 and thereafter.

27 **Taconite tax rate; one-year freeze.** Provides that the 2005 taconite production will be taxed at the same tax rate that is in effect for concentrates produced in 2004, whereby suspending the escalator for one year.

28 **HRA levy limit.** Provides that the levy limit for housing and redevelopment special taxing districts is calculated based on the taxable market value for the current assessment year rather than on the previous year's value. Effective for taxes payable in 2006 and thereafter.

29 **St. Paul airport fiscal disparities exclusion.** Clarifies that the St. Paul airport is excluded from the fiscal disparities program.

*Background:* This is a cleanup provision from 1996 legislation which sought to have the St. Paul airport treated the same as the MSP International Airport for property tax purposes. Property tax administrators felt there was some ambiguity in the legislation with regard to whether or not the St. Paul airport should contribute to fiscal disparities. Effective for taxes payable in 2006 and thereafter.

30 **Bloomington supplemental fiscal disparities contribution.** Delays for three years the city of Bloomington's repayment to the metropolitan area fiscal disparities pool.

*Background:* From 1988 to 1999, Bloomington "borrowed" revenues from the fiscal disparities pool to make interest payments on bonds sold for highway improvements related

to the Mall of America development. Under current law, Bloomington is required to repay the “loan” through a supplemental contribution to the pool each year from property taxes payable in 2006 through 2015. This provision delays the start of the repayment obligation to taxes payable in 2009.

- 31 **Recategorizes land utilization project land.** Takes land utilization project (LUP) land out of the “other natural resources land” category. Sections 0 through 0 are effective for aids paid in 2006 and thereafter. LUP lands are located in Lake of the Woods, Beltrami, and Roseau counties.
- 32 **Land utilization project land.** Establishes “land utilization project land” as a separate category.
- 33 **PILT payments; LUP land.** Increases payment in-lieu of tax (PILT) payments for LUP lands to 75 cents/acre, adjusted for inflation. Currently, LUP lands are classified as commissioner-administered “other natural resources land” with in-lieu payments of \$0.37.5 cents/acre, adjusted for inflation. (The inflation adjustment yields a rate of about \$0.50/acre for 2006.) Under this provision, the rate of aid payments for calendar year 2006 LUP lands will double to approximately \$1.00/acre (i.e., the 75 cents/acre, adjusted for inflation).
- 34 **Certification; LUP land.** Requires the commissioner of natural resources to certify to the Commissioner of Revenue each year the number of acres in each county of LUP land.
- 35 **General distribution; LUP land.** Treats LUP land like “other natural resources land” in determining distribution of payments by the county to organized townships.
- 36 **Lakeview cemetery; levy.** Increases the authorization for certain cities and towns to levy for the Lakeview Cemetery Association from \$15,000 to \$25,000 annually.
- 37 **Report; proposed standardized assessment and classification standards.** Requires the commissioner of revenue, in consultation with appropriate stakeholder groups, to issue two reports to the chairs of the House and Senate Tax Committees. The reports shall include an analysis of existing practices and shall contain recommendations, where necessary, for achieving higher quality and uniform assessments and consistency of property classifications.

The first report, to be issued by February 1, 2006, will address the following types of property: agricultural, rural woodlands including timber, seasonal recreational, and resorts. The second report, to be issued by February 1, 2007, will address the following types of property: class 4d low income rental housing, state and federal agricultural/environmental programs, residential including homestead and non-homestead, and commercial/industrial. Effective the day following final enactment.

- 38 **Code of conduct and ethics; assessors.** Directs the commissioner of revenue to develop a code of conduct and ethics for assessors to ensure public confidence in property assessment. The commissioner shall consult with appropriate groups. The code must include language that promotes fairness and uniformity and recommends assessment practices that do not promote the perception of a conflict of interest. The code must be completed and recommended to the state Board of Assessors for adoption by January 1, 2006. Code must be presented as part of the seminar taught by the department (see section 0).
- 39 **Dakota County regional railroad authorization.** Authorizes the Dakota County Regional Railroad Authority to spend funds to develop and maintain a bus rapid transit system within the Cedar Avenue transitway corridor. The authority is authorized to levy for this purpose to the extent that its levy authority is not required to be used for that levy year for railroad purposes. Effective without local approval.
- 40 **Assessment; assisted living facilities.** Requires the Department of Revenue to inform assessors of the provisions in the exemption for institutions of pure public charity (section 0) as they may pertain to assisted living facilities, and to monitor changes in the assessment of these facilities for assessment years 2005 and 2006.



## Article 2: Property Tax Aids and Credits

### Overview

10. Increases the annual LGA appropriation by \$48 million
11. Provides extra LGA to cities with a population less than 5,000
12. Eliminates the taconite aid offset in the LGA formula for certain taconite cities
13. Extends the market value credits reduction to cities for two more years—for credits paid in 2005 and 2006.

- 1     **City aid base.** Provides an increase in the city aid base of \$6 per capita to cities with a population of less than 5,000. This extra payment is eliminated when a city reaches the 5,000 population threshold and begins to receive municipal street aid instead.

Effective beginning with aids payable in 2006.

- 2     **City formula aid.** Changes the formula used to calculate city aid by eliminating the taconite aid offset for certain cities “directly impacted by a taconite mine or plant.” The cities, which are specified, are: Babbitt, Eveleth, Hibbing, Keewatin, Mountain Iron, Silver Bay, and Virginia.

Effective beginning with aids payable in 2006.

- 3     **Cities (appropriation).** Increases the LGA appropriation by \$48 million annually, from \$437,052,000 to \$485,052,000.

Effective beginning with aids payable in 2006.

- 4     **Counties.** Makes a technical correction in the effective date for an appropriation increase in the county tax base equalization aid to allow for the county aid adjustment for Anoka and Washington counties that was enacted during the regular legislative session.

- 5     **2005 and 2006 city aid payments.** Extends the market value credit reimbursement reduction to credits paid in 2005 and 2006 for cities only. Each city’s reduction amount for 2005 and 2006 will be the lesser of its 2003 reduction or the amount of its current year reimbursement.

Effective the day following final enactment.

## Article 3: Income and Franchise Taxes

### Overview

1. Allows income tax subtractions for members of the military in active service, including National Guard and reserve members, and for expenses incurred by live organ donors
2. Eliminates the “family cap” in the K-12 education credit by allowing parents to claim the credit for more than 2 children
3. Eliminates the one percent income threshold on the subtraction of charitable contributions under the AMT (starting in tax year 2006)
4. Adopts single sales apportionment under the corporate franchise tax over an eight-year phase-in from 2007 to 2014.

**1 Filing requirements; military personnel.** Provides that military compensation qualifying for the new subtraction under section 0 is ignored in determining the filing requirement. Thus, a member of the military whose other Minnesota source income—beside military pay that qualifies for the subtraction—is below the filing requirement would not be required to file a Minnesota return. This will avoid requiring these individuals to file a tax return as a result of the subtraction.

**2 Bonus depreciation included on composite returns filed by partnerships, “S” corporations, and trusts for nonresident individual or trust partners, shareholders or beneficiaries.** Allows a trust that is a partner, shareholder, or beneficiary to be included on a composite return that fulfills the Minnesota nonresident owner filing requirement for flow-through income. Clarifies that the bonus depreciation addition coming from the flow-through entity is included on the Minnesota composite return. Provides that a subtraction for bonus depreciation may be taken on the composite return to the extent the owner would have been entitled to the subtraction had the owner filed his or her own Minnesota return.

Effective for tax years ending after December 31, 2004.

**3 Local use tax.** Directs the commissioner of revenue to include information about payment of local use taxes in the income tax booklet along with the information that is already included about state use tax.

**4 Payment of withholding on nonresident income.** Requires partnerships with nonresident partners (and S corporations with nonresident shareholders and trusts with nonresident beneficiaries) to pay Minnesota withholding tax on Minnesota source income on a quarterly basis during the year, like all other taxpayers, rather than paying with the entity’s return filed after the tax year has ended.

Effective for tax years ending after December 31, 2005.

**5 Foreign operating corporation.** Requires a foreign operating corporation (FOC) to have 80 percent or more of its average of payroll and property, measured as those factors are determined for apportionment of income, outside of the United States. To be an FOC, a corporation also must have \$1 million of foreign payroll and \$2 million of foreign property. If the corporation seeking to qualify as an FOC has no payroll and it is a partner in partnerships with \$1 million or more in foreign payroll, payroll can be omitted from

calculation of the averages.

Effective for tax years beginning after December 31, 2004.

**6 Definition of nonresident.** Removes military personnel in active service outside Minnesota from the definition of nonresident. These individuals are provided with a subtraction in place of nonresident treatment in section 0.

**7 Individuals; subtractions from taxable income.** Allows subtractions for:

- Members of the national guard or reserves for compensation paid while on active service in Minnesota, whether funded by the state or federal government. The subtraction does not apply to regular training or drill pay.
- Members of the military in active service outside Minnesota. This subtraction replaces current law treatment of these individuals, which deems them to be nonresidents during the time they are outside Minnesota.
- Organ donation expenses of up to \$10,000 for travel, lodging, and lost wages (net of sick pay). Allows the subtraction for donation of all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow. Allows parents to claim the subtraction for expenses related to an organ donation made by a dependent.

**8 Dependent care credit; subtractions for military pay included in apportionment for residents.** Provides that the two new subtractions for military pay are considered earned income assignable to Minnesota for purposes of apportioning the dependent care credit.

**9 Working family credit; subtractions for military pay included in apportionment for residents.** Provides that the two new subtractions for military pay are considered earned income assignable to Minnesota for purposes of apportioning the working family credit.

**10 K-12 education credit.** Removes the \$2,000 per family limit for the K-12 education credit. The maximum credit per child would remain at \$1,000, but for an unlimited number of children. Taxpayers would be able to distribute the maximum per family among children at their discretion.

The credit phases out at the rate of \$1 for each \$4 of household income over \$33,500 for families claiming the credit for one child, and at the rate of \$2 for each \$4 of household income for families claiming the credit for two or more children. The credit would fully phase out for incomes between \$33,500 and \$37,500 for families with one or two children, and the phaseout would extend by an additional \$2,000 of income for each additional child for whom the credit is claimed.

**11 Alternative minimum tax subtraction.** Eliminates the adjusted gross income (AGI) threshold for subtraction of charitable contributions under the alternative minimum tax beginning in tax year 2006. Under current law (through tax year 2005), subtractions in excess of 1% of AGI may be subtracted.

Provides an alternative minimum tax (AMT) subtraction equal to the military pay and organ donor expense subtractions in section 0. This prevents individuals claiming the military pay and organ donor expense subtractions from shifting from the regular tax to the AMT.

**12 Cross-reference; cooperatives organized under chapter 308B.** Updates a corporate franchise tax cross-reference so that cooperatives receive the same tax treatment whether they are organized under chapter 308A or the newer chapter 308B.

- 13 Single factor sales apportionment; regular corporations.** Provides for an 8-year phase-in of single factor sales apportionment of income beginning with tax year 2007 for regular corporations. The phase-in schedule is as follows:

Tax year	Sales Percentage
Present law	75%
2007	78%
2008	81%
2009	84%
2010	87%
2011	90%
2012	93%
2013	96%
2014	100%

Effective for tax years beginning after December 31, 2006.

- 14 Single factor sales apportionment; financial institutions.** Phases-in single factor sales apportionment for financial institutions under the same schedule applicable to regular corporations under section 0.

Effective for tax years beginning after December 31, 2006.

- 15 Withholding by contractors.** Requires businesses that hire individual independent contractors to perform construction work in Minnesota to withhold and remit to Minnesota eight percent of the amount they paid the independent contractors if cumulative calendar year payments exceed \$50,000.
- 16 Apportionment, occupation tax nonferrous metals.** Provides that the occupation tax on non-iron ores will continue to be apportioned using the 75%-12.5%-12.5% apportionment formula.
- 17 Apportionment, occupation tax on taconite and iron ore.** Provides that the occupation tax on taconite and iron ores will continue to be apportioned using the 75%-12.5%-12.5% apportionment formula. Since all of these sales are non-Minnesota sales (i.e., the steel plants are all located outside of Minnesota), single sales apportionment would effectively eliminate the occupation tax.

## Article 4: Federal Update

### Overview

Minnesota income and franchise tax is based on “federal taxable income” (FTI) for regular Minnesota tax purposes; “federal alternative minimum taxable income” (AMTI) for Minnesota alternative minimum taxable income; and “federal adjusted gross income” (AGI) for household income used for the Minnesota dependent care credit, education credit, and property tax refund. Present Minnesota law references these federal concepts through June 15, 2003.

Since June 15, 2003, the federal government has enacted six laws that modified the definitions of FTI, AMTI, and AGI.

This article adopts many of the federal changes, including:

1. the tax treatment of health savings accounts, retroactive to when the accounts were first allowed in 2004
2. the extension of the teacher deduction for classroom materials to tax years 2004 and 2005

The only provisions not adopted are:

3. the increase in the standard deduction for married joint filers for tax years 2005 to 2008
4. The new deduction for manufacturing activities
5. The extension of the higher limits on I.R.C. section 179 expensing for two additional years
6. The exemption for federal subsidies paid to employers who provide prescription drug coverage for their retirees

- 1 Update of tax administration provisions.** Adopts federal tax administrative provisions made between June 15, 2003, and April 15, 2005, that Minnesota references for state tax administration purposes under chapter 289A. None of the six federal acts mentioned in the overview changed federal provisions that Minnesota provisions refer to in chapter 289A.

Effective the day following final enactment.

- 2 Update to federal definition of taxable income.** Adopts all of the federal changes to taxable income effective at the same time the federal changes were effective. The six new federal laws and important changes were:
  - **Military Family Tax Relief Act of 2003** provides a number of new exclusions and deductions for members of the military retroactively effective to the beginning of 2003. Among those was an increase in the exclusion from income of the death gratuity benefit paid to survivors of members of the military who are killed in the line of duty from \$3,000 to \$12,000 (also increased the benefit from \$6,000 to \$12,000), effective for deaths after September 10, 2001.
  - **The Medicare Prescription Drug, Improvement and Modernization Act of**

**2003** allows the deduction of contributions to a health savings account (HSA) for individuals with high-deductible medical health plan coverage. The maximum deduction is \$2,250 for individuals with self-only coverage and \$4,500 for individuals with family coverage. The maximum deduction is \$500 higher for individuals age 55 or older, and is increased by an additional \$100 per year until tax year 2009, when it will be \$1,000 higher than the maximum deduction for individuals under age 55. “High-deductible” plan is defined as having an annual deductible of at least \$1,000 for self-only coverage and \$2,000 for family coverage, and having a maximum combined deductible and out-of-pocket expense requirement of at most \$5,000 for self-only coverage and \$10,000 for family coverage. Earnings on amounts contributed to HSAs are tax-exempt. Distributions from HSAs are tax-exempt if used for medical expenses. Effective beginning in tax year 2004.

Exempts federal subsidies paid to employers who provide prescription drug coverage for their retirees. Provides for federal subsidies to be paid beginning in 2006 (sections 0 and 0 require these subsidies to be added to Minnesota taxable income).

- **Working Families Tax Relief Act of 2004** extended the sunset dates of a number of expiring tax provisions (teacher material expense, Archer medical savings accounts, clean fuel vehicle deduction), modified the definitions of “dependent” and “qualifying child” to make them similar, increased the standard deduction available to married couples, and made a number of technical changes. Increases the standard deduction for married taxpayers starting in 2005 and ending in 2011 to twice the standard deduction of an unmarried single taxpayer. This article conforms to the increased standard deduction for married joint filers for 2005 and 2006; section 0 requires the additional deduction to be added back in tax year 2007 and 2008. Minnesota’s standard deduction would equal the federal deduction in 2009 and following years.
- **American Jobs Creation Act of 2004** contained a large number of business provisions, which limited some business deductions, created some new deductions and closed some perceived loopholes. It also allowed the itemized deduction of the greater of state income taxes or state sales taxes and limited the expensing of heavy sport utility vehicles (SUVs). Additions for the manufacturing activities deduction and the extension of the increased limit on I.R.C. section 179 expensing are provided in sections 0 and 0.
- **Public Law 109-1** allowed charitable contributions for tsunami relief made in January of 2005, at the election of the taxpayer, to be deducted as a charitable contribution for the 2004 tax year. Effective for the calendar 2004 tax year. (Note: this change was enacted in Laws 2005, chapter 1)
- **Public Law 109-7** excluded federal disaster mitigation payments from adjusted gross income. Previous law excluded disaster relief payments. Effective for payments received before, on, or after April 15, 2005.

individuals, trusts, and estates to add back to FTI:

- the new manufacturer's deductions;
- the difference between the standard deduction for married couples allowed under the 2003 Internal Revenue Code and the deduction allowed under the current Internal Revenue Code, for tax years 2005 to 2008;
- 80% of the difference between the I.R.C. section 179 expenses allowed under the 2003 Internal Revenue Code and the amount allowed under the current Code;
- the amount of deduction a taxpayer claims for non-business state sales and use tax, but only to the extent the deduction generates a federal tax benefit compared to the standard deduction amount in effect in Minnesota; and
- federal subsidies paid to employers who provide prescription drug coverage for their retirees, exempted federally under the Medicare Prescription Drug, Improvement and Modernization Act.

Generally effective for tax years beginning after December 31, 2004, except add-back of consumer sales taxes deducted is effective for tax years beginning after December 31, 2003.

**4 Subtractions from FTI for individuals, trusts, and estates.** Allow subtractions for

- one-fifth of the addition required for I.R.C. section 179 expenses in section 3 above which exceeds the taxpayer's net operating loss generated in the year of the addition, in each of the 5 years succeeding the year of the addition (similar to the subtraction for bonus depreciation);
- contributions made in January 2005 for tsunami relief when computing 2004 Minnesota charitable contributions (Note: this provision was enacted in Laws 2005, chapter 1); and
- military pay received by members of the military stationed in Minnesota but domiciled in another state. Current law provides for these individuals to calculate their tax based on total taxable income and then apportion the result based on the ratio of Minnesota source income to taxable income. Public Law 108-189 revised the Soldiers' and Sailors' Civil Relief Act of 1940 to require states to allow a subtraction for nonresident active service members of the military rather than apportioning tax. The Department of Revenue is complying with this change as required under federal law.

Effective for tax years beginning after December 31, 2004, except that the charitable contribution change is effective for contributions made in January, 2005.

**5 Additions to FTI for corporate franchise tax.** Requires "C" corporations to add to federal taxable income

- the new federal manufacturer's deduction;

- 80% of the difference between the I.R.C. § 179 expenses allowed under the code and the amount that would have been allowable under the 2003 Internal Revenue Code (similar to the modification made by individuals); and
- federal subsidies paid to employers who provide prescription drug coverage for their retirees, exempted federally under the Medicare Prescription Drug, Improvement and Modernization Act.

Effective for tax years beginning after December 31, 2004.

- 6 Subtraction from federal taxable income for corporate franchise tax.** Allows a subtraction from federal taxable income for one fifth of the amount of add-back for I.R.C. § 179 expenses required in section 5 above, in each of the five years succeeding the year of add-back.

Effective for tax years beginning after December 31, 2004.

- 7 Update to other references to the Internal Revenue Code in chapter 290.** Adopts federal changes to federal adjusted gross income used for computing individual alternative minimum tax and household income which is used to compute the dependent care and K-12 education credit; changes to the definitions of “dependent” and “qualified child” used for the individual refundable credits; changes to the federal earned income tax credit; and the changes to qualifications for electing “S” corporation status. The main changes to federal adjusted gross income are described in section 0.

The federal changes to “dependent child” and “qualified child” were designed to make the two terms synonymous. The main change in “dependent child” is that under the old dependency test the taxpayer must have provided more than half of the support of the child. Under the new test the child meets the test if the child does not provide more than half their own support (scholarships are disregarded). The three tie breakers where more than one taxpayer can claim a child are: 1) closeness of relationship; 2) if two parents can claim child, the tie breaker goes to the parent whom the child lived with longer; or 3) if the child lived with each parent the same amount of time during the year, the child is the qualifying child of the parent with the higher adjusted gross income.

For the federal earned income credit that Minnesota uses as a basis for the Working Family Credit, the new federal law provides that combat pay which is excluded from federal adjusted income and earned income for employment tax purposes, if elected by the taxpayer, is nevertheless earned income for purposes of calculating the federal earned income tax credit for tax years 2004 and 2005.

For “S” corporations the main change increased the maximum number of shareholders from 75 to 100 shareholders and treated families (parents, children, grandchildren, aunts, uncles, nieces, nephews, as opposed to just husband and wife) owning stock in one corporation as one shareholder. Effective for 2005 and thereafter.

The proposed Minnesota law would adopt the federal changes effective at the same time the federal changes were effective.

- 8 Technical change to additional tax on certain lump sum pension plan distribution.** Corrects an obsolete cite to a section of the Internal Revenue Code that has been removed



from the Code and made an uncodified provision of federal law.

Effective for tax years beginning after December 31, 1999.

- 9 **Technical change to additional tax on certain lump sum pension plan distribution.** Corrects an obsolete cite to a section of the Internal Revenue Code that has been removed from the Code and made an uncodified provision of federal law.

Effective for tax years beginning after December 31, 1999.

- 10 **Change in ratio nonresidents use to compute Minnesota tax.** Provides that the numerator of the ratio used by nonresidents, which is Minnesota assignable federal adjusted gross income, is modified for the portion of the additions for the manufacturing and I.R.C. § 179 expensing additions and subtractions that are assignable to Minnesota. The denominator is modified by the total amount of the modifications.

Effective for tax years beginning after December 31, 2004.

- 11 **Dependent care credit; combat pay included in apportionment for residents.** Provides that combat pay, which is excluded from federal adjusted income and earned income for employment tax purposes, if elected by the taxpayer, is nevertheless earned income assignable to Minnesota for purposes of apportioning the dependent care credit.
- 12 **Household income change for dependent care credit and education credit.** Provides that the new manufacturer's deduction and deductions for contributions to health savings accounts are not allowed as deductions in computing household income for the dependent care and K-12 education credits.

Effective for tax years beginning after December 31, 2003.

- 13 **Working family credit; combat pay included in apportionment for residents.** Provides that combat pay, which is excluded from federal adjusted income and earned income for employment tax purposes, if elected by the taxpayer, is nevertheless earned income assignable to Minnesota for purposes of apportioning the working family credit.
- 14 **Old standard deduction used in the computation of marriage penalty credit.** Provides that in calculating the marriage penalty credit (additional amount a married couple pays in Minnesota tax over what they would have paid as two single taxpayers which is attributable to the tax brackets) the old federal standard deduction rather than the new standard deduction is used in tax years 2005 to 2008, since Minnesota is not adopting the increased standard deduction in these years.

Effective for tax years beginning after December 31, 2004.

- 15 **Change to the individual alternative minimum tax.** Includes the new additions for I.R.C. § 179 expenses and the manufacturer's deduction and the new subtraction for I.R.C. § 179 expenses in the computation of Minnesota alternative minimum taxable income.

Effective for tax years beginning after December 31, 2004.

- 16 **Household income for property tax refund.** Makes parallel changes to the definition of household income for the property tax refund, as were noted in section 0.

Effective for property tax refunds based on household income for 2004 and thereafter.

- 17 **Update of references to Internal Revenue Code in the property tax refund chapter.** Adopts the federal changes that affect household income, which uses the definition of federal adjusted gross income as a starting point and the definition of a dependent, as

discussed in sections 0 and 0. The new federal exclusions and exemptions from federal adjusted income will still not be applicable to the computation of household income. Only new federal deductions from income that are not specifically mentioned in section 0 will lower household income from current law. Effective for property tax refunds based on property taxes payable on or after December 31, 2004, or rent paid after December 31, 2003.

## **Article 5: Sales and Use Taxes**

### **Overview**

14. Provides for an upfront payment of sales tax on long-term motor vehicles leases.
15. Prohibits or cancels state and legislative contracts under certain circumstances with vendors that do not register to collect the state sales tax.
16. Reinstates the extra tax on short-term motor vehicle leases.
17. Provides exemptions on construction materials for a number of specified projects.
18. Makes the exemption for ready-to-eat meat and seafood permanent.
19. Exempts cigarettes from the sales tax and replaces the tax with a wholesale tax in article 6.
20. Provides special local sales tax provisions for Mankato, Rochester, the Central Minnesota (St. Cloud area) cities, Albert Lea, Bemidji, Willmar, Winona, and Worthington.
21. Provides special lodging tax provisions for Hubbard County and the city of Proctor.
22. Makes several other minor and clarifying changes to sales tax provisions.

- 1 Contracts with foreign vendors.** Provides that the department of administration and the legislature must cancel a contract for goods or services with a vendor or bar a vendor from future contracts if the vendor is not registered to collect sales or use tax on its taxable sales in Minnesota. This section only applies to the executive and legislative branches of government and does not apply to the judicial branch contracts or Minnesota state colleges and university contracts. The commissioner of revenue periodically will provide a list of vendors who are subject to being debarred or having their contracts canceled. Provides that the cancellation and debarment provisions may be waived if the vendor is the sole source of goods or services, in the case of an emergency, or when it is in the best interests of the state.

Effective for contracts entered into after December 31, 2005.

- 2 Return required.** Allows persons who make purchases for personal use that are subject to the use tax but do not hold a sales tax permit, to file an annual return using their social security number. Currently individuals owing \$18,500 or more in use tax are required to get a business identification number and file under the standard use tax requirements.

Effective for returns filed after December 31, 2005.

- 3 **Sale and purchase.** Clarifies that tree, bush and stump removal is not taxable if it is part of a land clearing contract as defined in section 0.

Effective retroactive to October 28, 2002, but no refunds are allowed for contracts where the tax was collected and remitted.

- 4 **Retail sales.** Excludes leases of motor vehicles with a gross weight rate of 10,000 pounds or less from the provision that treats each lease payment as a separate retail sale. This exclusion does not apply to vehicle rentals of 28 days or less. The total amount of the sales tax on these leases will be due at the time that the lease is executed.

Effective for leases entered into after September 30, 2005.

- 5 **Other exempt meals.** Includes meals served to children 14 years of age or less in the definition of exempt meals if the food is purchased by a nonprofit child-care facility that primarily serves low-income families and the meals are prepared on-site.

Effective retroactively to sales made after December 31, 1997.

- 6 **Solar energy products.** Exempts all solar energy systems from the sales and use tax beginning August 1, 2005. Currently only photovoltaic systems, which convert solar power to electricity, are exempt under an existing provision for certain energy efficient products. The sunset on the exemption for photovoltaic systems is stricken in section 0.

- 7 **Sales tax on cigarettes.** Exempts the sale of cigarettes from the sales tax. Cigarettes will be subject to a new tax in article 6 that is imposed upon the sale of cigarettes by distributors to retailers and cigarette subjobbers. Effective for sales and purchases made after July 31, 2005.

- 8 **Materials consumed in industrial production.** Provides that for purposes of this exemption, industrial production does not include transportation, transmission or distribution of petroleum, liquefied gas, natural gas, steam, or water through pipes, lines, tanks or main. This exclusion does not apply to blending of petroleum or biodiesel fuel. This reverses the Minnesota Supreme Court ruling in *Great Lakes Gas Transmission, L.P. v. Commissioner*, 638N.W.2d 435 (Minn. 2002).

Effective for sales and purchases made after July 31, 2005.

- 9 **Capital equipment.** Provides that for this exemption, industrial production does not include transportation, transmission or distribution of petroleum, liquefied gas, natural gas, steam, or water through pipes, lines, tanks or mains would not qualify as capital equipment. This exclusion does not apply to machinery or equipment used to blend petroleum or biodiesel fuel. The change is consistent with the change in section 0.

Also clarifies that the sales tax exemption for capital equipment does not apply to telecommunications equipment, and does not apply to wire, cable, fiber, poles, or conduit for telecommunications. This reverses the Minnesota Supreme Court ruling in *U.S. Sprint Communications Co. Ltd. v. Commissioner*, 578N.W.2d 752 (Minn. 1998).

Effective for sales and purchases made after July 31, 2005.

- 10 **Telecommunications equipment.** Clarifies that the exemption for telecommunications equipment does not apply to machinery and equipment used to provide the services that are excluded from the definition of telecommunication services contained in section 297A.61, subdivision 24. Effective the day following final enactment.

- 11 **Land clearing.** Explicitly exempts tree, bush, stump and stump removal from the sales tax when the removal is for land clearing for site development. This codifies department interpretation under a revenue notice on the taxation of tree and stump removal that was in effect from 1984 to October 28, 2002. Effective retroactively to October 28, 2002, except that no refunds will be made if the tax was collected and remitted on contracts in effect after October 28, 2002.
- 12 **Regionwide public safety radio communication system.** Expands the current exemption for this equipment allowed for purchases in the 7 county metropolitan area before August 31, 2005, to include all purchases of the first and second phase of the system and the portion of the third phase of the system located in the State patrol Southeast district and in the counties of Benton, Sherburne, Stearns, and Wright.
- Effective for sales and purchases made after April 30, 2005 and thereafter.
- 13 **Nonprofit tickets and admissions.** Expands the sales tax exemption on tickets and admissions for arts events sponsored by nonprofits to include tickets and admissions to arts events held by a state university or a private non-profit college or university at their own facilities. This is the same as the exemption currently given to the University of Minnesota for arts events. Effective for events held on or after August 1, 2005, unless tickets and admissions for the event were sold before August 1, 2005.
- 14 **Hydroelectric generating facility (construction).** Exempts materials and supplies used or consumed in the construction of a hydroelectric generating facility that utilizes two turbine generators at a dam site existing on March 31, 1994, and is located on land within 1500 feet of a 13.8 kilovolt distribution circuit, and is eligible to receive a renewable energy production incentive payment. This section is effective for sales made after December 31, 2004, and before December 31, 2007.
- 15 **Waste recovery facility (construction).** Exempts materials and supplies used or consumed in the construction of a waste-to-energy resource recovery facility that uses biomass or mixed municipal solid waste.
- Effective for sales and purchases after July 31, 2005.
- 16 **Municipal utilities.** Provides a sales tax exemption for the construction inputs of electrical generation and related facilities pursuant to a joint powers agreement to meet the biomass energy mandate if the owners are a municipal utilities or a joint venture of municipal utilities.
- Effective for sales and purchases made after January 1, 2005.
- 17 **Chatfield Wastewater Treatment Facility.** Provides an exemption from sales and use tax for materials and supplies used in and equipment incorporated into the construction, improvement, or expansion of a wastewater treatment facility owned by the city of Chatfield.
- Effective for sales and purchases made on or after July 31, 2005.
- 18 **Tax collected (refund).** Requires that taxes be paid on the items exempt under section 0 and a refund applied for.
- 19 **Refund; eligible persons.** Provides that the applicant for the refund of taxes paid on the items exempt under section 0 must be the municipal utility or a joint venture of municipal electric utilities.
- 20 **Application for refund.** Requires that contractors, subcontractors and builders that pay the tax on items exempt under section 0 must furnish the utility with the information needed to make the application for refund.

21 **Motor vehicle leases.** Provides instructions for calculating the motor vehicle lease price when an accelerated sales tax is due on a motor vehicle lease.

**Subd. 1. Motor vehicle lease price; payment.** Bases the tax on the total amount of the lease minus manufacturer's rebates and trade-in allowances, and also excludes title and registration fees, and insurance which are currently excluded from the tax when paid upfront at the beginning of a lease. Provides for taxation of charges not known when the lease is executed and for lease renewals.

The subdivision also provides for a refund when a lease is terminated within 90 days or when the vehicle is returned to the manufacturer under Minnesota's "Lemon Law." It also allows for a credit for a portion of the tax paid on a lease if it is terminated early, provided that the lessee either enters into a new lease or purchases a motor vehicle within 30 days of termination of the lease.

**Subd. 2. Lease of motor vehicle.** Provides that when a leased motor vehicle that is subject to the accelerated sales tax, is brought into the state and registered in Minnesota in mid-lease, the total tax on the remaining lease payments is due at the time of registration. A credit is provided for taxes paid to another state if the other state had previously taxed the lease payments.

Effective for leases entered into after September 30, 2005, and for vehicles registered in Minnesota after September 30, 2005, if the lease originated in another state.

22 **Enforcement, collection, and administration (local sales taxes).** Amends Minn. Stat. § 297A.99, subd. 9, to provide that if the commissioner is required to make refunds of local sales taxes after a tax has terminated and the amount of the refunds exceeds the amount of taxes held by the commissioner for the local jurisdiction, the commissioner may bill the local government for the difference. Effective for all refunds made on or after the day following final enactment.

23 **Notification of use tax.** Requires political subdivisions that impose a local sales and use tax to inform residents of the duty to pay the local use tax via their web page and annually through billings for utility services.

Effective January 1, 2006.

24 **Limitations on use (Mankato local sales tax).** Limits the amount that the city may spend for operation, maintenance, and improvements to \$1.5 million per year once bond obligations are paid. The authority to spend the sales tax revenue on anything but bonds expires April 1, 2007 unless approved by the voters at a special or general election held by December 31, 2006.

25 **Expiration of taxing and expenditure authorization (Mankato).** Extends the Mankato local sales tax to December 31, 2015, unless the bonds backed by the local sales tax are not defeased, in which case the tax is extended to December 31, 2018. If the tax is extended, revenues collected in the extended period may only be used to defease remaining bonds.

26 **St. Paul sales tax.** Allows the city to use up to \$3.5 million of the local sales tax revenue annually to pay for bonds on capital projects of the city. This authority is limited to the years 2006 through 2009.

27 **St. Paul sales tax (bonds).** Allows the city to issue bonds for capital projects related to projects allowed to be funded by the sales tax not used for the hockey arena provided that 20 percent of the tax revenues, together with other pledged revenue sources, is expected to exceed the annual debt service of the bonds.

28       **Use of revenues (Rochester local sales tax).** Allows the city of Rochester to extend its current local sales tax, authorized in 1998, to fund up to \$40 million of transportation projects and education related facilities. The revenues from the tax must be used for the purposes listed in the original law and for regional highway improvements undertaken with Olmsted county.

Extension of the tax requires approval under section 30.

Effective upon a resolution by the city council and filing of the resolution with the secretary of state.

29       **Rochester local sales tax bonding authority.** Allows the city of Rochester and Olmsted county to bond for up to an additional \$40 million for the uses listed in the previous section. The city must hold an election to issue their portion of the bonds although the election may be held with the election approving extension of the tax.

30       **Rochester local sales tax; termination.** States that the tax terminates at the later of December 31, 2009, or when revenues for the first \$71.5 million of expenditures are raised unless an extension is approved by the voters at a general election in 2005 or the general election in 2006. If the referendum is successful, the tax expires when the additional \$40 million in revenue is raised.

31       **Solar energy exemption.** Strikes the sunset on the subdivision that provides a sales tax exemption for solar energy systems. Section 0 puts this exemption in statute; the sunset put in place in 2001 session laws is stricken here to clarify intent to make this exemption permanent.

32       **Poultry litter.** Extends a sales tax exemption for materials and supplies used in the construction, improvement or expansion of poultry litter and other biomass generation facilities until July 1, 2007.

33       **Repealer–rental motor vehicle tax.** Re-imposes the rental motor vehicle tax that is currently scheduled to expire on December 31, 2005.

Effective the day following final enactment.

34       **Effective date: ready-to-eat meat and seafood.** Amends an effective date to make permanent the temporary exemption for ready-to-eat meats and seafood. Effective the day after final enactment.

35       **St. Cloud area cities sales tax.** Modifies the exiting Central Minnesota cities local sales tax provision to allow the city of Waite Park to impose a local sales tax under it, based on a referendum held November 4, 2003.

36       **St. Cloud area cities sales tax.** Extends the expiration date for taxes imposed under this law until March 31 2007; unless a city chooses to impose a tax under the new authority provided in section 0.

37       **St. Cloud area cities; sales and use tax authorized.** Allows certain cities in the St. Cloud area to impose a sales tax, based on a referendum. List authorized uses and the expiration date for the tax in each city.

**Subd. 1. Tax authorized.** Authorizes imposition of the one-half percent tax in the following cities based on the following successful referenda:

- St. Cloud and St. Joseph, based on elections in 2004;

- St. Augusta, Sartell, Sauk Rapids, and Waite Park at a referendum at the next general election.

**Subd. 2. Use of revenues.** Lists the specific capital projects to be funded from the tax in the city of St. Cloud; the main projects are a regional library and the regional airport. Specifies that the revenues from the taxes imposed in Waite Park, Sartell, and St. Augusta must be used to fund the projects approved in the referenda and the portion used to fund a regional airport and regional library is determined under their joint powers agreement.

**Subd. 3. St. Cloud bonding authority.** Allows St. Cloud to issue up to \$30 million in bonds for its regional public library without further approval. Allows the other cities to issue bonds for their authorized projects provided that the ballot question contained information on the issuance of bonds.

**Subd. 4. Termination of the tax.** The tax in the cities terminate at the earlier of (1) the amount collected from the tax is sufficient to pay the library bonds, or (2) December 31, 2018.

Effective in each city upon approval of the city and filing with the secretary of state, but contracts for spending and issuance of bonds may not occur until January 1, 2006.

**38 Albert Lea.** Authorizes the city of Albert Lea to impose a sales and use tax of one half of one percent if approved by the city voters at the next general election. The tax revenues must be used to pay for lake improvement projects. The tax terminates 10 years after imposition or when the revenues meet or exceed the sum of \$15,000,000, whichever is earlier. This was amended in the corrections bill to allow the referendum at a special election in 2005 (Minn. Laws 2005, 1<sup>st</sup> Special Session, Chapter 7, section 41.

**39 City of Bemidji; local sales tax.** Allows the city of Bemidji to impose a local sales tax of one-half of one percent, based on voter approval at the 2002 general election. The revenues may be used to pay for capital costs related to parks and trails included in the city's parks, open space and trails system plan that was adopted in 2001.

Effective upon approval of the city and filing with the secretary of state.

**40 Hubbard County.** Authorizes Hubbard County to impose a local lodging tax in townships in the county, subject to the notice and reverse referendum requirements of the general lodging tax provisions

**41 Proctor.** Authorizes the city of Proctor to use up to ten percent of the city lodging tax receipts for preservation of the Caboose, the Baldwin Locomotive, and the F 101F aircraft.

**42 Willmar.** Authorizes the City of Willmar to impose a sales and use tax of one half of one percent. The voters approved this tax at the November 2004 general election. Revenues from the tax may be used to pay for the completion and expansion of the airport/industrial park, hiking and bike trails, connection of the Blue Line and civic center buildings and purchase of a portion of the Willmar Regional Treatment Center campus located west of Trunk Highway 71. The city is authorized to issue general obligation bonds in an amount not to exceed \$8,000,000 to pay for these projects. This debt would not be subject to the net debt limits. The tax will expire at the later of seven years after it is imposed or when the city council determines that sufficient revenues have been raised to pay the cost of the

project that will be completed under this bill.

- 43 Winona.** Authorizes the city of Winona to impose a sales tax of one percent, and a motor vehicle excise tax of \$20 per vehicle sold within the city boundaries. The revenues will be used to pay for costs of transportation projects or improvements. The city voters must approve the tax. The tax expires the earlier of 15 years or when sufficient funds have been raised to retire the bonds.
- 44 Worthington sales tax.** Authorizes the city of Worthington to impose a sales and use tax at a rate of up to one half of one percent. The sales tax is subject to approval by the voters at the next general election. The city is also authorized to impose an excise tax of up to \$20 per motor vehicle purchased from a person engaged in the business of selling motor vehicles at retail within the city. The revenues from the taxes are required to be used to pay for the cost of a multipurpose city facility that includes a community center complex, and to renovate the Memorial Auditorium. If the voters approve imposition of the tax, then the city is authorized to issue up to \$6,000,000 in bonds to pay for the cost of the improvements that may be financed by the tax proceeds. An additional referendum on the issuance of the bonds is not required. This bond issuance is exempt from the requirements that the levy for debt must be levied against the referendum market value of property in the city. The debt is not included in the municipal debt limitation and any levy of taxes to pay the debt service is not subject to any levy limitation. The tax will expire at the earlier of ten years or the time when the city council determines that the revenue from the taxes is sufficient to pay for the project financed by this tax.

## **Article 6: Special Taxes**

### **Overview**

1. Replaces the retail sales tax on cigarettes with a tax imposed at the wholesale level based on the average retail price of cigarettes
2. Replaces the additional retail sales tax on liquor, wine, and beer with a gross receipts tax
3. Reduces the insurance premiums tax on life insurance to 1.5 percent (phased-down over four years, beginning in 2006)
4. Reverses a Minnesota Supreme Court decision that held stop loss health insurance coverage purchased in connection with self-insured employee health plans was exempt from the insurance premiums tax
5. Imposes restrictions on “delivery sales” of tobacco products to ensure that purchasers and recipients of the products are of legal age and that states excise taxes are paid. Imposes civil and criminal penalties for violations and authorizes the attorney general to enforce the law.
6. Makes various changes recommended by the Department of Revenue.

- 1 Deed tax; consideration.** Clarifies that in determining the amount of the deed tax, the consideration for the conveyance of property is assumed to equal the fair market value when the consideration includes payment of something other than money or the promise of money. This provision does not apply to gifts. Clarifies that the nominal tax of \$1.65 applies to these conveyances.



- 2      **Designated transfer; definition.** Provides a definition of “designated transfer” for purposes of the deed tax. These are transfers where legal ownership changes, but the underlying beneficial ownership is unchanged. Lists the various specific transfers that qualify as designated transfers. The \$1.65 minimum tax applies to these transfers.
- 3      **Reorganization; definition.** Updates the Internal Revenue Code reference used in the definition of “reorganization” for purposes of the deed tax.
- 4      **Deed tax; corporation conversions.** Provides that when a business (corporation, limited liability company, partnership, or limited partnership) converts to a different type of entity, the deed tax does not apply to the conveyance of property from the “old” entity to the “new” entity, but that the tax applies if a more substantive transfer occurs within six months as a result of the conversion. This language prevents potential abuse of the new minimum tax rules in situations where subsequent transfers of ownership interest in entities that paid only the minimum deed tax, result in a change in underlying beneficial ownership.
- 5      **Blood and blood components.** Defines “blood components” for purposes of the health care provider tax. Clarifies that only blood components, not blood derivatives, are exempt from the tax on legend drugs. Blood derivatives are derived from blood, plasma, or serum through a chemical manufacturing process. This change is consistent with Minn. Stat. § 151.44(a)(9) which excludes blood and blood components, not blood derivatives, from the definition of wholesale drug distribution.
- 6      **MinnesotaCare tax; wholesale drug distributors; blood.** Clarifies that only blood components, not blood derivatives, are exempt from the wholesale drug distributor tax.

Effective for gross revenues received after December 31, 2004.

- 7      **MinnesotaCare tax; use tax on prescription drugs.** Exempts purchase of prescription drugs for personal consumption from the MinnesotaCare use tax. The use tax applies to purchases made from sellers who do not collect the MinnesotaCare tax, typically because they are outside of Minnesota’s jurisdiction to tax.
- 8      **MinnesotaCare tax; blood and blood components; FEHBA; Tricare.**

Clarifies that only blood components, as defined in section 0, and not blood derivatives, are exempt from the tax on legend drugs.

Clarifies that enrollee deductibles, coinsurance, and co-payments under the federal employees health benefits act (FEHBA) are subject to MinnesotaCare tax (payments received under FEHBA are exempt.)

Exempts payments received under the federal Tricare program from the MinnesotaCare tax. Tricare is a medical program for military active service members, retirees and their dependents. Clarifies that enrollee deductibles, coinsurance, and co-payments under Tricare are subject to MinnesotaCare tax

- 9      **Liquor gross receipts tax.** Replaces the additional 2.5 percent sales tax on alcoholic beverages (which is scheduled to end on December 31, 2005) with a 2.5 percent gross receipts tax on retail liquor sales.

**Subd. 1. Definitions.** Defines terms for purposes of the gross receipts tax: commissioner, gross receipts, liquor, liquor retailer, and retail sale.

**Subd. 2. Gross receipts tax imposed.** Imposes on each retailer a 2.5 percent tax

on gross revenues from the sales in Minnesota of alcoholic beverage.

**Subd. 3. Use tax; credit for taxes paid.** Provides for a complementary use tax and a credit for taxes paid to another jurisdiction.

**Subd. 4. Tax collection required.** Requires retailers with nexus in Minnesota, who aren't subject to the gross receipts tax, to collect the use tax.

**Subd. 5. Taxes paid to another jurisdiction; credit.** Provides that a liquor retailer that has paid a similar tax to another jurisdiction qualifies for a credit for the tax paid to another jurisdiction.

**Subd. 6. Exemptions.** Provides that all the exemptions applicable to the sales and use taxes are applicable to the taxes imposed under this section.

**Subd. 7. Sourcing of sales.** Provides that all of the sourcing provisions under the sales and use taxes apply to the taxes imposed by this section.

**Subd. 8. Payment; reporting.** Provides that the reporting must be made on a form prescribed by the commissioner and that the tax must be filed and paid using the filing cycle and due dates provides for the taxes imposed under chapter 297A.

**Subd. 9. Administration.** Provides that the audit, assessment, refund, penalty, interest, enforcement, collection remedies, appeal and administrative provisions of chapter 270 and 289A that are applicable to the sales and use taxes apply to the taxes imposed under this section.

**Subd. 10. Interest on overpayments.** Provides that interest must be paid on an overpayment or credited to the taxpayer from the date of the tax payment until the refund is paid or credited; and the date of payment is the due date of the return or the date of actual payment of the tax, whichever is later.

**Subd. 11. Deposit of revenues.** Requires the commissioner to deposit revenues from the tax, including penalties and interest, in the general fund.

Effective for sales and purchases on or after January 1, 2006.

- 10 **Aviation fuel tax; ambulance services.** Exempts fuel purchases by air ambulance services from the aviation fuel tax. This parallels similar exemptions from gasoline and special fuel tax for licensed ambulance services.
- 11 **Cigarette tax; out of state retailer.** Defines "out-of-state retailer" as a person outside Minnesota who sells cigarettes or tobacco products to consumers in Minnesota.
- 12 **Registration; out of state tobacco retailer.** Requires out-of-state retailers of cigarettes or tobacco products to register with the Department of Revenue.
- 13 **Reporting requirements; out of state tobacco retailers.** Requires that by the 18<sup>th</sup> of each month, an out-of-state retailer must file with the Department of Revenue a report or copy of an invoice, each showing the names and addresses of the purchasers, the brands, and quantities for sales and shipments made in the previous calendar month. Compliance with the federal Jenkins Act reporting requirements satisfies this requirement.
- 14 **Academic health center and medical education and research costs (MERC) account.**

Credits \$22.22 million in fiscal year 2006 and \$22.25 million in fiscal year 2007 and following years to the academic health center, and \$8.553 million in fiscal year 2006 and \$8.55 million in fiscal year 2007 and following years to the MERC account.

- 15 **Cigarette sales tax.** Replaces the sales tax on cigarettes with a wholesale tax on the sale of cigarettes from distributors to retailers and cigarette subjobbers.

**Subd. 1. Imposition.** Imposes the tax at the rate of 6.5 percent of the weighted average retail price that must be determined annually by the commissioner of revenue by surveying cigarette retailers statewide. The initial rate is set at 25.5 cents per pack of 20 cigarettes.

**Subd. 2. Payment.** Provides that the tax payments must be made on the same dates prescribed for the cigarette excise taxes.

**Subd. 3. Return.** Provides that the tax return must be filed on the same dates prescribed for the cigarette excise tax returns.

**Subd. 4. Form of return.** Provides that the tax return must contain the information and be in the form prescribed by the commissioner.

**Subd. 5. Tax as debt.** Requires the distributor to collect the tax and specifies it is a debt of the retailer or subjobber to the distributor recoverable at law in the same manner as other debts and that retailers and subjobbers must pay the tax to the distributor before the 12th day of the month following the month in which the cigarettes were purchased from the distributor.

**Subd. 6. Sales tax stamp.** Provides that payment of the cigarette tax and of the tax imposed by this section is evidenced by a dual purpose single stamp affixed to each package.

**Subd. 7. Administration.** Provides that the administrative provisions of chapter 297F apply to this tax.

**Subd. 8. Deposit of revenues.** Provides that the tax and penalties and interest are deposited in the general fund.

Effective for all sales made on or after August 1, 2005.

- 16 **Direct business.** Defines direct business under the insurance premiums tax to include premiums for stop loss coverage. This overturns the Minnesota Supreme Court decision in BCBSM, Inc. vs. Commissioner of Revenue, 663 N.W.2d 531 (Minn. 2003).

Effective for insurance premiums received after December 31, 2005.

- 17 **Reinsurance.** Modifies the definition of “reinsurance” enacted in Laws 2005, chapter 151, to be consistent with insurance tax changes in this article.

- 18 **Mutual property and casualty insurance.** Changes reference to life insurance premiums tax to conform to the separate (lower) tax imposed on life insurance under section 0.

Effective January 1, 2006.

- 19 **Life insurance.** Phases down the premiums tax rate for life insurance to 1.5 percent in

2009. Under present law, a two percent rate applies. The rate would decrease by one-eighth of one percentage point per year, beginning in 2006. Effective for premiums received after December 31, 2005.

### **Tobacco delivery sales.**

#### **Subd. 1. Definitions.** Defines terms:

- **Consumer** is an individual purchasing tobacco products for personal consumption and not for resale.
- **Delivery sale** of a tobacco product means purchaser submits the order by telephone, mail, or the Internet and the products are delivered by mail or a delivery service. Whether the seller is located within or outside of the state is irrelevant. Sales are treated as consumer sales, unless the purchaser is licensed as a distributor or retailer of tobacco products.
- **Delivery service** means a person in the business of delivering letters and packages. It specifically includes the US Mail.
- **Distributor** is a person (in and out of state), other than a retailer, manufacturer or common or contract carrier, who sells or distributes tobacco products in the state.
- **Retailers** are sellers (in and out of state) of tobacco products to consumers in this state.
- **Tobacco products** means cigarettes, chewing tobacco, and snuff.

**Subd. 2. Requirements for accepting orders.** Requires sellers of tobacco products making a delivery sales to collect the following information on the first order from a consumer:

- A copy of a government issued document with the person's name, address, photograph, and birth date;
- The original of a signed statement by the purchaser that the person is of legal age, has chosen to receive mailings from the seller, and understands that it is a violation of law to provide false information or to purchase tobacco products for resale or delivery to underage individuals;
- The email address of the purchaser, if the order resulted from an Internet advertisement.

For orders resulting from Internet advertisements, payment must be made by credit card or check before shipping the product (e.g., no use of COD or e-payment forms, other than credit card). Before shipping products, the seller must verify the information against a commercially available database, created solely from government records on age and identity.

**Subd. 3. Requirements for shipping a delivery sale.** Imposes requirements on sellers making delivery sales of tobacco products, and criminal penalties for violations:

- It must mark the outside of the package to show the contents are tobacco products, require the signature of an adult, and the name of the seller.
- It must use a delivery service that requires (1) an adult to sign for the deliver and (2) the person signing for the delivery must show government photo identification indicating the person lives at the address in order to receive the package.
- The delivery instructions must clearly indicate the special requirements.
- The commissioner may issue cease and desist orders to persons who violate the section. The subject of the order may request a hearing under the contested case procedures under the APA. Criminal penalties apply only for violations of cease and desist orders.
- Violations within two years after the commissioner issued a cease and desist order for a violation is a misdemeanor.
- Three or more violations of a cease and desist order within two years after the order was issued is a gross misdemeanor.

**Subd. 4. Common carriers.** Provides common carriers and their officers and employees are subject to liability under the section, if they act within the scope of the business of a common carrier.

**Subd. 5. Registration requirement.** Requires a seller to register with the Department of Revenue before making delivery sales.

**Subd. 6. Collection of taxes.** Requires a distributor to ensure that all state excise taxes that apply to the tobacco products have been collected and paid to the state and tax stamps applied. Failure to do so is subject to a penalty equal to 50 percent of the tax.

**Subd. 7. Application of state laws.** Provides that all state laws that apply to in-state tobacco retailers also apply to Internet and mail-order sellers that sell tobacco products in the state.

**Subd. 8. Forfeiture.** Provides tobacco products sold in violation of the section are contraband and subject to forfeiture under the rules for contraband under the cigarette and tobacco products excise taxes.

**Subd. 9. Civil penalties.** Imposes civil penalties on tobacco retailers and distributors who violate the section or administrative promulgated under it:

- A fine of up to \$1,000 for the first violation and

- For second or subsequent violations, a fine of up to \$5,000.

A person who submits ordering information under another person's name is subject to a fine of up to \$1,000.

**Subd. 10. Enforcement.** Authorizes the attorney general to bring actions and seek injunctive relief to enforce the section. In addition, violations are treated as violations of the Unlawful Trade Practices Act. This will create a private right of action for someone injured by actions in violation of the act.

Effective on August 1, 2005, except the criminal and civil penalties are effective for actions occurring on or after August 1, 2005.

**21 Floor stocks tax.** Imposes a floor stocks cigarette tax on all persons selling cigarettes as distributors, retailers, subjobbers, vendors, manufacturers, or manufacturer's representatives who have stamped cigarettes and unaffixed stamps in their possession at 12:01 am on August 1, 2005. The tax is imposed at the rate of 25.5 cents per pack of 20 cigarettes. The floor stock tax payments are due by September 7, 2005.

Effective August 1, 2005.

## Article 7: Economic Development

### Overview

This article makes a number of changes in the JOBZ and Bioscience zone rules. These changes generally clarify and limit when and what types of businesses qualify for zone tax incentives. The definition of qualified business is narrowed to exclude public utilities. In addition, the rules for qualifying relocations are tightened, limiting the tax benefits to those attributable to increases in activity in the zone over the previous level of activity elsewhere in Minnesota. The State Auditor is given enforcement and audit authority over JOBZ projects.

JOBZ sales tax exemptions are extended to two projects that use equipment outside of the zone.

The JOBZ aid program for cities and counties with large shares (more than 3 percent) of their property tax bases in JOBZ is repealed. The local government aid (LGA) formula implicitly adjusts for the exemption, insofar as cities are concerned.

The article also changes the business subsidy disclosure rules and creates a private right of action (for residents of the governmental unit and business owners) to enforce business subsidy agreements.

The article authorizes \$1.5 million for border city aid.

The article also authorizes issuance of \$18 million in state bonds for the Rural Finance Authority's beginning farmer program.

**1 Residence; business subsidy law.** Defines "residence" under the business subsidy law as an individual's permanent home from which the person does not intend to move. This is essentially a "domicile" test of residence.

**2 Wage and job goals.** Modifies the wage and job goals requirements for business subsidy

agreements, to require that the wage and job goals result in job creation or retention by the recipient of the subsidy within the jurisdiction of the state or local government that grants the subsidy.

Effective for subsidy agreements entered into on or after August 1, 2005.

- 3 **Notice and public hearing.** Requires the notice of any public meeting about a business subsidy agreement to include notice that a person with residence in or the owner of taxable property in the granting jurisdiction may file a written complaint with the grantor if the grantor fails to comply with requirements of the business subsidy law. No action may be filed against the grantor for failure to comply unless a written complaint is filed.
- 4 **Reports.** Require the Commissioner of Employment and Economic Development to post the business subsidy reports submitted by local and state agencies on the department website by October 1 of the year in which they were submitted.
- 5 **Enforcement.** Allows a resident of or a business owner in a jurisdiction that grants business subsidies to file a civil action for equitable relief if the grantor does not comply with the business subsidy law. The action must be filed within 180 days after a business subsidy agreement is approved. Costs and attorney fees may be awarded to the prevailing party.

Effective for business subsidy agreements entered into on or after August 1, 2005.

- 6 **JOBZ property exempt from property taxation.** Requires property to be occupied by a qualified business with a signed business subsidy agreement (and relocation agreement if required) by July 1 of the assessment year to qualify for exemption. Present law simply requires occupancy on July 1<sup>st</sup> by a qualified business.

This section also repeals the proviso limiting the property tax exemption for agricultural processing zones in pre-existing TIF districts enacted in the 2005 regular session. Since the end of the regular session, the affected business in this zone paid off the TIF debt, making the limitation on the exemption unnecessary.

Effective beginning for taxes payable in 2006.

- 7 **Bioscience zone refunds of interest overpayments.** Provides that interest on sales and use tax refunds under the bioscience zone law is computed from 90 days after the refund claim is filed. Effective for refund claims filed on or after July 1, 2005.

Present law applies the general sales and use tax refund rules to these refunds: (1) if a refund claim includes a detailed schedule of covered tax periods, interest is paid from the date of payment to the date the refund is paid; or (2) if a detailed schedule is not included, interest is computed from the date the claim was filed.

- 8 **JOBZ; sales tax exemption.** Makes three changes in the JOBZ sales tax exemption. It:
- Provides that aerial camera packages used in the aircraft used for aerial surveying qualify as “primarily used or consumed” in a JOBZ *if* (1) the aircraft is based, maintained, and dispatched in a JOBZ, and (2) images taken in the air are processed in the JOBZ.
  - Exempts equipment used to improve real property in the zone, if the equipment is used by a qualified business.

- Allows a \$200,000 sales tax exemption to an electrical cooperative in Meeker County for materials and equipment used outside of the zone. The exemption will be administered as a refund.

**9 Bioscience zone business exemptions from general sales and use taxes.** Exempts equipment used to improve real property in a bioscience zone if the improvement will be used by a qualified business.

Effective for sales after December 31, 2003.

**10 Nine-member EDA boards.** Authorizes counties to use a nine-member board for an economic development authority. At least two members must be county commissioners. Board members serve for six-year terms. Present law authorizes three, five, and seven member boards.

**11 Additional border city zone allocations.** Allocates \$1.5 million for border city enterprise zone and border city development zone tax reductions. This allocation is divided equally between the two programs, but the cities can reallocate the amounts between the two programs. The allocation is divided among the qualifying border cities on a per capita basis. The five cities that qualify are Moorhead, Dilworth, East Grand Forks, Breckenridge, and Ortonville.

**12 Qualified business in a JOBZ.** Prohibits a public utility from being a qualified business under JOBZ. This includes a gas, electric, or telephone utility with 50 or more retail customers.

**13 Definition of relocation payroll percentage.** Defines “relocation payroll percentage” as a fraction representing (1) the zone payroll of the business for the tax year less the payroll from relocated operations in the last full year of operations before relocation (*the numerator*), in relation to (2) zone payroll of the business for the tax year (*the denominator*). States that the relocation payroll percentage of a business that is not relocating is 100 percent. Effective the day following final enactment; applies to qualified businesses with business subsidy agreements fully executed after August 31, 2005.

**14 JOBZ individual income tax exemption.** Allows estates and trusts to qualify for the JOBZ income tax exemptions that now apply only to “individuals.” The exemption for rents is limited to properties rented to qualified businesses. This will eliminate the possibility of providing an exemption for housing—e.g., an apartment building. Business income must be apportioned using the relocation percentage.

Effective for tax years beginning after December 31, 2003, but the requirement to apportion income using the relocation payroll percentage is effective the day following final enactment (and apply to qualified businesses with business subsidy agreements fully executed after June 30, 2005).

**15 JOBZ corporate franchise tax exemption.** Requires apportionment of exemptions from the corporate franchise tax and the corporate alternative minimum tax by the relocation payroll percentage.

Effective the day following final enactment; applies only to qualified businesses with business subsidy agreements fully executed after June 30, 2005.

**16 Repayment obligation.** Clarifies that “commissioner” refers to the commissioner of employment and economic development.

**17 City of Ramsey, TIF.** Authorizes the city of Ramsey to create a housing tax increment financing district for the development of housing. This district could include parcels under



the green acres deferred assessment program. Under general law, these parcels may only be included in economic development districts for certain manufacturing and warehousing projects and qualified housing districts.

**18 Rural Finance Authority bond authorization.** Authorizes the issuance and sale of up to \$18 million of bonds to be used by the Rural Finance Authority (RFA) to purchase participation interests or to make direct loans under the beginning farmer program. The costs of the program, including repayment of the bonds, is to be paid by RFA.

**19 JOBZ expenditure limits and audits.** Requires the Commissioners of Revenue and Employment and Economic Development to estimate the total amount of tax expenditures projected to have been obligated for all JOBZ projects that have been approved before June 1, 2005. The estimate must be completed by September 1, 2005. This section further provides that if the Revenue Commissioner determines that the estimated amount of tax expenditures for fiscal years 2005-2007 exceeds \$13,780,000, the Commissioner of Revenue must inform the chairs of the House and Senate Tax Committees. The section also directs the State Auditor to annually audit the creation and operation of all JOBZ zones and business subsidy agreements.

**20 Repealer.** Repeals

- Minn. Stat. § 272.02, subd. 65: the definition of Bioscience zone property in the property tax code. Effective beginning for taxes payable in 2006.
- Minn. Stat. § 477A.08: local government JOBZ aid. Effective beginning for aid payable in 2005.

## Article 8: Tax Shelters

### Overview

This article makes three types of changes in the administration and enforcement provisions of the corporate franchise and individual income taxes:

1. Various existing penalties are increased and new penalties are imposed on individuals and businesses that engaged in tax shelter transactions, as defined under federal law and by the Internal Revenue Service (I.R.S.). These penalties are, in some cases, effective for past transactions (entered into after December 31, 2001), if the required disclosure is not filed by October 15, 2005.
2. The statute of limitations that applies to the commissioner's authority to recompute tax and refund amounts for taxpayers who have entered into "reportable [tax shelter] transactions" as defined under federal law is increased from 3½ years to 6 years or for "listed transactions" until the required disclosures are filed with the commissioner, if that is longer than 6 years.
3. A Voluntary Compliance Initiative (VCI) is established. This program will allow individuals and corporations that entered defined tax shelter transactions and arrangements for tax years through 2004 to pay the tax and avoid imposition of all or some penalties. Participants can elect to participate without right of appeal, pay all taxes due, and avoid any penalties or criminal liability for engaging in a tax shelter. As an alternative, taxpayers can elect to participate in the VCI with right of appeal and contest the liability for the tax. If the state prevails, however, they will be subject to the 20 percent substantial understatement penalty. If the taxpayer prevails, the state will refund the VCI payment made with interest.

**1 Equitable actions.** Authorizes the commissioner of revenue to seek injunctions of actions by tax shelter promoters, tax preparers, or taxpayers who violate a list of penalties related to tax shelters.

**2 Special rules for tax shelters.**

**Subd. 1. Scope.** Limits application of the section to tax shelters that:

- Are organized in Minnesota;
- Do business in Minnesota;
- Derive income from sources in Minnesota; or
- Have one or more investors who are Minnesota taxpayers.

**Subd. 2. Definitions.** Defines terms by reference to the definitions under the

Internal Revenue Code and regulations governing tax shelters.

**Subd. 3. Registration.** Requires a tax shelter organizer who is required to register with the Internal Revenue Service (I.R.S.) to register with and provide the same information to the commissioner of revenue. The tax shelter organizer must register by the date the shelter is offered for sale to Minnesota taxpayers. For existing tax shelters that are listed transactions by the I.R.S., the organizer must register with the commissioner within the latest of (1) 60 days after entering into the transaction, (2) 60 days after becoming a listed transaction, or (3) October 15, 2005.

**Subd. 4. Registration number.** Requires promoters and organizers with federal tax shelter registration numbers to file the number with the commissioner of revenue and to furnish the number to each investor. Taxpayers must include the shelter number of the tax return.

**Subd. 5. Reportable transaction.** Requires taxpayers to file copies of their federal disclosure statements for reportable transactions (generally done using I.R.S. Form 8886) with the commissioner of revenue. Corporations that are part of a unitary group must make the disclosure, if any member of the unitary group is required to do so under federal law. Disclosure applies to pre-existing transactions entered into after December 31, 2001. For transactions in which the taxpayer participated for tax year 2005 or earlier, disclosure must be made by 60 days after the due date of the first return that is required after enactment. For new transactions (made in tax year 2006 or later), disclosure must be made when it is required for federal purposes. Disclosure is not required, if the taxpayer files an amended return that reversed the tax treatment.

**Subd. 6. Investor lists.** Requires organizers and sellers of tax shelters that are reportable transactions under federal law to file with the commissioner the same investor lists that are required under federal law. This applies to pre-existing listed transactions, if they were entered into after December 31, 2001. The lists must be filed by the later of 60 days after the transaction was listed by the I.R.S., 60 days after the transaction was entered, or October 15, 2005, whichever is the latest.

**3 Extension of statute of limitations.** Extends the statute of limitations from 3½ years to 6 years for tax attributable to reportable transactions. For listed transactions, this limit is extended until one year after either the taxpayer or the material advisor files the necessary information with the commissioner of revenue. Only deficiencies attributable to the reportable transaction may be assessed under the authority to extend the statute of limitation.

**4 Substantial understatement of liability penalty.** Redefines the threshold tax amount that triggers a substantial understatement of liability penalty for corporations. The test under present law is that liability must be understated by the greater of (1) 10 percent or (2) \$10,000. Under this section the penalty threshold becomes the *lesser* of (1) 10 percent (but at least \$10,000) or (2) \$10 million. Thus, this will trigger a penalty, if the tax shelter reduced a corporation's tax by less than 10 percent, but by more than \$10 million.

Under present law, the penalty does not apply if the tax treatment was adequately disclosed on the return. This exception is modified to also require a "reasonable basis" for the treatment. Present law also has exception if there is "substantial authority for the treatment." Under the section, this exception will not apply to listed transactions.

Corporations are deemed not to have a reasonable basis for multiparty financing transactions if the treatment does not clearly reflect income within the meaning of federal law.

- 5 **Penalty for promoting abusive tax shelters.** Increases the penalty for promoting abusive tax shelters from 20 percent of the gross income derived from the activity to 50 percent, if it involves a statement that a material advisor has reason to know is false as to a material matter.
- 6 **Penalty for aiding and abetting understating of tax liability.** Imposes a new penalty on a person who is involved in preparing tax shelter returns, affidavits, documents, and so forth and knows or has reason to know that it will result in an understatement of Minnesota tax liability for another person. The general penalty is \$1,000 per document for individual taxpayers and \$10,000 for corporations. The penalty applies to only one document per tax year or taxable event. The penalty does not apply to typists, printers, and others providing essentially mechanical assistance in preparing tax shelter documents. This penalty is substitute for, not an addition to, the penalty for promoting abusive tax shelters under section 0.
- 7 **Penalties for failure to register a tax shelter.** Imposes a number of new penalties in connection with tax shelters. These penalties apply to “material advisors” (e.g., organizers and promoters, as well as tax lawyers who write opinions used to sell the shelters) and to taxpayers. These terms are defined by reference to federal law.
  - **Failure to register shelter.** A material advisor is subject to a \$50,000 penalty for failing to register a tax shelter. This increases to \$200,000 or 50 percent of the gross income derived from the activity (whichever is more), if the tax shelter is a “listed transaction” – i.e., the I.R.S. has listed it under Treasury Regulation § 1.6011-4. The percentage is 75 percent for intentional refusals.
  - **Failure to include tax shelter number on return.** Failure to include the tax shelter registration number on the tax return is subject to a penalty of \$10,000 for an individual or \$50,000 for corporations, partnerships or other entities. For listed transactions, the penalty increases to \$100,000 for individuals and \$200,000 for corporations. If multiple members of a unitary business fail to make the required disclosure, each additional corporation is subject to a penalty of \$1,000 for listed transactions (\$500 for other reportable transactions) with a cap of \$300,000; the cap is \$75,000 for reportable transactions that are not listed transactions.
  - **Failure to provide list of investors to commissioner.** A penalty of \$10,000 per day applies to material advisors who fails to provide investor lists to the commissioner within 20 days after receiving a request from the commissioner. This increases to \$100,000 or 50 percent of the gross income derived from the activity for listed transactions.

These penalties are in addition to any other penalties that may apply.

**Waiver or abatement authority.** The commissioner may not waive the penalties for listed transactions. For other tax shelters, the penalty may be waived only if the commissioner finds doing so will promote income and corporate tax compliance. The commissioner’s decision on waiver is not subject to judicial review.

- 8 **Reportable transaction understatement.** Imposes a 20 percent penalty on reportable transaction understatements. The penalty rate increases to 30 percent if the required disclosures are not made. This applies to increases in taxable income that result from disallowance of listed transaction or a reportable transaction. The penalty does not apply if there was “reasonable cause” for the position and the taxpayer acted in good faith. Opinions of tax shelter promoters, their advisors, or individuals with financial interests in the deals cannot be relied on to show reasonable cause or good faith.

These penalties are in lieu of the regular substantial understatement penalty.

9 **Voluntary Compliance Initiative (“VCI”).**

**Subd. 1. Establishment.** Directs the commissioner of revenue to establish a voluntary compliance initiative (a type of amnesty) for taxpayers who have engaged in listed or reportable transactions.

**Subd. 2. Time period, scope.** Provides for conduct of the VCI from 8/1/2005 through 1/31/2006 for taxpayers who have engaged in (as defined under federal law) abusive tax shelter defined as:

- Listed transactions
- Potentially abusive tax shelters
- Reportable transactions

**Subd. 3. Eligibility.** Disqualifies the following persons from participating in the VCI (all others are eligible):

- The taxpayer was convicted of a crime related to an abusive tax shelter
- A criminal complaint was filed against the taxpayer related to an abusive tax shelter
- The taxpayer is the subject of a criminal investigation related to an abusive tax shelter
- The taxpayer was eligible to participate in the I.R.S.’s Offshore Voluntary Compliance Initiative or the Son of Boss Settlement Initiative and did not participate
- Other limitations set by the commissioner of revenue (e.g., taxpayer has been notified by I.R.S. or commissioner, taxpayer is a promoter, or similar conditions the commissioner may determine are appropriate).

**Subd. 4. Election; commissioner’s authority.** Authorizes taxpayers to participate in the VCI under either of two options (1) without right of appeal or (2) with right of appeal. Either option may be elected for each taxable year. The commissioner prescribes the forms and instructions for participating.

**Subd. 5. Option without right of appeal.** Provides participants under this option forgo the right to seek a refund, an administrative appeal, or court action. To participate a taxpayer must:

- File an amended return, reversing the abusive tax shelter transaction, and
- Pay all taxes and interest due (or enter an installment payment agreement)

In return, all penalties are abated and no criminal action may be brought against the taxpayer for each year the taxpayer participates in the VCI without right of appeal.

**Subd. 6. Option with right of appeal.** Allows participants in the VCI to retain the right to seek a refund, file an administrative appeal, or bring a court action contesting the tax liability. To participate a taxpayer must:

- File an amended return, reversing the abusive tax shelter transaction, and
- Pay all taxes and interest due (or enter an installment payment agreement)

In return, all penalties are abated, except the substantial understatement penalty. Also, no criminal action may be brought against the taxpayer for each year the taxpayer participates. The taxpayer may file an appeal, claim for refund, or court action whenever the first of the following occurs:

- Commissioner takes action on the refund claim or
- 180 days after the I.R.S. makes a final determination; or
- 4 years pass after filing the claim for refund.

The substantial understatement penalty may be applied when the commissioner denies the claim for refund or the I.R.S. makes a final determination. The penalty applies to the difference between the amount on the original return (i.e., reflecting the tax shelter treatment) and the qualified amended return (i.e., when the tax shelter treatment was reversed and tax paid). The difference cannot be less than the claim for refund. The taxpayer must pay the penalty in order to file an administrative appeal with the commissioner.

**Subd. 7. Commissioner orders and penalties.** Authorizes the commissioner to issue orders (within the statute of limitations) or seek initiation of criminal actions based on underreporting of tax on the amended return.

**Subd. 8. Exception to penalty relief.** Provides that the abatement of penalties does not apply, if the commissioner determines that the correct amount of tax was not paid for a taxable year when the taxpayer participated in the VCI program.

**Subd. 9. Qualifying federal initiatives.** Establishes special rules for participation by taxpayers who elected to participate in the I.R.S.'s Offshore Voluntary Compliance Initiative or the Son of Boss Settlement Initiative. These

taxpayers may participate in the VCI, but must pay penalties that are imposed at one-half of the rate that they agreed to pay under the federal settlement programs. (The federal penalties varied from no penalties to 40 percent, depending upon the program and the taxpayer's circumstances.)

## **Article 9: Department of Revenue Electronic Payments**

### **Overview**

Decreases the threshold for electronic payment of taxes for withholding tax, sales and use tax, corporate tax and gross earnings tax. The new thresholds will be liability of \$20,000 or more in fiscal year 2005 for payments due in calendar year 2006, and liability of \$10,000 or more in fiscal year 2006 and following years for payments due in the next calendar year.

- 1 Withholding from wages, entertainers, payments to out-of-state contractors, and by partnerships and small businesses.** Decreases the current threshold of \$120,000 in tax liability for requiring a taxpayer to pay these taxes electronically. Taxpayers with \$20,000 or more of liability in fiscal year 2005 would be required to file electronically in calendar year 2006, and taxpayers with \$10,000 or more of liability in fiscal year 2006 and following years would be required to file electronically in the next calendar year.
- 2 Sales and use tax.** Decreases the current threshold of \$120,000 in tax liability for requiring electronic payment of sales and use tax. Taxpayers with \$20,000 or more of liability in fiscal year 2005 would be required to file electronically in calendar year 2006, and taxpayers with \$10,000 or more of liability in fiscal year 2006 and following years would be required to file electronically in the next calendar year.
- 3 Corporate tax.** Decreases the current threshold of \$20,000 in tax liability in a calendar year for requiring electronic payment of corporate tax. Taxpayers with \$20,000 or more of liability in fiscal year 2005 would be required to file electronically in calendar year 2006, and taxpayers with \$10,000 or more of liability in fiscal year 2006 and following years would be required to file electronically in the next calendar year.
- 4 Gross earnings tax.** Decreases the current threshold of \$120,000 in tax liability for requiring electronic payment of the gross earnings tax. Taxpayers with \$20,000 or more of liability in fiscal year 2005 would be required to file electronically in calendar year 2006, and taxpayers with \$10,000 or more of liability in fiscal year 2006 and following years would be required to file electronically in the next calendar year.
- 5 Effective date.** Effective for payments due in calendar year 2006 and following years.

## Article 10: International Economic Development Zone

### Overview

This article authorizes designation of an international economic development zone within 60 miles (or 90 minutes of driving time) from the Minneapolis-St. Paul International Airport. This zone is intended to stimulate development of a regional distribution center that will increase the capacity and capability to handle international air freight. Qualifying businesses operating in the zones are exempt from sales, income, and property taxes and a refundable jobs credit is available for the portion of increased payroll that over \$30,000 and up to \$70,000 per FTE. Individuals who invest in zone businesses would be exempt on their business income attributable to activity in the zone, as well as capital gain taxes on zone investments. The zone (and the tax incentives) would have a maximum duration of 12 years. The tax incentives are very similar to those available under the JOBZ program.

- 1 **Property tax exemption.** Provides that commercial and industrial property (both real and personal) in an international economic development zone is exempt from property taxation. This exemption does not apply, however, to the following:

- Land
- Commercial-industrial property where neither the owner nor the lessee is a qualified business (See the summary of section 0 for the definition of a qualified business.)

The exemption applies to the first assessment year after designation of the zone by the commissioner of employment and economic development and to each year the zone is designated. The qualified business must have a signed business subsidy agreement by July 1 of the assessment year to qualify.

Effective beginning for property taxes payable in 2008.

- 2 **Individual income tax exemption.** Provides that income derived from investing in or operating a qualified business in an international economic development zone is exempt from individual income taxation. The qualifying rules for these exemptions are described in section 0.

Effective for tax years beginning after December 31, 2006.

- 3 **Corporation franchise tax exemption.** Provides income from operating a qualified business in an international economic development zone is deductible in calculating taxable income under the corporate franchise tax. The details of this exemption are described in the summary of section 0.

Effective for tax years beginning after December 31, 2006.

- 4 **Individual income tax exemption, nonresidents.** Provides that in calculating the Minnesota tax for a nonresident, international economic development zone income is excluded from both the numerator and denominator of the ratio. Nonresidents calculate their Minnesota tax by determining the Minnesota tax on their total income (both Minnesota



and non-Minnesota). The Minnesota liability is, then, determined by multiplying this amount by a fraction, the numerator of which is Minnesota source income and the denominator of which is total income.

Effective for tax years beginning after December 31, 2006.

- 5 **Jobs credit.** Provides that the jobs credit applies against chapter 290 taxes (regular and alternative minimum tax under both the individual income and corporate franchise taxes). A summary of the rules for this credit is found in section 0.

Effective the day following final enactment, but no credits will be allowed until tax year 2007.

- 6 **Dependent care credit.** Clarifies that tax-exempt international economic development zone income reduces the amount of the dependent care credit that is allowed. For example, if one-quarter of the taxpayer's income were tax-exempt international economic development income, the otherwise applicable dependent care credit would be reduced by 25 percent. This is same treatment that applies to tax-exempt reservation income of American Indians and to part year residents.

Effective for tax years beginning after December 31, 2006.

- 7 **Working family credit.** Clarifies that tax-exempt international economic development zone income reduces the amount of the working family credit that is allowed. This is the same treatment described in section 0 for the dependent care credit and is consistent with the treatment of other forms of tax-exempt income.

Effective for tax years beginning after December 31, 2006.

- 8 **Individual alternative minimum taxable income.** Allows a subtraction from individual alternative minimum taxable income for tax-exempt International Economic Development Zone income.

Effective for tax years beginning after December 31, 2006.

- 9 **Corporate alternative minimum taxable income.** Allows a subtraction from corporate alternative minimum taxable income for tax-exempt International Economic Development Zone income.

Effective for tax years beginning after December 31, 2006.

- 10 **Minimum fee exemption.** Exempts any qualified business with all of its Minnesota payroll and property in the international economic development zone from the minimum fees that applies to businesses.

Effective for tax years beginning after December 31, 2006.

- 11 **Minimum fee modification.** Excludes zone payroll and zone property of a qualified business from the calculation of the minimum fee.

Effective for tax years beginning after December 31, 2006.

- 12 **Sales tax exemptions.** Provides a sales tax exemptions for businesses located in an international economic development zone. To qualify for this exemption, the goods or taxable services must be primarily used in the zone and purchased during the duration of the zone. The exemption extends to contractor purchases (if the final use of the property is in the zone) and to local sales taxes. The sale and delivery must be made after the business

has signed a business subsidy agreement.

The exemption for purchases by the qualified business takes effect on July 1, 2007. The exemption for purchases of building materials takes effect for purchases after designation of zone, but for purchasers must pay the tax and apply for a refund. Refunds cannot be paid until fiscal year 2008 and later.

13

**Definitions.** Defines terms for purposes of the international economic development zone statute.

- **Foreign trade zone** means a foreign trade zone designated under federal law or an authorized subzone.
- **Foreign trade zone authority** is Greater Metropolitan Foreign Trade Zone Commission number 119. This is a joint powers organization formed by Hennepin County, Bloomington, Minneapolis, and the Metropolitan Airports Commission. The definition permits other local governments to join the agreement later.
- **International economic development zone** means a zone designated designed under section 0.
- **Person** includes individual, corporations, partnerships, limited liability companies, and any other entity.
- **Qualified business** means a person that is an international import or export business and that is certified by the authority as furthering the purpose of developing international distribution capacity and capabilities as a freight forwarder.
- **Regional distribution center** is a distribution center developed within a foreign trade zone. The center's primary purpose must be to centralize functions necessary to ship freight in international commerce, such as custom and security functions.
- **International economic development zone percentage** is a fraction used to apportion income to zone for business operating both within and outside of the zone. The percentage is the average of the zone payrolls and property over total Minnesota payrolls and property.
- **International economic development zone payroll factor** is the wage and salaries paid to employees for services performed in the zone or to employees working from offices in a zone, if the work outside the zone is incidental to that in the zone.
- **Freight forwarder** is a business that transports goods made by another business.

14

**Application for designation.** Authorizes a local government unit or units, or a joint powers board, to apply to the Foreign Trade Zone Authority for international economic development zone status. A local government unit, however, cannot submit more than one

application. The zone must be located within the boundaries of the applying units.

The application must include a resolution or ordinance from each city, town or county in which the zone is located, agreeing to provide the property tax and local option sales tax benefits provided by the international economic development zone law. It must also include an agreement to treat international economic development zone tax benefits as business subsidies under the Minnesota business subsidy law, as well as supporting evidence necessary for the Foreign Trade Zone Authority to evaluate the application.

The applications must be submitted by December 31, 2005.

Effective the day following final enactment.

- 15 Designation of international economic development zone.** Authorizes the foreign trade zone authority to designate one foreign trade zone that contains a regional distribution center as an international economic development zone. The zone must be between 500 and 1,000 acres in size and must consist of contiguous area (i.e., unlike JOBZ it cannot have noncontiguous subzones). The zone can be no more than 60 miles (or 90 minutes driving time) from the Minneapolis-St. Paul International Airport. In designating the zone, the authority is to consider:

- access to major transportation routes,
- consistency with current state transportation and air cargo planning,
- adequacy of the size of the site,
- access to airport facilities,
- present and future capacity at the designated airport,
- the capability to meet integrated present and future air cargo, security, and inspection services, and
- access to other infrastructure and financial incentives.

In applying these criteria, the goal is to maximize the security, efficiency, and volume of Minnesota's export shipments.

Before designation, the Foreign Trade Zone Authority, in consultation with the applicant local government unit, must conduct a transportation impact study based on the regional model and utilizing traffic forecasting and assignments. The results must be used to evaluate the effects of the proposed use on the transportation system and identify any needed improvements. If the site is in the metropolitan area the study must also evaluate the effect of the transportation impacts on the Metropolitan Transportation System plan as well as the comprehensive plans of the municipalities that would be affected. The applicant must pay for the study.

Effective the day following final enactment

- 16 Foreign trade zone authority powers.** Directs the Authority to develop a development

plan for the regional distribution center with a goal of expanding international distribution capacity for the region. The authority must consult with municipalities that are interested in being the site for the zone and with businesses and federal and state agencies.

Requires the Authority to prepare a business plan for the international economic development zone. It must include an analysis of the economic feasibility of the regional distribution center once it becomes operational and of the operations of freight forwarders and other businesses that choose to locate within the boundaries of the zone. If the Authority determines that the analysis does not establish the economic feasibility of the regional distribution center, a zone cannot be designated.

The foreign trade zone authority may establish a port authority and may exercise any city powers, but it may not levy a property tax or request another unit of government to impose a port authority property tax levy on its behalf.

Tax incentives under the section are treated as being paid by the local government for purposes of the Minnesota prevailing wage and business subsidy laws.

Effective the day following final enactment.

**17 Available tax incentives.** The following tax incentives are available in international economic development zones:

- Business owners are exempt from the individual income tax on income from business operations and investments in an international economic development zone
- The corporate franchise tax does not apply to corporate income generated by zone operations
- State and local sales taxes do not apply to purchases used by businesses in an international economic development zone
- Property taxes do not apply to improvements in the zone
- A refundable jobs credit is available for higher paying jobs

**18 Individual income tax exemption.** Provides income tax exemptions for individuals operating businesses in zones or investing in zones. These exemptions only apply if the income would otherwise be taxable.

**Business income.** Income from operating a qualified business in an international economic development zone is exempt. If the business operates both within and outside of the zone, the income must be apportioned using the share of property and payroll located in the zone to the total property and payroll of the taxpayer. The exemption is limited so that the exempt income (determined by using the apportionment mechanism) cannot exceed 20 percent of the sum of the zone payroll and original adjusted basis of the investment in the zone.

**19 Corporate franchise tax exemption.** Provides that a corporation operating in an international economic development zone is exempt from the corporate franchise tax, if it is

a qualified business. If the entire business operates in the zone, the corporation is fully exempt from taxation under the corporate franchise tax and would not be required to file a return. If the corporation does business both within and outside of the zone, the following rules apply:

- **Regular tax.** The corporation's taxable net income is multiplied by its zone percentage (average property and payroll in the zone divided by total Minnesota property and payroll) and subtracted from its taxable income.
- **AMT.** The corporation's alternative minimum taxable income is multiplied by the zone percentage and this amount is subtracted from the taxable income.
- **Minimum fee.** Its zone property and payroll are excluded from calculating the minimum fee.

The maximum exemption is 20 percent of the (1) corporation's international economic development zone payroll and (2) the adjusted basis of property when the property was first used by the corporation in the zone.

Effective for tax years beginning after December 31, 2006.

**20 Jobs credit.** Provides a job credit to a qualified business operating in a zone equal to 7 percent of:

- The lesser of either:
  - The increase in the business payroll (but excluding amounts paid to an employee in excess of \$70,000 per year) in the zone since the year of designation or
- The increases in total Minnesota payroll since the year of designation; minus
  - The increase in the number of FTEs in the zone since designation multiplied by \$30,000

**Inflation adjustment.** Starting for tax year 2006, the \$30,000 amount will be adjusted for inflation.

**Refundable.** The credit is refundable.

Effective for tax years beginning after December 31, 2006.

**21 Repayment of tax benefits.** Requires a business to repay tax benefits, if the business ceases to operate in the zone or ceases to be a qualified business.

The provision requires repayment of the last two years of benefits received before the business ceased its zone operations or failed to meet its agreed goals.

**Disposition of repayments.** Repayments of state tax reductions are paid to the state and deposited in the general fund. Repayments of property taxes are distributed to local governments in the same manner as delinquent property taxes. Repayments of local sales taxes are made to the unit imposing the tax.

**Authority to collect.** The commissioner of revenue is authorized to collect repayments in

the same manner as unpaid taxes and the same interest and penalty rules apply. For individual income and corporate franchise taxes and state and local sales taxes, the taxpayer files an amended return and must repay within 30 days after the triggering event. For property taxes, the county auditor is to prepare a tax statement using the otherwise applicable tax rates. If the amounts are not paid, they become liens against the property in the same way as any other unpaid property tax. Motor vehicle sales taxes are repaid to the motor vehicle registrar.

**Waiver authority.** The commissioner of revenue, after consulting with the foreign trade zone authority and the local units of government, may waive all or part of a repayment if it is deemed to be in the best interest of the state and the business ceased operations for reasons beyond its control, such as a natural disaster, unforeseen industry trends, or loss of a major supplier or customer.

Effective the day following final enactment.

- 22 Zone performance reporting.** Requires the local government unit(s) receiving a zone designation to annually report to the commissioner of employment and economic development on its progress in meeting the zone performance goals under, and the applicant's compliance with, the business subsidy law.

The commissioner must report the following on the DEED website for the zone:

- The estimated tax expenditures for the zone
- The business subsidy agreements for qualified businesses in the zone
- The estimated number of new jobs and investment in the zone
- Other information the commissioner determines is appropriate

Effective the day following final enactment.

- 23 Grants.** Appropriates \$750,000 for fiscal year 2006 to the commissioner of employment and economic development for grants to the foreign trade zone authority to be distributed to qualified businesses in the international economic development zone. The money remains available during fiscal year 2007

## Article 11: Miscellaneous

### Overview

This article makes a number of changes in various tax administration and penalty provisions. In addition, it:

1. Appropriates \$250,000 for taxpayer assistance grants
2. Requires tax preparers to tell clients about the nongame wildlife checkoff
3. Appropriates \$500,000 for disaster relief for Otter Tail county
4. Transfers \$20 million from the tax relief account to the general fund
5. Requires reporting to the legislature on state agency, school, and city fees

- 1 Delegation of commissioner's authority.** Provides that delegations of authority granted by the commissioner of revenue remain in effect until revoked by that commissioner or a successor commissioner.

Effective the day following final enactment.

- 2 Cross-reference; civil action for damages.** Corrects a cross-reference in the recodification of the commissioner's general powers enacted in Laws 2005, chapter 151.
- 3 Distribution; taxpayer bill of rights.** Modifies a provision in the taxpayer bill of rights by clarifying that failure to receive the statement does not modify any statutory time limits applicable to the determination or collection action, including the time limit for filing a claim for refund.
- 4 Nongame wildlife checkoff notification.** Requires tax preparers to notify individual and corporate clients of the nongame wildlife checkoff on the income tax and property tax refund forms. Requires preparers to provide clients with information on the nongame wildlife account, and to include this information with any preliminary worksheets that they send to clients. The preliminary worksheets must include a line for clients to use in specifying contributions to the checkoff.

The notification requirement proposed would be added to § 270C.445, which does not apply to individuals who prepare returns for fewer than six clients per year, who prepare returns for members of their immediate families, or to individuals who prepare the tax return of their employer. The nongame wildlife checkoff notification requirement proposed would not apply to these individuals.

The nongame wildlife checkoff allows taxpayers to designate an amount to be contributed to the nongame wildlife management account. The amount designated is either subtracted from the taxpayer's refund or added to the tax due.

- 5 Civil fraud penalty.** Clarifies that the imposition and calculation of the 50 percent civil fraud penalty is the same for someone who fails to file a return with intent to evade tax as it is for someone who files a fraudulent return.

Effective the day following final enactment.

- 6 **Trusts; public health care programs.** Provides that irrevocable inter-vivos trusts are treated as revocable trusts in determining an individual's eligibility for publicly-funded long-term care services. This is intended to prevent these trusts from being treated as generally being revocable, which would affect the income tax deductibility of contributions to charitable remainder trusts.
- 7 **Study of fees imposed by state agencies, schools, and cities.** Requires commissioners of state agencies that impose fees on individuals or businesses to report to the Commissioner of Revenue by January 15, 2006, on the amount and type of fees imposed, amount and type of fee increases since January 1, 2003, revenues derived from each fee for the four most recent fiscal years and the uses of fee revenues. The Commissioner of Revenue is required to provide a report on all state agency fees to the Tax, Finance and Appropriation Committees of the Senate and the House of Representatives by February 15, 2006.

Requires the Department of Education to provide a report on fees collected under the Public School Fee Law to the Education Finance Divisions and Tax Committees of the House and Senate.

Requires home rule and statutory cities to report to the Commissioner of Revenue by January 15, 2006, on the amount and type of fees imposed, amount and type of fee increases since January 1, 2003, revenues derived from each fee for the four most recent fiscal years and the uses of fee revenues.

- 8 **Transfer.** Transfers up to \$20 million from the tax relief account to the general fund when accounts for the fiscal year 2004-2005 biennium are closed. The account will contain the fiscal year 2005 general fund balance at the close of the biennium.
- 9 **Appropriation; taxpayer assistance services.** Provides a \$250,000 appropriation in fiscal years 2006-2007 (\$125,000 per year) from the general fund to one or more nonprofit organizations for the coordination and provision of taxpayer assistance services. Defines "taxpayer assistance services" to mean accounting and tax preparation services provided by volunteers to help low-income and disadvantaged taxpayers prepare and file federal and state income tax returns, and claims for the property tax refund. Authorizes taxpayer assistance services to represent their clients before the Department of Revenue and the Internal Revenue Service. \$125,000 per year becomes part of the agency's base funding.
- 10 **Appropriation; Vinland.** Appropriates \$125,000 in fiscal year 2006 to the commissioner of veterans' affairs for a grant to the Vinland Center. This is a one-time appropriation and does not become part of the agency's base funding.
- 11 **Appropriation; Otter Tail county disaster relief.** Appropriates \$500,000 to the commissioner of employment and economic development for disaster relief for businesses and property owners affected by high winds in Otter Tail county during the week of June 19, 2005. This is a one-time appropriation.
- 12 **Appropriation; Department of Revenue.** Provides a \$1.09 million appropriation in fiscal years 2006-2007 (\$545,000 per year) from the general fund to the commissioner of revenue for the cost of administering this bill. \$545,000 per year becomes part of the agency's base funding.
- 13 **Revisor instruction.** Authorizes the Revisor to adjust provisions in this bill to be consistent with the recodification of the commissioner's general powers enacted in Laws 2005, chapter 151.
- 14 **Effective date; other appropriations.** Provides that appropriations in this bill supersede and replace funding authorized by the "lights-on" bill enacted earlier in the First Special Session or authorized under the Ramsey County court order relating to essential state services.



