

## Senate Counsel & Research

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## Senate

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### State of Minnesota


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TO: Members of the Senate Tax Committee

FROM: Jo Anne Zoff Sellner, Senate Counsel (651/296-3803) 

DATE: February 15, 2005

RE: Bills to be Heard February 16, 2005

#### **S. F. No. 699 - Betzold**

This bill authorizes the city of Mounds View to establish one or more redevelopment tax increment financing districts within a specified area of the city. These districts would be subject to the following special rules:

- The districts are exempt from the part of the antipooling restrictions that provides revenues from tax increments are considered to have been expended on an activity within the district only if the revenues have been spent or obligated within five years after certification of the district.
- The general restriction on pooling of increments, i.e., prohibiting most expenditures outside of the tax increment financing districts, as well as the requirement that at least 90 percent of the revenues derived from tax increments from a redevelopment district must be expended to finance the cost of correcting the conditions that enabled the area to be designated as a redevelopment district do not apply. However, the bill specifies that the increments must be expended within the area that is defined in the bill as the site of the tax increment financing district, and must be related to development occurring within that area. The bill provides one exemption to this geographic restriction on expenditures, so that increments may be expended for sanitary sewer, sewer, and water improvements, and improvements to certain named streets and highways as long as those improvements are related to development occurring within the described area.

- The requirement that the tax capacity rate that is in effect at the time when the district is certified continues to be applied in the determination of tax increments and is made inapplicable to this district.
- The requirements with respect to the makeup of the area that is included in a redevelopment district will not apply to the area; instead, that area will be deemed to be qualified for inclusion in a redevelopment district.

The authority to approve plans to establish a tax increment financing district subject to the rules in this act expires at the end of 2019.

**S.F. No. 310 - Tomassoni**

This bill clarifies the spending authority of townships. The bill modifies the limitation on a town's ability to spend money in a year, which is currently the amount of taxes levied for the year. Under this proposal, the limitation applies to the total revenue of the town. The bill defines "total revenue" to mean property taxes payable in that year, as well as amounts received from all other sources, or amounts carried forward from previous years. The bill also clarifies that the limitation of the tax for town purposes to the amount voted to be levied at the annual town meeting is subject to exceptions provided elsewhere in the law.

JZS:dv

# Agenda #1

Senators Tomassoni, Bakk, Wergin, Kubly and Kierlin introduced--  
S.F. No. 310: Referred to the Committee on Taxes.

1                                   A bill for an act  
2           relating to townships; clarifying levy and spending  
3           authority; defining total revenue; amending Minnesota  
4           Statutes 2004, sections 365.43, subdivision 1; 365.431.

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

6           Section 1. Minnesota Statutes 2004, section 365.43,  
7           subdivision 1, is amended to read:

8           Subdivision 1. [~~LEVIED-AMOUNT-IS-SPENDING-LIMIT~~ TOTAL  
9           REVENUE DEFINED.] A town must not ~~contract-debts-or~~ spend more  
10           money in a year than ~~the-taxes-levied-for-the-year~~ its total  
11           revenue without a favorable vote of a majority of the town's  
12           electors. In this section, "total revenue" means property taxes  
13           payable in that year as well as amounts received from all other  
14           sources and amounts carried forward from the last year.

15           Sec. 2. Minnesota Statutes 2004, section 365.431, is  
16           amended to read:

17           365.431 [AMOUNT VOTED AT MEETING IS TAX LIMIT.]

18           Except as otherwise authorized by law, the tax for town  
19           purposes must not be more than the amount voted to be raised at  
20           the annual town meeting.

# MINNESOTA REVENUE

## PROPERTY TAX Township Levies and Spending

February 15, 2005

	Yes	No
Separate Official Fiscal Note Requested		X
<b>Fiscal Impact</b>		
DOR Administrative Costs/Savings		X

Department of Revenue  
Analysis of S.F. 310 (Tomassoni)/ H.F. 209 (Blaine)

	<u>Fund Impact</u>			
	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	<u>F.Y. 2009</u>
General Fund	\$0	\$0	\$0	\$0

(000's)

Effective August 1, 2005.

### EXPLANATION OF THE BILL

**Current Law:** A township must not contract debts or spend more money in a year than the taxes levied for the year without a favorable vote of the township's electors.

**Proposed Law:** A township must not spend more in a year than its total revenue for the year without a favorable vote of the township's electors. Total revenue is defined as taxes levied, amounts received from other sources, and amounts carried forward.

### REVENUE ANALYSIS DETAIL

- The bill is a clarification so there should be no impact on the general fund.

**Number of Taxpayers:** None.

Source: Minnesota Department of Revenue  
Tax Research Division  
[http://www.taxes.state.mn.us/taxes/legal\\_policy](http://www.taxes.state.mn.us/taxes/legal_policy)

sf0310(hf0209)-1 / LM

# COMMITTEE REPORT - WITHOUT AMENDMENTS

Committee on

TAXES

S. F. No. 310

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

X do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on

(no recommendation) be re-referred to the Committee on

Feb 16, 05

(date of committee recommendation)

1 Senator Pogemiller from the Committee on Taxes, to which  
2 was re-referred

3 S.F. No. 310: A bill for an act relating to townships;  
4 clarifying levy and spending authority; defining total revenue;  
5 amending Minnesota Statutes 2004, sections 365.43, subdivision  
6 1; 365.431.

7 Reports the same back with the recommendation that the bill  
8 do pass and be placed on the Consent Calendar. Report adopted.

9

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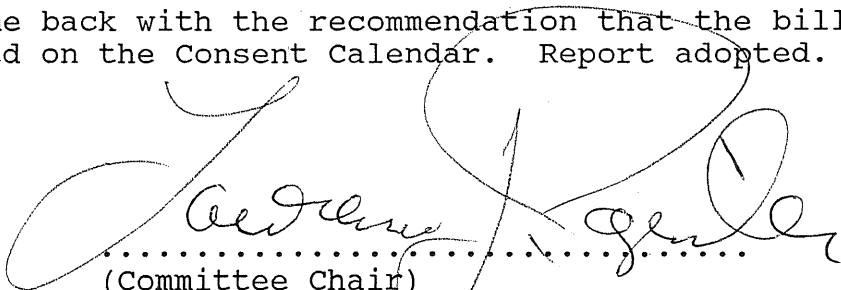
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.....  
(Committee Chair)

February 16, 2005.....  
(Date of Committee recommendation)

# Agenda #2

Senator Betzold introduced--

S.F. No. 699: Referred to the Committee on Taxes.

1 A bill for an act

2 relating to the city of Mounds View; changing certain  
3 requirements relating to a tax increment financing  
4 district.

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

6 Section 1. [CITY OF MOUNDS VIEW; TAX INCREMENT FINANCING  
7 DISTRICT.]

8 Subdivision 1. [ESTABLISHMENT.] The city of Mounds View  
9 may establish within the corporate boundaries of the city one or  
10 more redevelopment tax increment financing districts subject to  
11 the special rules under subdivision 2 within the area bounded  
12 by, and including, on the north County Road J west of Coral Sea  
13 Street and 82nd Lane NE east of Coral Sea Street, on the east  
14 Coral Sea Street north of 82nd Lane NE and Interstate Highway  
15 35W south of 82nd Lane NE, on the south and southwest U.S.  
16 Highway 10, and on the west the western boundary of Outlot A,  
17 Sysco, according to the recorded plat thereof, and situated in  
18 Ramsey County, Minnesota.

19 Subd. 2. [SPECIAL RULES.] (a) If the city elects upon the  
20 adoption of the tax increment financing plan for the district,  
21 the rules under this section apply to redevelopment tax  
22 increment financing districts established by the city of Mounds  
23 View or a development authority of the city in the area  
24 described in subdivision 1.

25 (b) The five-year rule under Minnesota Statutes, section

1 469.1763, subdivision 3, does not apply.

2 (c) The limitations on spending increment outside of the  
3 district under Minnesota Statutes, section 469.1763, subdivision  
4 2, and the 90 percent limitation under Minnesota Statutes,  
5 section 469.176, subdivision 4j, do not apply, but increments  
6 may only be expended on costs, improvements, or activities  
7 within the area defined in subdivision 1 and related to  
8 development occurring within the area defined in subdivision 1,  
9 whether or not included in a redevelopment tax increment  
10 financing district, including, but not limited to, payment of  
11 bonds and interfund loans of the city, acquisition and removal  
12 of existing billboards, acquisition of land and easements,  
13 administrative expenses, sanitary sewer, sewer, and water  
14 improvements, wetland mitigation, pedestrian pathways, lighting,  
15 and road improvements. Notwithstanding the preceding sentence,  
16 increments may be expended on costs, improvements, or activities  
17 outside the area defined in subdivision 1, wherever located,  
18 whether or not included in a redevelopment tax increment  
19 financing district, for sanitary sewer, sewer, and water  
20 improvements and improvements to Coral Sea Street, Airport Road,  
21 82nd Lane NE, County Road J, U.S. Highway 10, and Interstate  
22 Highway 35W so long as such improvements are related to  
23 development occurring within the area defined in subdivision 1.

24 (d) The certified original local tax rate for the district  
25 under Minnesota Statutes, section 469.177, subdivision 1a, does  
26 not apply.

27 (e) The requirements for qualifying a redevelopment  
28 district under Minnesota Statutes, section 469.174, subdivision  
29 10, do not apply to the area defined in subdivision 1. The area  
30 defined in subdivision 1 shall be deemed eligible for the  
31 purpose of qualifying for inclusion in a redevelopment district.

32 Subd. 3. [EXPIRATION.] The authority to approve tax  
33 increment financing plans to establish a tax increment financing  
34 district under this section expires on December 31, 2019.

35 [EFFECTIVE DATE.] This section is effective upon approval  
36 by the governing body of the city of Mounds View and upon



- 1 compliance by the city with Minnesota Statutes, section 645.021,
- 2 subdivision 3.

# MINNESOTA • REVENUE

## PROPERTY TAX Mounds View TIF District

February 15, 2005

Department of Revenue  
Analysis of S.F. 699 (Betzold) / H.F. 726 (Bernardy)

	Yes	No
Separate Official Fiscal Note Requested		X
<b>Fiscal Impact</b>		
DOR Administrative Costs/Savings		X

	<u>fund impact</u>			
	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	<u>F.Y. 2009</u>
	(000's)			
General Fund	\$0	\$0	\$0	\$0

Effective upon local approval.

### EXPLANATION OF THE BILL

**Current Law:** Tax increment financing (TIF) provides a means of financing municipal improvement projects. Types of districts include redevelopment districts, housing districts, economic development districts, soil condition districts, renewal and renovation districts, and hazardous substance districts. Although these types of districts have particular distinguishing characteristics, all commonly possess the authority to retain the tax dollars generated by the "retained captured net tax capacity". The captured net tax capacity equals the difference between the current year net tax capacity and the original net tax capacity of the properties within the TIF district. (The retained captured net tax capacity is after the subtraction any fiscal disparity or shared value reductions and after any prior year net tax capacity adjustments.) Activity must commence within 5 years of district creation.

**Proposed Law:** The bill would allow creation of a new TIF district in Mounds View. The boundaries of the proposed district are described. An exception to the five-year rule for the new district is proposed. Other specified spending limitations pertaining to TIF districts do not apply. The original local tax rate requirement for TIF districts do not apply. The TIF district is defined to be a redevelopment district. Authority to create the district expires December 31, 2019.

### REVENUE ANALYSIS DETAIL

- The proposed Mounds View TIF district would be a redevelopment district.
- The creation of the district is likely to have an impact on the local tax base and tax rate in the future and result in a small increase in property tax refunds paid by the state.

**Number of Taxpayers:** All taxpayers in taxing districts levying on property in the TIF district could be affected.

Source: Minnesota Department of Revenue  
Tax Research Division  
[http://www.taxes.state.mn.us/taxes/legal\\_policy](http://www.taxes.state.mn.us/taxes/legal_policy)

1 Senator ..... moves to amend S.F. No. 699 as follows:

2 Page 3, after line 2, insert:

3 "Sec. 2. [CONVEYANCE OF STATE INTEREST IN REAL PROPERTY  
4 TO CITY OF MOUNDS VIEW.]

5 (a) Notwithstanding Minnesota Statutes, sections 16B.281,  
6 16B.282, 92.45, or any other law to the contrary, the  
7 commissioner of transportation shall convey to the city of  
8 Mounds View all right, title, and interest of the state of  
9 Minnesota created by corrective deed dated March 16, 1989, in  
10 the land located in Ramsey County, described as:

11 The South Half of the Northeast Quarter of Section 5,  
12 Township 30 North, Range 23 West, Ramsey County, Minnesota;  
13 which lies northerly and westerly of the following  
14 described line: Commencing at the center of said Section  
15 5; thence north on an azimuth of 359 degrees 23 minutes 10  
16 seconds (azimuth oriented to Minnesota State Plane  
17 Coordinate System) along the north and south quarter line  
18 of said Section 5 for 781.42 feet to the point of beginning  
19 of the line to be described; thence on an azimuth of 108  
20 degrees 12 minutes 41 seconds, 231.14 feet; thence on an  
21 azimuth of 98 degrees 27 minutes 03 seconds, 1486.78 feet;  
22 thence run northeasterly for 447.16 feet on a nontangential  
23 curve, concave to the northwest, having a radius of 720  
24 feet, a delta angle of 35 degrees 35 minutes 02 seconds and  
25 a chord azimuth of 76 degrees 55 minutes 11 seconds; thence  
26 on an azimuth of 59 degrees 07 minutes 40 seconds, 192.89  
27 feet; thence run northerly 398.14 feet on a nontangential  
28 curve, concave to the northwest, having a radius of 850  
29 feet, a delta angle of 26 degrees 50 minutes 15 seconds and  
30 a chord azimuth of 29 degrees 26 minutes 05 seconds; thence  
31 on an azimuth of 16 degrees 00 minutes 57 seconds, 303.65  
32 feet to the north line of said Tract A and there  
33 terminating;

34 Containing 40.41 acres, more or less.

35 (b) The conveyance shall be by quit claim deed without  
36 consideration in a form approved by the attorney general.

37 (c) This property was acquired by the Department of  
38 Transportation for construction of a new portion of Trunk  
39 Highway No. 10 west of Interstate Highway 35W. The property was  
40 not needed for highway purposes. In 1988, the commissioner of  
41 transportation deeded the property to the city of Mounds View  
42 subject to a right of reverter. The state of Minnesota and the  
43 Department of Transportation no longer need the right of  
44 reverter.

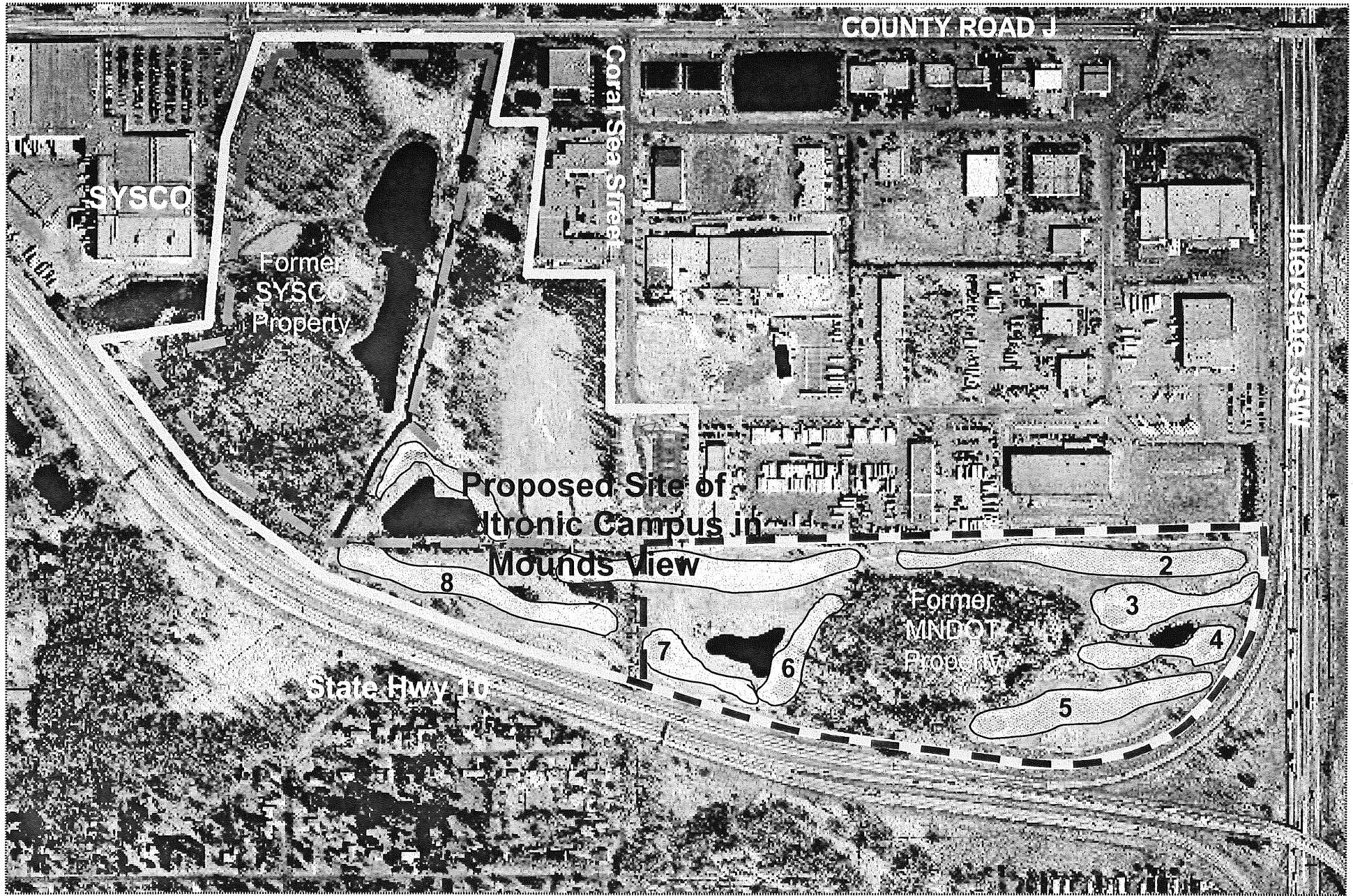
45 (d) If the city of Mounds View does not enter into a fully  
46 executed development agreement to redevelop the land described  
47 in paragraph (a) by January 1, 2007, all right, title, and

1 interest in the land shall revert back to the Department of  
2 Transportation unless the land is still used for a public  
3 purpose. If the land is not subject to a fully executed  
4 development agreement and is still used for a public purpose on  
5 or after January 1, 2007, the land may continue to be used for  
6 such public purpose by the city of Mounds View, subject to a  
7 right of reverter if the land ceases to be used for a public  
8 purpose."

9 Amend the title accordingly *as follows:*

# Medtronic Project Area in Mounds View

HANDBOOK #1



# COMMITTEE REPORT - WITH AMENDMENTS

Committee on TAXES

S .F. No. 499

       Resolution

       Re-referred (from another committee)

**Amendments:**

① page 1, line 10 after "districts" insert "within an area of the city that is currently exempt from taxation and that, because of underuse, causes ongoing annual financial losses to the city." Districts created under this section are"

② page 1, line 11 after "2" insert "and must be located"

③ A-1 amendment

④ page 1, line 4 after "district" insert "authorizing a conveyance of State interest in property to the City;" - TITLE AMENDMENT

**Committee recommendation:**

X And when so amended the bill do pass.

       And when so amended the bill do pass and be placed on the Consent Calendar.

       And when so amended the bill do pass and be re-referred to the Committee on

**No recommendation:** And when so amended the bill be        (re-referred to the Committee on       )

OR        (reported to the Senate).

2/16/05 (date of committee recommendation)

1 Senator Pogemiller from the Committee on Taxes, to which  
2 was referred

3 S.F. No. 699: A bill for an act relating to the city of  
4 Mounds View; changing certain requirements relating to a tax  
5 increment financing district.

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

8 Page 1, line 10, after "districts" insert "within an area  
9 of the city that is currently exempt from taxation and that,  
10 because of under use, causes ongoing annual financial losses to  
11 the city. Districts created under this section are"

12 Page 1, line 11, after "2" insert "and must be located"

13 Page 3, after line 2, insert:

14 "Sec. 2. [CONVEYANCE OF STATE INTEREST IN REAL PROPERTY  
15 TO CITY OF MOUNDS VIEW.]

16 (a) Notwithstanding Minnesota Statutes, sections 16B.281,  
17 16B.282, 92.45, or any other law to the contrary, the  
18 commissioner of transportation shall convey to the city of  
19 Mounds View all right, title, and interest of the state of  
20 Minnesota created by corrective deed dated March 16, 1989, in  
21 the land located in Ramsey County, described as:

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27 seconds (azimuth oriented to Minnesota State Plane  
28 Coordinate System) along the north and south quarter line  
29 of said Section 5 for 781.42 feet to the point of beginning  
30 of the line to be described; thence on an azimuth of 108  
31 degrees 12 minutes 41 seconds, 231.14 feet; thence on an  
32 azimuth of 98 degrees 27 minutes 03 seconds, 1486.78 feet;  
33 thence run northeasterly for 447.16 feet on a nontangential  
34 curve, concave to the northwest, having a radius of 720  
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43 feet to the north line of said Tract A and there  
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45 Containing 40.41 acres, more or less.

46 (b) The conveyance shall be by quit claim deed without  
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48 (c) This property was acquired by the Department of  
49 Transportation for construction of a new portion of Trunk

1 Highway No. 10 west of Interstate Highway 35W. The property was  
 2 not needed for highway purposes. In 1988, the commissioner of  
 3 transportation deeded the property to the city of Mounds View  
 4 subject to a right of reverter. The state of Minnesota and the  
 5 Department of Transportation no longer need the right of  
 6 reverter.

7 (d) If the city of Mounds View does not enter into a fully  
 8 executed development agreement to redevelop the land described  
 9 in paragraph (a) by January 1, 2007, all right, title, and  
 10 interest in the land shall revert back to the Department of  
 11 Transportation unless the land is still used for a public  
 12 purpose. If the land is not subject to a fully executed  
 13 development agreement and is still used for a public purpose on  
 14 or after January 1, 2007, the land may continue to be used for  
 15 such public purpose by the city of Mounds View, subject to a  
 16 right of reverter if the land ceases to be used for a public  
 17 purpose."

18 Amend the title as follows:

19 Page 1, line 4, after "district" insert "; authorizing a  
 20 conveyance of state interest in property to the city"

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

.....  
 (Committee Chair)

February 16, 2005.....  
 (Date of Committee recommendation)



# Medtronic in the Community 2004

Improving the Health of  
People and Communities



**Medtronic**



O u r m i s s i o n i s t o i m p r o v e t h e

# health

Improving the health of people with chronic disease

## INITIATIVES

- **Patient Link** partners with national and international patient associations to educate, support and advocate on behalf of patients and their families.
- **HeartRescue** saves lives otherwise lost to Sudden Cardiac Arrest by supporting early defibrillation programs in local communities around the world.
- **Health in the Community** supports programs in Medtronic communities that improve the health of socio-economically disadvantaged people.

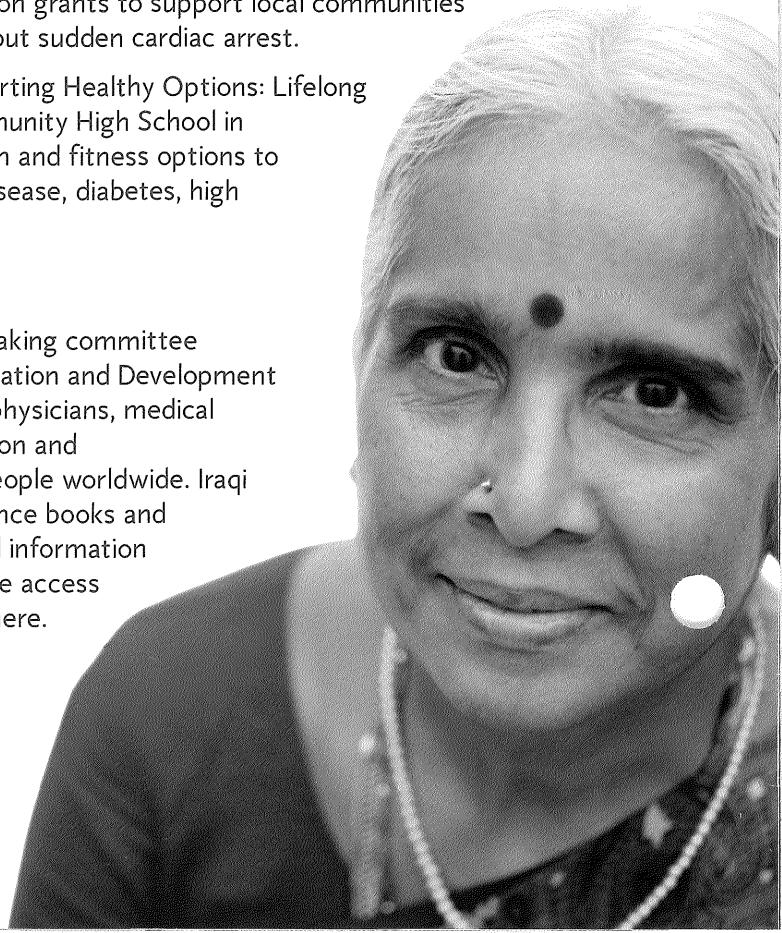
## 2004 HIGHLIGHTS

- Continued our support of 59 national and international patient associations through our Patient Link initiative. We invested more than \$3.1 million in associations in Canada, Europe and the United States to empower patients with chronic diseases to become active partners in their healthcare.
- Partnered with the Black Women's Health Imperative to sponsor *Making Links to the African-American Community: Strategies for Outreach* at the National Press Club in Washington, D.C. The goal of the conference was to strengthen patient associations' capacity to serve African-Americans.
- Sponsored the National Center for Early Defibrillation's (NCED) first-ever Survivor Summit. Through NCED and other organizations, we support sudden cardiac arrest survivor groups that champion early defibrillation programs and ensure that survivors receive the follow-up care they need.
- Awarded \$874,000 in HeartRescue training and education grants to support local communities around the world in their efforts to raise awareness about sudden cardiac arrest.
- Intensified chronic disease prevention efforts by supporting Healthy Options: Lifelong Fitness, a school-based health initiative at North Community High School in Minneapolis. Healthy Options provides healthy nutrition and fitness options to help the North High community fight obesity, heart disease, diabetes, high blood pressure and other life-threatening diseases.

## IN ACTION

The Medtronic Foundation European employee grantmaking committee granted \$40,000 to World Internet Resources for Education and Development (WiRED) to establish medical information centers for physicians, medical students and faculty in Iraq. WiRED provides information and communication resources to benefit disadvantaged people worldwide. Iraqi physicians had been using out-of-date medical reference books and textbooks. Computers installed at the largest medical information center at Medical City Center in Baghdad now provide access to important information physicians can't get elsewhere.

[www.medtronic.com/community](http://www.medtronic.com/community)



h e a l t h   o f   p e o p l e   a n d   c o m m u n i t i e s .

# education

Educating future generations of scientific innovators

INITIATIVES

- The **Medtronic Scholars Program** prepares the next generation of scientific innovators by supporting post-secondary scholarships and fellowships in science, engineering and health-related fields at selected institutions.
- **Science and Technology Are Rewarding (STAR)** supports K-12 science programs in the Minneapolis/St. Paul area that emphasize hands-on learning.

2004 HIGHLIGHTS

- Awarded \$598,000 to eight targeted schools for scholarships and fellowships to support 67 students who are studying science and engineering, primarily in biomedical fields.
- Celebrated the one-millionth student to participate in our STAR program by publishing *Science Matters*, a brochure that helps students and their parents learn about the importance of science education and access programs that ignite and sustain students' interest in science.

IN A N I O N

For almost a decade, Medtronic has partnered with the Minneapolis Public Schools to revitalize science materials and curriculum at elementary and middle schools. With the addition of a \$550,000 high school revitalization grant made in FY04, Medtronic's contributions to K-12 science programs have surpassed \$1.8 million, touching the lives of every Minneapolis Public Schools student, at every grade level. The new grant, under Medtronic's STAR program, will fund updated laboratory equipment for teachers to implement a standards-based curriculum.



We focus our giving in three areas:

# community

Enhancing the vitality of communities where our employees live and work

## INITIATIVES

- Employee committees in the United States, Puerto Rico, Canada, Europe and Japan direct our grantmaking in local Medtronic communities around the world.
- We match employee gifts to local **United Ways**.
- Our **Matching Gifts to Education and Time-N-Talent** programs support our employees' gifts of time, talent and money to their local communities.
- **Medtronic employees volunteer** countless hours in their communities through company-sponsored and individual volunteer activities. Online volunteer resources facilitate employee involvement.

## 2004 HIGHLIGHTS

- Tapped the expertise of more than 125 Medtronic employees who participated in Medtronic Foundation grantmaking committees around the world.
- Joined with our employees to contribute \$4.4 million to United Way campaigns in nine communities in the United States and Puerto Rico.
- Launched "Mission in Motion" to champion the community activities of our U.S. employees. VolunteerMatch, a Web-based volunteer opportunity site, puts our mission in motion by helping employees find community opportunities that match their talents and interests.
- Multiplied the community giving of 344 employee volunteers who participated in the Medtronic Foundation's Time-N-Talent program.

## IN ACTION

Last year, we renewed our support of the American Red Cross with a three-year, \$375,000 grant to provide emergency assistance to victims of disasters worldwide. Funds aid disaster recovery efforts in situations like last year's massive earthquake in Iran.

[www.medtronic.com/community](http://www.medtronic.com/community)



## To our communities:

At Medtronic, our Mission is to alleviate pain, restore health and extend life. But that's not all. Our Mission also calls us to maintain good citizenship as a company. It's a privilege and a responsibility to improve the health of our communities as we grow our business. Thanks to more than 30,000 employees worldwide, we're doing more in the community than ever before.

Community involvement is a tradition at Medtronic. We've been committed to community giving since the company was founded in 1949. Since that time we've contributed more than \$220 million to improve the health of people and communities.

We've consistently given two percent of our domestic pre-tax profits to communities in which we do business. Medtronic Foundation giving and Medtronic cash contributions, along with medical device donations, exceeded \$40.2 million last year. Our commitment led to recognition by *BusinessWeek* as one of America's top corporate donors.

We focus our giving in areas where we can make unique and positive contributions.

As the world's leading medical technology company, we're passionate about patients and have a deep understanding of health care and scientific innovation. To make the most of our expertise and increase our impact, we've developed special Medtronic Foundation initiatives in health and education.

Last year the Medtronic Foundation celebrated 25 years of working in partnership with community organizations around the world. Looking ahead, we're confident our strong commitment and passion for community citizenship will continue. At Medtronic, it's what we do.

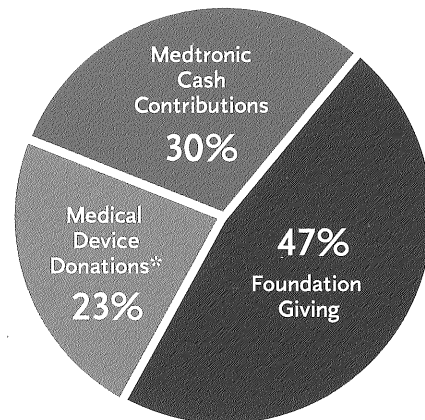


# year in review

## MEDTRONIC PHILANTHROPY

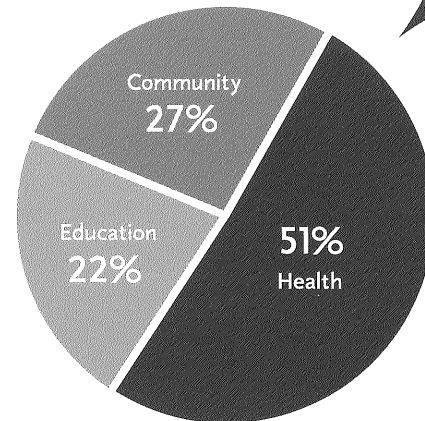
May 1, 2003 - April 30, 2004

TOTAL: \$40.2 million



\*estimated fair market value

## FOUNDATION GIVING BY FOCUS AREA



**Bob Ryan**  
Medtronic CFO, Foundation Board Chair

**Penny Hunt**  
Vice President, Medtronic Community Affairs and Foundation

**Art Collins**  
Medtronic Chairman and CEO, Foundation Board Member

# We are guided by six values:

## Constancy

We are persistent in our efforts, recognizing that true impact requires long-term commitment.

## Empowerment

We believe ordinary people are capable of extraordinary things and that empowered people feel a responsibility to themselves and their communities.

## Inclusiveness

We seek the full participation of all people in our programs and staff.

## Integrity

We are thoughtful and consistent in our approach, conducting our work in a spirit of respect and openness.

## Partnership

We are respectful and communicate openly, believing that we have much to learn and much to offer.

## Quality

We work to achieve and sustain excellence in all that we do.



[www.medtronic.com/community](http://www.medtronic.com/community)

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## Agenda #3

## 1 ARTICLE 2

## 2 TAXES

3 Section 1. Minnesota Statutes 2004, section 16C.03, is  
4 amended by adding a subdivision to read:

5 Subd. 18. [CONTRACTS WITH FOREIGN VENDORS.] (a) The  
6 commissioner and other agencies to which this section applies  
7 and the legislative branch of government shall not contract for  
8 goods or services from a vendor or an affiliate of the vendor  
9 which has not registered to collect the sales and use tax  
10 imposed under chapter 297A on its sales in Minnesota or to a  
11 destination in Minnesota. A vendor that sells tangible personal  
12 property or provides services subject to tax under chapter 297A  
13 to an agency or the legislature, and each affiliate of that  
14 vendor, is regarded as a "retailer maintaining a place of  
15 business in this state" and is required to collect the Minnesota  
16 sales or use tax under chapter 297A. This subdivision does not  
17 apply to state colleges and universities, the courts, and any  
18 agency in the judicial branch of government. For purposes of  
19 this subdivision, the term "affiliate" means any person or  
20 entity that is controlled by, or is under common control of, a  
21 vendor through stock ownership or other affiliation.

22 (b) Beginning on or after January 1, 2006, each vendor or  
23 affiliate of a vendor that is offered a contract to sell goods  
24 or services subject to tax under chapter 297A to an agency or

1 the legislature must submit to the agency or legislature  
2 certification that the vendor is registered to collect Minnesota  
3 sales or use tax and acknowledging that the contract may be  
4 declared void if the certification is false.

5 (c) An agency or the legislature is exempted from the  
6 provisions of this subdivision in the event of an emergency or  
7 when the vendor is the sole source of such goods or services.

8 [EFFECTIVE DATE.] This section is effective for all  
9 contracts entered into after December 31, 2005.

10 Sec. 2. Minnesota Statutes 2004, section 272.01, is  
11 amended by adding a subdivision to read:

12 Subd. 5. [EFFECTS OF TRANSFER OF INCOME TAX OWNERSHIP  
13 INCIDENTS.] If property that is exempt from ad valorem taxes  
14 under section 272.02, subdivision 3, 4, 5, 7, or 8, is leased or  
15 otherwise subject to legal arrangements that permit an  
16 individual, corporation, or other entity to claim the income tax  
17 benefits of ownership, such as depreciation, cost recovery  
18 allowances, or similar benefits, a tax is imposed for the  
19 privilege of so using the property. The tax is imposed in the  
20 same amount and to the same extent as though the private  
21 individual, corporation, or other entity was the owner of the  
22 property. Taxes under this subdivision must be paid and  
23 administered in the manner provided for taxes imposed under  
24 subdivision 2.

25 [EFFECTIVE DATE.] This section is effective beginning with  
26 property taxes payable in 2006.

27 Sec. 3. Minnesota Statutes 2004, section 290.01,  
28 subdivision 6b, is amended to read:

29 Subd. 6b. [FOREIGN OPERATING CORPORATION.] The term  
30 "foreign operating corporation," when applied to a corporation,  
31 means a domestic corporation with the following characteristics:

32 (1) it is part of a unitary business at least one member of  
33 which is taxable in this state;

34 (2) it is not a foreign sales corporation under section 922  
35 of the Internal Revenue Code, as amended through December 31,  
36 1999, for the taxable year; and



1 (3) either (i) the average of the percentages of its  
2 property and payrolls assigned to locations inside outside the  
3 United States ~~and the District of Columbia, excluding the~~  
4 ~~commonwealth of Puerto Rico and possessions of the United~~  
5 States, as determined under section 290.191 or 290.20, is ~~20~~ 80  
6 percent or ~~less~~ greater and it has at least \$2,000,000 of  
7 property and \$1,000,000 of payroll as determined under section  
8 290.191 or 290.20; or (ii) it has in effect a valid election  
9 under section 936 of the Internal Revenue Code.

10 [EFFECTIVE DATE.] This section is effective for tax years  
11 beginning after December 31, 2004.

12 Sec. 4. Minnesota Statutes 2004, section 290.01,  
13 subdivision 19c, is amended to read:

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

17 (1) the amount of any deduction taken for federal income  
18 tax purposes for income, excise, or franchise taxes based on net  
19 income or related minimum taxes, including but not limited to  
20 the tax imposed under section 290.0922, paid by the corporation  
21 to Minnesota, another state, a political subdivision of another  
22 state, the District of Columbia, or any foreign country or  
23 possession of the United States;

24 (2) interest not subject to federal tax upon obligations  
25 of: the United States, its possessions, its agencies, or its  
26 instrumentalities; the state of Minnesota or any other state,  
27 any of its political or governmental subdivisions, any of its  
28 municipalities, or any of its governmental agencies or  
29 instrumentalities; the District of Columbia; or Indian tribal  
30 governments;

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

33 (4) the amount of any net operating loss deduction taken  
34 for federal income tax purposes under section 172 or 832(c)(10)  
35 of the Internal Revenue Code or operations loss deduction under  
36 section 810 of the Internal Revenue Code;

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

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

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

10 (8) the exempt foreign trade income of a foreign sales  
11 corporation under sections 921(a) and 291 of the Internal  
12 Revenue Code;

13 (9) the amount of percentage depletion deducted under  
14 sections 611 through 614 and 291 of the Internal Revenue Code;

15 (10) for certified pollution control facilities placed in  
16 service in a taxable year beginning before December 31, 1986,  
17 and for which amortization deductions were elected under section  
18 169 of the Internal Revenue Code of 1954, as amended through  
19 December 31, 1985, the amount of the amortization deduction  
20 allowed in computing federal taxable income for those  
21 facilities;

22 (11) the amount of any deemed dividend from a foreign  
23 operating corporation determined pursuant to section 290.17,  
24 subdivision 4, paragraph (g);

25 (12) the amount of any environmental tax paid under section  
26 59(a) of the Internal Revenue Code;

27 (13) the amount of a partner's pro rata share of net income  
28 which does not flow through to the partner because the  
29 partnership elected to pay the tax on the income under section  
30 6242(a)(2) of the Internal Revenue Code;

31 (14) the amount of net income excluded under section 114 of  
32 the Internal Revenue Code;

33 (15) any increase in subpart F income, as defined in  
34 section 952(a) of the Internal Revenue Code, for the taxable  
35 year when subpart F income is calculated without regard to the  
36 provisions of section 614 of Public Law 107-147; and

1 (16) 80 percent of the depreciation deduction allowed under  
2 section 168(k) of the Internal Revenue Code. For purposes of  
3 this clause, if the taxpayer has an activity that in the taxable  
4 year generates a deduction for depreciation under section 168(k)  
5 and the activity generates a loss for the taxable year that the  
6 taxpayer is not allowed to claim for the taxable year, "the  
7 depreciation allowed under section 168(k)" for the taxable year  
8 is limited to excess of the depreciation claimed by the activity  
9 under section 168(k) over the amount of the loss from the  
10 activity that is not allowed in the taxable year. In succeeding  
11 taxable years when the losses not allowed in the taxable year  
12 are allowed, the depreciation under section 168(k) is allowed;  
13 and

14 (17) the excess of deductions over income attributable to  
15 tax-exempt property, as provided under section 290.0711.

16 [EFFECTIVE DATE.] This section is effective for taxable  
17 years beginning after December 31, 2004.

18 Sec. 5. Minnesota Statutes 2004, section 290.01,  
19 subdivision 19d, is amended to read:

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

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

27 (2) the amount of salary expense not allowed for federal  
28 income tax purposes due to claiming the federal jobs credit  
29 under section 51 of the Internal Revenue Code;

30 (3) any dividend (not including any distribution in  
31 liquidation) paid within the taxable year by a national or state  
32 bank to the United States, or to any instrumentality of the  
33 United States exempt from federal income taxes, on the preferred  
34 stock of the bank owned by the United States or the  
35 instrumentality;

36 (4) amounts disallowed for intangible drilling costs due to

1 differences between this chapter and the Internal Revenue Code  
2 in taxable years beginning before January 1, 1987, as follows:

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

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

12 (5) the deduction for capital losses pursuant to sections  
13 1211 and 1212 of the Internal Revenue Code, except that:

14 (i) for capital losses incurred in taxable years beginning  
15 after December 31, 1986, capital loss carrybacks shall not be  
16 allowed;

17 (ii) for capital losses incurred in taxable years beginning  
18 after December 31, 1986, a capital loss carryover to each of the  
19 15 taxable years succeeding the loss year shall be allowed;

20 (iii) for capital losses incurred in taxable years  
21 beginning before January 1, 1987, a capital loss carryback to  
22 each of the three taxable years preceding the loss year, subject  
23 to the provisions of Minnesota Statutes 1986, section 290.16,  
24 shall be allowed; and

25 (iv) for capital losses incurred in taxable years beginning  
26 before January 1, 1987, a capital loss carryover to each of the  
27 five taxable years succeeding the loss year to the extent such  
28 loss was not used in a prior taxable year and subject to the  
29 provisions of Minnesota Statutes 1986, section 290.16, shall be  
30 allowed;

31 (6) an amount for interest and expenses relating to income  
32 not taxable for federal income tax purposes, if (i) the income  
33 is taxable under this chapter and (ii) the interest and expenses  
34 were disallowed as deductions under the provisions of section  
35 171(a)(2), 265 or 291 of the Internal Revenue Code in computing  
36 federal taxable income;

1 (7) in the case of mines, oil and gas wells, other natural  
2 deposits, and timber for which percentage depletion was  
3 disallowed pursuant to subdivision 19c, clause (11), a  
4 reasonable allowance for depletion based on actual cost. In the  
5 case of leases the deduction must be apportioned between the  
6 lessor and lessee in accordance with rules prescribed by the  
7 commissioner. In the case of property held in trust, the  
8 allowable deduction must be apportioned between the income  
9 beneficiaries and the trustee in accordance with the pertinent  
10 provisions of the trust, or if there is no provision in the  
11 instrument, on the basis of the trust's income allocable to  
12 each;

13 (8) for certified pollution control facilities placed in  
14 service in a taxable year beginning before December 31, 1986,  
15 and for which amortization deductions were elected under section  
16 169 of the Internal Revenue Code of 1954, as amended through  
17 December 31, 1985, an amount equal to the allowance for  
18 depreciation under Minnesota Statutes 1986, section 290.09,  
19 subdivision 7;

20 (9) amounts included in federal taxable income that are due  
21 to refunds of income, excise, or franchise taxes based on net  
22 income or related minimum taxes paid by the corporation to  
23 Minnesota, another state, a political subdivision of another  
24 state, the District of Columbia, or a foreign country or  
25 possession of the United States to the extent that the taxes  
26 were added to federal taxable income under section 290.01,  
27 subdivision 19c, clause (1), in a prior taxable year;

28 ~~(10) 80-percent-of-royalties,-fees,-or-other-like-income~~  
29 ~~accrued-or-received-from-a-foreign-operating-corporation-or-a~~  
30 ~~foreign-corporation-which-is-part-of-the-same-unitary-business~~  
31 ~~as-the-receiving-corporation;~~

32 ~~{11}~~ income or gains from the business of mining as defined  
33 in section 290.05, subdivision 1, clause (a), that are not  
34 subject to Minnesota franchise tax;

35 ~~{12}~~ (11) the amount of handicap access expenditures in the  
36 taxable year which are not allowed to be deducted or capitalized

1 under section 44(d)(7) of the Internal Revenue Code;

2 ~~(13)~~ (12) the amount of qualified research expenses not  
3 allowed for federal income tax purposes under section 280C(c) of  
4 the Internal Revenue Code, but only to the extent that the  
5 amount exceeds the amount of the credit allowed under section  
6 290.068;

7 ~~(14)~~ (13) the amount of salary expenses not allowed for  
8 federal income tax purposes due to claiming the Indian  
9 employment credit under section 45A(a) of the Internal Revenue  
10 Code;

11 ~~(15)~~ (14) the amount of any refund of environmental taxes  
12 paid under section 59A of the Internal Revenue Code;

13 ~~(16)~~ (15) for taxable years beginning before January 1,  
14 2008, the amount of the federal small ethanol producer credit  
15 allowed under section 40(a)(3) of the Internal Revenue Code  
16 which is included in gross income under section 87 of the  
17 Internal Revenue Code;

18 ~~(17)~~ (16) for a corporation whose foreign sales  
19 corporation, as defined in section 922 of the Internal Revenue  
20 Code, constituted a foreign operating corporation during any  
21 taxable year ending before January 1, 1995, and a return was  
22 filed by August 15, 1996, claiming the deduction under section  
23 290.21, subdivision 4, for income received from the foreign  
24 operating corporation, an amount equal to 1.23 multiplied by the  
25 amount of income excluded under section 114 of the Internal  
26 Revenue Code, provided the income is not income of a foreign  
27 operating company;

28 ~~(18)~~ (17) any decrease in subpart F income, as defined in  
29 section 952(a) of the Internal Revenue Code, for the taxable  
30 year when subpart F income is calculated without regard to the  
31 provisions of section 614 of Public Law 107-147; and

32 ~~(19)~~ (18) in each of the five tax years immediately  
33 following the tax year in which an addition is required under  
34 subdivision 19c, clause (16), an amount equal to one-fifth of  
35 the delayed depreciation. For purposes of this clause, "delayed  
36 depreciation" means the amount of the addition made by the

1 taxpayer under subdivision 19c, clause (16). The resulting  
2 delayed depreciation cannot be less than zero; and

3 (19) amounts allowed as carryover subtractions attributable  
4 to tax-exempt property, as provided under section 290.0711.

5 [EFFECTIVE DATE.] This section is effective for taxable  
6 years beginning after December 31, 2004.

7 Sec. 6. [290.0711] [TAX-EXEMPT PROPERTY; LIMITS ON TAX  
8 BENEFITS.]

9 Subdivision 1. [DEFINITIONS.] (a) For the purposes of this  
10 section, the following terms have the meanings given.

11 (b) "Tax-exempt use property" has the meaning given in  
12 section 168(h) of the Internal Revenue Code, except the  
13 provisions of clause (2)(C)(ii) and paragraph (3) do not apply.  
14 If tangible property is subject to a service contract or other  
15 similar arrangement between a taxpayer or any related person and  
16 any tax-exempt entity, the contract or arrangement must be  
17 treated in the same manner as if it is tax-exempt property under  
18 this subdivision.

19 (c) "Taxpayer" means a corporation, subject to the  
20 corporate franchise tax under this chapter, that is claiming the  
21 deduction on the federal return and any member of its unitary  
22 group.

23 Subd. 2. [ADDITION OF EXCESS DEDUCTIONS.] In computing  
24 Minnesota taxable income, the taxpayer must add to federal  
25 taxable income the excess of:

26 (1) the aggregate amount of deductions claimed in computing  
27 federal taxable income with respect to tax-exempt use property;  
28 over

29 (2) the aggregate amount of income includable in federal  
30 gross income of the taxpayer for the taxable year with respect  
31 to tax-exempt use property.

32 Subd. 3. [CARRYOVER SUBTRACTION.] Unless otherwise  
33 provided in this section, any addition under subdivision 2 may  
34 be carried to a later taxable year and claimed as a subtraction  
35 reducing the federal taxable income of the taxpayer to the  
36 extent that income with respect to tax-exempt use property

1 exceeds the amount of deductions claimed with respect to  
2 tax-exempt properties in computing federal taxable income for  
3 that taxable year.

4 Subd. 4. [SPECIAL RULES.] (a) The following rules apply to  
5 the computation of the addition under subdivision 2.

6 (b) Subdivision 2 applies to deductions directly allocable  
7 to any tax-exempt use property and to a proper share of other  
8 deductions that are not directly allocable to tax-exempt.

9 (c) If property of a taxpayer ceases to be tax-exempt use  
10 property in the hands of the taxpayer, any unused carryover  
11 under subdivision 3 with respect to the property is only  
12 allowable as a subtraction for any taxable year to the extent of  
13 any net income of the taxpayer that is allocable to the property  
14 that ceased to be tax-exempt property.

15 (d) If during the taxable year, a taxpayer disposes of the  
16 taxpayer's entire interest in tax-exempt property, the taxpayer  
17 may claim a subtraction for the lesser of:

18 (1) the amount of gain realized on the disposition and  
19 includable in federal taxable income; or

20 (2) the amount of additions under subdivision 2  
21 attributable and not claimed in a later year  
22 under subdivi

23 **[EFFECTI** section is effective for taxable  
24 years beginni er 31, 2004.

25 Sec. 7. utes 2004, section 290.17,  
26 subdivision 2 read:

27 Subd. 2. [INCOME NOT DERIVED FROM CONDUCT OF A TRADE OR  
28 BUSINESS.] The income of a taxpayer subject to the allocation  
29 rules that is not derived from the conduct of a trade or  
30 business must be assigned in accordance with paragraphs (a) to  
31 (f):

32 (a) (1) Subject to paragraphs-(a)(2)-and  
33 (a)(4) clauses (2) and (3), income from wages as defined in  
34 section 3401(a) and (f) of the Internal Revenue Code is assigned  
35 to this state if, and to the extent that, the work of the  
36 employee is performed within it; all other income from such



1 sources is treated as income from sources without this state.

2 Severance pay shall be considered income from labor or  
3 personal or professional services.

4 (2) In the case of an individual who is a nonresident of  
5 Minnesota and who is an athlete or entertainer, income from  
6 compensation for labor or personal services performed within  
7 this state shall be determined in the following manner:

8 (i) The amount of income to be assigned to Minnesota for an  
9 individual who is a nonresident salaried athletic team employee  
10 shall be determined by using a fraction in which the denominator  
11 contains the total number of days in which the individual is  
12 under a duty to perform for the employer, and the numerator is  
13 the total number of those days spent in Minnesota. For purposes  
14 of this paragraph, off-season training activities, unless  
15 conducted at the team's facilities as part of a team imposed  
16 program, are not included in the total number of duty days.  
17 Bonuses earned as a result of play during the regular season or  
18 for participation in championship, play-off, or all-star games  
19 must be allocated under the formula. Signing bonuses are not  
20 subject to allocation under the formula if they are not  
21 conditional on playing any games for the team, are payable  
22 separately from any other compensation, and are nonrefundable;  
23 and

24 (ii) The amount of income to be assigned to Minnesota for  
25 an individual who is a nonresident, and who is an athlete or  
26 entertainer not listed in clause (i), for that person's athletic  
27 or entertainment performance in Minnesota shall be determined by  
28 assigning to this state all income from performances or athletic  
29 contests in this state.

30 (3) For purposes of this section, amounts received by a  
31 nonresident as "retirement income" as defined in section (b)(1)  
32 of the State Income Taxation of Pension Income Act, Public Law  
33 104-95, are not considered income derived from carrying on a  
34 trade or business or from wages or other compensation for work  
35 an employee performed in Minnesota, and are not taxable under  
36 this chapter.

1           ~~(4)-Wages, otherwise assigned to this state under clause~~  
2 ~~(1)-and not qualifying under clause (3), are not taxable under~~  
3 ~~this chapter if the following conditions are met:~~

4           ~~(i)-the recipient was not a resident of this state for any~~  
5 ~~part of the taxable year in which the wages were received; and~~

6           ~~(ii)-the wages are for work performed while the recipient~~  
7 ~~was a resident of this state.~~

8           (b) Income or gains from tangible property located in this  
9 state that is not employed in the business of the recipient of  
10 the income or gains must be assigned to this state.

11           (c) Income or gains from intangible personal property not  
12 employed in the business of the recipient of the income or gains  
13 must be assigned to this state if the recipient of the income or  
14 gains is a resident of this state or is a resident trust or  
15 estate.

16           Gain on the sale of a partnership interest is allocable to  
17 this state in the ratio of the original cost of partnership  
18 tangible property in this state to the original cost of  
19 partnership tangible property everywhere, determined at the time  
20 of the sale. If more than 50 percent of the value of the  
21 partnership's assets consists of intangibles, gain or loss from  
22 the sale of the partnership interest is allocated to this state  
23 in accordance with the sales factor of the partnership for its  
24 first full tax period immediately preceding the tax period of  
25 the partnership during which the partnership interest was sold.

26           Gain on the sale of goodwill or income from a covenant not  
27 to compete that is connected with a business operating all or  
28 partially in Minnesota is allocated to this state to the extent  
29 that the income from the business in the year preceding the year  
30 of sale was assignable to Minnesota under subdivision 3.

31           When an employer pays an employee for a covenant not to  
32 compete, the income allocated to this state is in the ratio of  
33 the employee's service in Minnesota in the calendar year  
34 preceding leaving the employment of the employer over the total  
35 services performed by the employee for the employer in that year.

36           (d) Income from winnings on a bet made by an individual

1 while in Minnesota is assigned to this state. In this  
2 paragraph, "bet" has the meaning given in section 609.75,  
3 subdivision 2, as limited by section 609.75, subdivision 3,  
4 clauses (1), (2), and (3).

5 (e) All items of gross income not covered in paragraphs (a)  
6 to (d) and not part of the taxpayer's income from a trade or  
7 business shall be assigned to the taxpayer's domicile.

8 (f) For the purposes of this section, working as an  
9 employee shall not be considered to be conducting a trade or  
10 business.

11 [EFFECTIVE DATE.] This section is effective for tax years  
12 beginning after December 31, 2004.

13 Sec. 8. Minnesota Statutes 2004, section 290.17,  
14 subdivision 4, is amended to read:

15 Subd. 4. [UNITARY BUSINESS PRINCIPLE.] (a) If a trade or  
16 business conducted wholly within this state or partly within and  
17 partly without this state is part of a unitary business, the  
18 entire income of the unitary business is subject to  
19 apportionment pursuant to section 290.191. Notwithstanding  
20 subdivision 2, paragraph (c), none of the income of a unitary  
21 business is considered to be derived from any particular source  
22 and none may be allocated to a particular place except as  
23 provided by the applicable apportionment formula. The  
24 provisions of this subdivision do not apply to business income  
25 subject to subdivision 5, income of an insurance company, or  
26 income of an investment company determined under section 290.36.

27 (b) The term "unitary business" means business activities  
28 or operations which result in a flow of value between them. The  
29 term may be applied within a single legal entity or between  
30 multiple entities and without regard to whether each entity is a  
31 sole proprietorship, a corporation, a partnership or a trust.

32 (c) Unity is presumed whenever there is unity of ownership,  
33 operation, and use, evidenced by centralized management or  
34 executive force, centralized purchasing, advertising,  
35 accounting, or other controlled interaction, but the absence of  
36 these centralized activities will not necessarily evidence a

1 nonunitary business. Unity is also presumed when business  
2 activities or operations are of mutual benefit, dependent upon  
3 or contributory to one another, either individually or as a  
4 group.

5 (d) Where a business operation conducted in Minnesota is  
6 owned by a business entity that carries on business activity  
7 outside the state different in kind from that conducted within  
8 this state, and the other business is conducted entirely outside  
9 the state, it is presumed that the two business operations are  
10 unitary in nature, interrelated, connected, and interdependent  
11 unless it can be shown to the contrary.

12 (e) Unity of ownership is not deemed to exist when a  
13 corporation is involved unless that corporation is a member of a  
14 group of two or more business entities and more than 50 percent  
15 of the voting stock of each member of the group is directly or  
16 indirectly owned by a common owner or by common owners, either  
17 corporate or noncorporate, or by one or more of the member  
18 corporations of the group. For this purpose, the term "voting  
19 stock" shall include membership interests of mutual insurance  
20 holding companies formed under section 60A.077.

21 (f) The net income and apportionment factors under section  
22 290.191 or 290.20 of foreign corporations and other foreign  
23 entities which are part of a unitary business shall not be  
24 included in the net income or the apportionment factors of the  
25 unitary business. A foreign corporation or other foreign entity  
26 which is required to file a return under this chapter shall file  
27 on a separate return basis. The net income and apportionment  
28 factors under section 290.191 or 290.20 of foreign operating  
29 corporations shall not be included in the net income or the  
30 apportionment factors of the unitary business except as provided  
31 in paragraph (g).

32 (g) The adjusted net income of a foreign operating  
33 corporation shall be deemed to be paid as a dividend on the last  
34 day of its taxable year to each shareholder thereof, in  
35 proportion to each shareholder's ownership, with which such  
36 corporation is engaged in a unitary business. Such deemed

1 dividend shall be treated as a dividend under section 290.21,  
2 subdivision 4. Except the dividend received deduction shall not  
3 be allowed on dividends, interest, royalties, or capital gains  
4 received by the foreign operating corporation included in the  
5 deemed dividend.

6 Dividends actually paid by a foreign operating corporation  
7 to a corporate shareholder which is a member of the same unitary  
8 business as the foreign operating corporation shall be  
9 eliminated from the net income of the unitary business in  
10 preparing a combined report for the unitary business. The  
11 adjusted net income of a foreign operating corporation shall be  
12 its net income adjusted as follows:

13 (1) any taxes paid or accrued to a foreign country, the  
14 commonwealth of Puerto Rico, or a United States possession or  
15 political subdivision of any of the foregoing shall be a  
16 deduction; and

17 (2) the subtraction from federal taxable income for  
18 payments received from foreign corporations or foreign operating  
19 corporations under section 290.01, subdivision 19d, clause (10),  
20 shall not be allowed.

21 If a foreign operating corporation incurs a net loss,  
22 neither income nor deduction from that corporation shall be  
23 included in determining the net income of the unitary business.

24 (h) For purposes of determining the net income of a unitary  
25 business and the factors to be used in the apportionment of net  
26 income pursuant to section 290.191 or 290.20, there must be  
27 included only the income and apportionment factors of domestic  
28 corporations or other domestic entities other than foreign  
29 operating corporations that are determined to be part of the  
30 unitary business pursuant to this subdivision, notwithstanding  
31 that foreign corporations or other foreign entities might be  
32 included in the unitary business.

33 (i) Deductions for expenses, interest, or taxes otherwise  
34 allowable under this chapter that are connected with or  
35 allocable against dividends, deemed dividends described in  
36 paragraph (g), or royalties, fees, or other like income

1 described in section 290.01, subdivision 19d, clause (10), shall  
2 not be disallowed.

3 (j) Each corporation or other entity, except a sole  
4 proprietorship, that is part of a unitary business must file  
5 combined reports as the commissioner determines. On the  
6 reports, all intercompany transactions between entities included  
7 pursuant to paragraph (h) must be eliminated and the entire net  
8 income of the unitary business determined in accordance with  
9 this subdivision is apportioned among the entities by using each  
10 entity's Minnesota factors for apportionment purposes in the  
11 numerators of the apportionment formula and the total factors  
12 for apportionment purposes of all entities included pursuant to  
13 paragraph (h) in the denominators of the apportionment formula.

14 (k) If a corporation has been divested from a unitary  
15 business and is included in a combined report for a fractional  
16 part of the common accounting period of the combined report:

17 (1) its income includable in the combined report is its  
18 income incurred for that part of the year determined by  
19 proration or separate accounting; and

20 (2) its sales, property, and payroll included in the  
21 apportionment formula must be prorated or accounted for  
22 separately.

23 [EFFECTIVE DATE.] This section is effective for tax years  
24 beginning after December 31, 2004.

25 Sec. 9. Minnesota Statutes 2004, section 290.191,  
26 subdivision 5, is amended to read:

27 Subd. 5. [DETERMINATION OF SALES FACTOR.] For purposes of  
28 this section, the following rules apply in determining the sales  
29 factor.

30 (a) The sales factor includes all sales, gross earnings, or  
31 receipts received in the ordinary course of the business, except  
32 that the following types of income are not included in the sales  
33 factor:

34 (1) interest;

35 (2) dividends;

36 (3) sales of capital assets as defined in section 1221 of

1 the Internal Revenue Code;

2 (4) sales of property used in the trade or business, except  
3 sales of leased property of a type which is regularly sold as  
4 well as leased;

5 (5) sales of debt instruments as defined in section  
6 1275(a)(1) of the Internal Revenue Code or sales of stock; and

7 (6) royalties, fees, or other like income of a type which  
8 qualify for a subtraction from federal taxable income under  
9 section 290.01, subdivision 19d(10); and

10 (7) lease or other payments received for tax-exempt  
11 property, as defined in and subject to section 290.0711.

12 (b) Sales of tangible personal property are made within  
13 this state if the property is received by a purchaser at a point  
14 within this state, and the taxpayer is taxable in this state,  
15 regardless of the f.o.b. point, other conditions of the sale, or  
16 the ultimate destination of the property.

17 (c) Tangible personal property delivered to a common or  
18 contract carrier or foreign vessel for delivery to a purchaser  
19 in another state or nation is a sale in that state or nation,  
20 regardless of f.o.b. point or other conditions of the sale.

21 (d) Notwithstanding paragraphs (b) and (c), when  
22 intoxicating liquor, wine, fermented malt beverages, cigarettes,  
23 or tobacco products are sold to a purchaser who is licensed by a  
24 state or political subdivision to resell this property only  
25 within the state of ultimate destination, the sale is made in  
26 that state.

27 (e) Sales made by or through a corporation that is  
28 qualified as a domestic international sales corporation under  
29 section 992 of the Internal Revenue Code are not considered to  
30 have been made within this state.

31 (f) Sales, rents, royalties, and other income in connection  
32 with real property is attributed to the state in which the  
33 property is located.

34 (g) Receipts from the lease or rental of tangible personal  
35 property, including finance leases and true leases, must be  
36 attributed to this state if the property is located in this

1 state and to other states if the property is not located in this  
2 state. Receipts from the lease or rental of moving property  
3 including, but not limited to, motor vehicles, rolling stock,  
4 aircraft, vessels, or mobile equipment are included in the  
5 numerator of the receipts factor to the extent that the property  
6 is used in this state. The extent of the use of moving property  
7 is determined as follows:

8 (1) A motor vehicle is used wholly in the state in which it  
9 is registered.

10 (2) The extent that rolling stock is used in this state is  
11 determined by multiplying the receipts from the lease or rental  
12 of the rolling stock by a fraction, the numerator of which is  
13 the miles traveled within this state by the leased or rented  
14 rolling stock and the denominator of which is the total miles  
15 traveled by the leased or rented rolling stock.

16 (3) The extent that an aircraft is used in this state is  
17 determined by multiplying the receipts from the lease or rental  
18 of the aircraft by a fraction, the numerator of which is the  
19 number of landings of the aircraft in this state and the  
20 denominator of which is the total number of landings of the  
21 aircraft.

22 (4) The extent that a vessel, mobile equipment, or other  
23 mobile property is used in the state is determined by  
24 multiplying the receipts from the lease or rental of the  
25 property by a fraction, the numerator of which is the number of  
26 days during the taxable year the property was in this state and  
27 the denominator of which is the total days in the taxable year.

28 (h) Royalties and other income not described in paragraph  
29 (a), clause (6), received for the use of or for the privilege of  
30 using intangible property, including patents, know-how,  
31 formulas, designs, processes, patterns, copyrights, trade names,  
32 service names, franchises, licenses, contracts, customer lists,  
33 or similar items, must be attributed to the state in which the  
34 property is used by the purchaser. If the property is used in  
35 more than one state, the royalties or other income must be  
36 apportioned to this state pro rata according to the portion of



1 use in this state. If the portion of use in this state cannot  
2 be determined, the royalties or other income must be excluded  
3 from both the numerator and the denominator. Intangible  
4 property is used in this state if the purchaser uses the  
5 intangible property or the rights therein in the regular course  
6 of its business operations in this state, regardless of the  
7 location of the purchaser's customers.

8 (i) Sales of intangible property are made within the state  
9 in which the property is used by the purchaser. If the property  
10 is used in more than one state, the sales must be apportioned to  
11 this state pro rata according to the portion of use in this  
12 state. If the portion of use in this state cannot be  
13 determined, the sale must be excluded from both the numerator  
14 and the denominator of the sales factor. Intangible property is  
15 used in this state if the purchaser used the intangible property  
16 in the regular course of its business operations in this state.

17 (j) Receipts from the performance of services must be  
18 attributed to the state where the services are received. For  
19 the purposes of this section, receipts from the performance of  
20 services provided to a corporation, partnership, or trust may  
21 only be attributed to a state where it has a fixed place of  
22 doing business. If the state where the services are received is  
23 not readily determinable or is a state where the corporation,  
24 partnership, or trust receiving the service does not have a  
25 fixed place of doing business, the services shall be deemed to  
26 be received at the location of the office of the customer from  
27 which the services were ordered in the regular course of the  
28 customer's trade or business. If the ordering office cannot be  
29 determined, the services shall be deemed to be received at the  
30 office of the customer to which the services are billed.

31 **[EFFECTIVE DATE.]** This section is effective for taxable  
32 years beginning after December 31, 2004.

33 Sec. 10. Minnesota Statutes 2004, section 290.191,  
34 subdivision 6, is amended to read:

35 Subd. 6. [DETERMINATION OF RECEIPTS FACTOR FOR FINANCIAL  
36 INSTITUTIONS.] (a) For purposes of this section, the rules in

1 this subdivision and subdivision 8 apply in determining the  
2 receipts factor for financial institutions.

3 (b) "Receipts" for this purpose means gross income,  
4 including net taxable gain on disposition of assets, including  
5 securities and money market instruments, when derived from  
6 transactions and activities in the regular course of the  
7 taxpayer's trade or business.

8 (c) "Money market instruments" means federal funds sold and  
9 securities purchased under agreements to resell, commercial  
10 paper, banker's acceptances, and purchased certificates of  
11 deposit and similar instruments to the extent that the  
12 instruments are reflected as assets under generally accepted  
13 accounting principles.

14 (d) "Securities" means United States Treasury securities,  
15 obligations of United States government agencies and  
16 corporations, obligations of state and political subdivisions,  
17 corporate stock, bonds, and other securities, participations in  
18 securities backed by mortgages held by United States or state  
19 government agencies, loan-backed securities and similar  
20 investments to the extent the investments are reflected as  
21 assets under generally accepted accounting principles.

22 (e) Receipts from the lease or rental of real or tangible  
23 personal property, including both finance leases and true  
24 leases, must be attributed to this state if the property is  
25 located in this state. Receipts from the lease or rental of  
26 tangible personal property that is characteristically moving  
27 property, including, but not limited to, motor vehicles, rolling  
28 stock, aircraft, vessels, or mobile equipment are included in  
29 the numerator of the receipts factor to the extent that the  
30 property is used in this state. The extent of the use of moving  
31 property is determined as follows:

32 (1) A motor vehicle is used wholly in the state in which it  
33 is registered.

34 (2) The extent that rolling stock is used in this state is  
35 determined by multiplying the receipts from the lease or rental  
36 of the rolling stock by a fraction, the numerator of which is

1 the miles traveled within this state by the leased or rented  
2 rolling stock and the denominator of which is the total miles  
3 traveled by the leased or rented rolling stock.

4 (3) The extent that an aircraft is used in this state is  
5 determined by multiplying the receipts from the lease or rental  
6 of the aircraft by a fraction, the numerator of which is the  
7 number of landings of the aircraft in this state and the  
8 denominator of which is the total number of landings of the  
9 aircraft.

10 (4) The extent that a vessel, mobile equipment, or other  
11 mobile property is used in the state is determined by  
12 multiplying the receipts from the lease or rental of property by  
13 a fraction, the numerator of which is the number of days during  
14 the taxable year the property was in this state and the  
15 denominator of which is the total days in the taxable year.

16 (f) Interest income and other receipts from assets in the  
17 nature of loans that are secured primarily by real estate or  
18 tangible personal property must be attributed to this state if  
19 the security property is located in this state under the  
20 principles stated in paragraph (e).

21 (g) Interest income and other receipts from consumer loans  
22 not secured by real or tangible personal property that are made  
23 to residents of this state, whether at a place of business, by  
24 traveling loan officer, by mail, by telephone or other  
25 electronic means, must be attributed to this state.

26 (h) Interest income and other receipts from commercial  
27 loans and installment obligations that are unsecured by real or  
28 tangible personal property or secured by intangible property  
29 must be attributed to this state if the proceeds of the loan are  
30 to be applied in this state. If it cannot be determined where  
31 the funds are to be applied, the income and receipts are  
32 attributed to the state in which the office of the borrower from  
33 which the application would be made in the regular course of  
34 business is located. If this cannot be determined, the  
35 transaction is disregarded in the apportionment formula.

36 (i) Interest income and other receipts from a participating

1 financial institution's portion of participation and syndication  
2 loans must be attributed under paragraphs (e) to (h). A  
3 participation loan is an arrangement in which a lender makes a  
4 loan to a borrower and then sells, assigns, or otherwise  
5 transfers all or a part of the loan to a purchasing financial  
6 institution. A syndication loan is a loan transaction involving  
7 multiple financial institutions in which all the lenders are  
8 named as parties to the loan documentation, are known to the  
9 borrower, and have privity of contract with the borrower.

10 (j) Interest income and other receipts including service  
11 charges from financial institution credit card and travel and  
12 entertainment credit card receivables and credit card holders'  
13 fees must be attributed to the state to which the card charges  
14 and fees are regularly billed.

15 (k) Merchant discount income derived from financial  
16 institution credit card holder transactions with a merchant must  
17 be attributed to the state in which the merchant is located. In  
18 the case of merchants located within and outside the state, only  
19 receipts from merchant discounts attributable to sales made from  
20 locations within the state are attributed to this state. It is  
21 presumed, subject to rebuttal, that the location of a merchant  
22 is the address shown on the invoice submitted by the merchant to  
23 the taxpayer.

24 (l) Receipts from the performance of fiduciary and other  
25 services must be attributed to the state in which the services  
26 are received. For the purposes of this section, services  
27 provided to a corporation, partnership, or trust must be  
28 attributed to a state where it has a fixed place of doing  
29 business. If the state where the services are received is not  
30 readily determinable or is a state where the corporation,  
31 partnership, or trust does not have a fixed place of doing  
32 business, the services shall be deemed to be received at the  
33 location of the office of the customer from which the services  
34 were ordered in the regular course of the customer's trade or  
35 business. If the ordering office cannot be determined, the  
36 services shall be deemed to be received at the office of the

1 customer to which the services are billed.

2 (m) Receipts from the issuance of travelers checks and  
3 money orders must be attributed to the state in which the checks  
4 and money orders are purchased.

5 (n) Receipts from investments of a financial institution in  
6 securities and from money market instruments must be apportioned  
7 to this state based on the ratio that total deposits from this  
8 state, its residents, including any business with an office or  
9 other place of business in this state, its political  
10 subdivisions, agencies, and instrumentalities bear to the total  
11 deposits from all states, their residents, their political  
12 subdivisions, agencies, and instrumentalities. In the case of  
13 an unregulated financial institution subject to this section,  
14 these receipts are apportioned to this state based on the ratio  
15 that its gross business income, excluding such receipts, earned  
16 from sources within this state bears to gross business income,  
17 excluding such receipts, earned from sources within all states.  
18 For purposes of this subdivision, deposits made by this state,  
19 its residents, its political subdivisions, agencies, and  
20 instrumentalities must be attributed to this state, whether or  
21 not the deposits are accepted or maintained by the taxpayer at  
22 locations within this state.

23 (o) A financial institution's interest in property  
24 described in section 290.015, subdivision 3, paragraph (b), is  
25 included in the receipts factor in the same manner as assets in  
26 the nature of securities or money market instruments are  
27 included in paragraph (n).

28 (p) Receipts from leases, service contracts, or other  
29 arrangements for tax-exempt property, as defined in and subject  
30 to section 290.0711, are excluded from the receipts factor.

31 [EFFECTIVE DATE.] This section is effective for taxable  
32 years beginning after December 31, 2004.

33 Sec. 11. Minnesota Statutes 2004, section 290.191,  
34 subdivision 10, is amended to read:

35 Subd. 10. [PROPERTY FACTOR; TANGIBLE PROPERTY.] (a)  
36 Tangible property includes land, buildings, machinery and

1 equipment, inventories, and other tangible personal property  
2 actually used by the taxpayer during the taxable year in  
3 carrying on the business activities of the taxpayer. Tangible  
4 property which is separately allocated under section 290.17 is  
5 not includable in the property factor.

6 (b) Cash on hand or in banks, shares of stock, notes,  
7 bonds, accounts receivable, or other evidences of indebtedness,  
8 special privileges, franchises, and goodwill, are specifically  
9 excluded from the property factor, except as otherwise provided  
10 for financial institutions in subdivision 11.

11 (c) The value of tangible property that is owned by the  
12 taxpayer and that is to be used in the apportionment fraction is  
13 the original cost adjusted for any later capital additions or  
14 improvements and partial disposition by reason of sale,  
15 exchange, or abandonment.

16 (d) For purposes of computing the property factor, United  
17 States government property that is used by the taxpayer must be  
18 considered owned by the taxpayer.

19 (e) Property that is rented by the taxpayer is valued at  
20 eight times the net annual rental. Net annual rental is the  
21 annual rental paid by the taxpayer less any annual rental  
22 received by the taxpayer from subrentals. If the subrents taken  
23 into account in determining the net annual rental produce a  
24 negative or clearly inaccurate value for any item of property,  
25 another method that will properly reflect the value of rented  
26 property may be required by the commissioner or requested by the  
27 taxpayer. In no case, however, shall the value be less than an  
28 amount which bears the same ratio to the annual rental paid by  
29 the taxpayer for such property as the fair market value of that  
30 portion of the property used by the taxpayer bears to the total  
31 fair market value of the rented property. Rents paid during the  
32 year cannot be averaged.

33 (f) A person filing a combined report shall use this method  
34 of calculating the property factor for all members of the group.

35 (g) Tax-exempt property, as defined in and subject to  
36 section 290.0711, is excluded from the property factor.

1        [EFFECTIVE DATE.] This section is effective for taxable  
2 years beginning after December 31, 2004.

3        Sec. 12. Minnesota Statutes 2004, section 290.191,  
4 subdivision 11, is amended to read:

5        Subd. 11. [FINANCIAL INSTITUTIONS; PROPERTY FACTOR.] (a)  
6 For financial institutions, the property factor includes, as  
7 well as tangible property, intangible property as set forth in  
8 this subdivision.

9        (b) Intangible personal property must be included at its  
10 tax basis for federal income tax purposes.

11        (c) Goodwill must not be included in the property factor.

12        (d) Coin and currency located in this state must be  
13 attributed to this state.

14        (e) Lease financing receivables must be attributed to this  
15 state if and to the extent that the property is located within  
16 this state.

17        (f) Assets in the nature of loans that are secured by real  
18 or tangible personal property must be attributed to this state  
19 if and to the extent that the security property is located  
20 within this state.

21        (g) Assets in the nature of consumer loans and installment  
22 obligations that are unsecured or secured by intangible property  
23 must be attributed to this state if the loan was made to a  
24 resident of this state.

25        (h) Assets in the nature of commercial loan and installment  
26 obligations that are unsecured by real or tangible personal  
27 property or secured by intangible property must be attributed to  
28 this state if the proceeds of the loan are to be applied in this  
29 state. If it cannot be determined where the funds are to be  
30 applied, the assets must be attributed to the state in which  
31 there is located the office of the borrower from which the  
32 application would be made in the regular course of business. If  
33 this cannot be determined, the transaction is disregarded in the  
34 apportionment formula.

35        (i) A participating financial institution's portion of  
36 participation and syndication loans must be attributed under

1 limited to, property given as promotional items, is a retail  
2 sale and is not considered a sale of property for resale.

3 (i) A sale of tangible personal property used in conducting  
4 lawful gambling under chapter 349 or the state lottery under  
5 chapter 349A, including, but not limited to, property given as  
6 promotional items, is a retail sale and is not considered a sale  
7 of property for resale.

8 (j) A sale of machines, equipment, or devices that are used  
9 to furnish, provide, or dispense goods or services, including,  
10 but not limited to, coin-operated devices, is a retail sale and  
11 is not considered a sale of property for resale.

12 (k) Except as provided in subdivision 7, paragraph (c), in  
13 the case of a lease, a retail sale occurs when an obligation to  
14 make a lease payment becomes due under the terms of the  
15 agreement or the trade practices of the lessor.

16 (l) In the case of a conditional sales contract, a retail  
17 sale occurs upon the transfer of title or possession of the  
18 tangible personal property.

19 [EFFECTIVE DATE.] This section is effective for leases  
20 entered into after June 30, 2005.

21 Sec. 14. Minnesota Statutes 2004, section 297A.61,  
22 subdivision 7, is amended to read:

23 Subd. 7. [SALES PRICE.] (a) "Sales price" means the  
24 measure subject to sales tax, and means the total amount of  
25 consideration, including cash, credit, personal property, and  
26 services, for which personal property or services are sold,  
27 leased, or rented, valued in money, whether received in money or  
28 otherwise, without any deduction for the following:

29 (1) the seller's cost of the property sold;

30 (2) the cost of materials used, labor or service cost,  
31 interest, losses, all costs of transportation to the seller, all  
32 taxes imposed on the seller, and any other expenses of the  
33 seller;

34 (3) charges by the seller for any services necessary to  
35 complete the sale, other than delivery and installation charges;

36 (4) delivery charges;



1 (5) installation charges; and

2 (6) the value of exempt property given to the purchaser  
3 when taxable and exempt personal property have been bundled  
4 together and sold by the seller as a single product or piece of  
5 merchandise.

6 (b) Sales price does not include:

7 (1) discounts, including cash, terms, or coupons, that are  
8 not reimbursed by a third party and that are allowed by the  
9 seller and taken by a purchaser on a sale;

10 (2) interest, financing, and carrying charges from credit  
11 extended on the sale of personal property or services, if the  
12 amount is separately stated on the invoice, bill of sale, or  
13 similar document given to the purchaser; and

14 (3) any taxes legally imposed directly on the consumer that  
15 are separately stated on the invoice, bill of sale, or similar  
16 document given to the purchaser.

17 (c) In the case of a lease of a motor vehicle, as defined  
18 in section 297B.01, subdivision 5, that is taxable under this  
19 chapter, the sales tax shall be collected by the vendor at the  
20 time the lease is consummated and shall be calculated by the  
21 vendor on the basis of the total amount to be paid by the lessee  
22 under the lease agreement. If the total amount of the  
23 consideration for the lease includes amounts that are not  
24 calculated at the time the lease is executed, the tax shall be  
25 calculated and collected by the vendor at the time such amounts  
26 are billed to the lessee. In the case of an open-ended lease,  
27 the sales tax shall be calculated by the vendor on the basis of  
28 the total amount to be paid during the initial term of the  
29 lease, and then for each subsequent renewal period as it becomes  
30 due.

31 [EFFECTIVE DATE.] This section is effective for leases  
32 entered into after June 30, 2005.

33 Sec. 15. Minnesota Statutes 2004, section 297A.67, is  
34 amended by adding a subdivision to read:

35 Subd. 32. [CIGARETTES.] Cigarettes upon which a tax has  
36 been imposed under section 297F.25 are exempt.

1            [EFFECTIVE DATE.] This section is effective for sales and  
2 purchases made after July 31, 2005.

3            Sec. 16. Minnesota Statutes 2004, section 297A.68,  
4 subdivision 2, is amended to read:

5            Subd. 2. [MATERIALS CONSUMED IN INDUSTRIAL PRODUCTION.]

6            (a) Materials stored, used, or consumed in industrial production  
7 of personal property intended to be sold ultimately at retail  
8 are exempt, whether or not the item so used becomes an  
9 ingredient or constituent part of the property produced.  
10 Materials that qualify for this exemption include, but are not  
11 limited to, the following:

12            (1) chemicals, including chemicals used for cleaning food  
13 processing machinery and equipment;

14            (2) materials, including chemicals, fuels, and electricity  
15 purchased by persons engaged in industrial production to treat  
16 waste generated as a result of the production process;

17            (3) fuels, electricity, gas, and steam used or consumed in  
18 the production process, except that electricity, gas, or steam  
19 used for space heating, cooling, or lighting is exempt if (i) it  
20 is in excess of the average climate control or lighting for the  
21 production area, and (ii) it is necessary to produce that  
22 particular product;

23            (4) petroleum products and lubricants;

24            (5) packaging materials, including returnable containers  
25 used in packaging food and beverage products;

26            (6) accessory tools, equipment, and other items that are  
27 separate detachable units with an ordinary useful life of less  
28 than 12 months used in producing a direct effect upon the  
29 product; and

30            (7) the following materials, tools, and equipment used in  
31 metalcasting: crucibles, thermocouple protection sheaths and  
32 tubes, stalk tubes, refractory materials, molten metal filters  
33 and filter boxes, degassing lances, and base blocks.

34            (b) This exemption does not include:

35            (1) machinery, equipment, implements, tools, accessories,  
36 appliances, contrivances and furniture and fixtures, except

1 those listed in paragraph (a), clause (6); and

2 (2) petroleum and special fuels used in producing or  
3 generating power for propelling ready-mixed concrete trucks on  
4 the public highways of this state.

5 (c) Industrial production includes, but is not limited to,  
6 research, development, design or production of any tangible  
7 personal property, manufacturing, processing (other than by  
8 restaurants and consumers) of agricultural products (whether  
9 vegetable or animal), commercial fishing, refining, smelting,  
10 reducing, brewing, distilling, printing, mining, quarrying,  
11 lumbering, generating electricity, the production of road  
12 building materials, and the research, development, design, or  
13 production of computer software. Industrial production does not  
14 include painting, cleaning, repairing or similar processing of  
15 property except as part of the original manufacturing process.  
16 Industrial production does not include the transportation,  
17 transmission, or distribution of petroleum, liquefied gas,  
18 natural gas, water, or steam, in, by, or through pipes, lines,  
19 tanks, mains, or other means of transporting those products.

20 [EFFECTIVE DATE.] This section is effective for sales and  
21 purchases made after June 30, 2004.

22 Sec. 17. Minnesota Statutes 2004, section 297A.68,  
23 subdivision 5, is amended to read:

24 Subd. 5. [CAPITAL EQUIPMENT.] (a) Capital equipment is  
25 exempt. The tax must be imposed and collected as if the rate  
26 under section 297A.62, subdivision 1, applied, and then refunded  
27 in the manner provided in section 297A.75.

28 "Capital equipment" means machinery and equipment purchased  
29 or leased, and used in this state by the purchaser or lessee  
30 primarily for manufacturing, fabricating, mining, or refining  
31 tangible personal property to be sold ultimately at retail if  
32 the machinery and equipment are essential to the integrated  
33 production process of manufacturing, fabricating, mining, or  
34 refining. Capital equipment also includes machinery and  
35 equipment used to electronically transmit results retrieved by a  
36 customer of an on-line computerized data retrieval system.

1 (b) Capital equipment includes, but is not limited to:

2 (1) machinery and equipment used to operate, control, or  
3 regulate the production equipment;

4 (2) machinery and equipment used for research and  
5 development, design, quality control, and testing activities;

6 (3) environmental control devices that are used to maintain  
7 conditions such as temperature, humidity, light, or air pressure  
8 when those conditions are essential to and are part of the  
9 production process;

10 (4) materials and supplies used to construct and install  
11 machinery or equipment;

12 (5) repair and replacement parts, including accessories,  
13 whether purchased as spare parts, repair parts, or as upgrades  
14 or modifications to machinery or equipment;

15 (6) materials used for foundations that support machinery  
16 or equipment;

17 (7) materials used to construct and install special purpose  
18 buildings used in the production process;

19 (8) ready-mixed concrete equipment in which the ready-mixed  
20 concrete is mixed as part of the delivery process regardless if  
21 mounted on a chassis and leases of ready-mixed concrete trucks;  
22 and

23 (9) machinery or equipment used for research, development,  
24 design, or production of computer software.

25 (c) Capital equipment does not include the following:

26 (1) motor vehicles taxed under chapter 297B;

27 (2) machinery or equipment used to receive or store raw  
28 materials;

29 (3) building materials, except for materials included in  
30 paragraph (b), clauses (6) and (7);

31 (4) machinery or equipment used for nonproduction purposes,  
32 including, but not limited to, the following: plant security,  
33 fire prevention, first aid, and hospital stations; support  
34 operations or administration; pollution control; and plant  
35 cleaning, disposal of scrap and waste, plant communications,  
36 space heating, cooling, lighting, or safety;

1 (5) farm machinery and aquaculture production equipment as  
2 defined by section 297A.61, subdivisions 12 and 13;

3 (6) machinery or equipment purchased and installed by a  
4 contractor as part of an improvement to real property; or

5 (7) machinery or equipment used in the transportation,  
6 transmission, or distribution of petroleum, liquefied gas,  
7 natural gas, water, or steam, in, by, or through pipes, lines,  
8 tanks, mains, or other means of transporting those products; or

9 (8) any other item that is not essential to the integrated  
10 process of manufacturing, fabricating, mining, or refining.

11 (d) For purposes of this subdivision:

12 (1) "Equipment" means independent devices or tools separate  
13 from machinery but essential to an integrated production  
14 process, including computers and computer software, used in  
15 operating, controlling, or regulating machinery and equipment;  
16 and any subunit or assembly comprising a component of any  
17 machinery or accessory or attachment parts of machinery, such as  
18 tools, dies, jigs, patterns, and molds.

19 (2) "Fabricating" means to make, build, create, produce, or  
20 assemble components or property to work in a new or different  
21 manner.

22 (3) "Integrated production process" means a process or  
23 series of operations through which tangible personal property is  
24 manufactured, fabricated, mined, or refined. For purposes of  
25 this clause, (i) manufacturing begins with the removal of raw  
26 materials from inventory and ends when the last process prior to  
27 loading for shipment has been completed; (ii) fabricating begins  
28 with the removal from storage or inventory of the property to be  
29 assembled, processed, altered, or modified and ends with the  
30 creation or production of the new or changed product; (iii)  
31 mining begins with the removal of overburden from the site of  
32 the ores, minerals, stone, peat deposit, or surface materials  
33 and ends when the last process before stockpiling is completed;  
34 and (iv) refining begins with the removal from inventory or  
35 storage of a natural resource and ends with the conversion of  
36 the item to its completed form.

1 (4) "Machinery" means mechanical, electronic, or electrical  
2 devices, including computers and computer software, that are  
3 purchased or constructed to be used for the activities set forth  
4 in paragraph (a), beginning with the removal of raw materials  
5 from inventory through completion of the product, including  
6 packaging of the product.

7 (5) "Machinery and equipment used for pollution control"  
8 means machinery and equipment used solely to eliminate, prevent,  
9 or reduce pollution resulting from an activity described in  
10 paragraph (a).

11 (6) "Manufacturing" means an operation or series of  
12 operations where raw materials are changed in form, composition,  
13 or condition by machinery and equipment and which results in the  
14 production of a new article of tangible personal property. For  
15 purposes of this subdivision, "manufacturing" includes the  
16 generation of electricity or steam to be sold at retail.

17 (7) "Mining" means the extraction of minerals, ores, stone,  
18 or peat.

19 (8) "On-line data retrieval system" means a system whose  
20 cumulation of information is equally available and accessible to  
21 all its customers.

22 (9) "Primarily" means machinery and equipment used 50  
23 percent or more of the time in an activity described in  
24 paragraph (a).

25 (10) "Refining" means the process of converting a natural  
26 resource to an intermediate or finished product, including the  
27 treatment of water to be sold at retail.

28 [EFFECTIVE DATE.] This section is effective for sales and  
29 purchases made after June 30, 2004.

30 Sec. 18. [297F.25] [CIGARETTE WHOLESale TAX.]

31 Subdivision 1. [IMPOSITION.] A tax is imposed on the sale  
32 of cigarettes by a cigarette distributor to a retailer or  
33 cigarette subjobber for resale in this state. The tax is equal  
34 to 6.5 percent of:

35 (1) 112 percent of the distributor's gross invoice price,  
36 before any discounts and including the full face value of any

1 cigarette stamps and the fee imposed under section 297F.24, of  
2 the cigarettes sold to a retailer; or

3 (2) 112 percent of the cost of the retailer, as defined in  
4 section 325D.32, subdivision 11, and any fees imposed under  
5 section 297F.24 of the cigarettes sold to a cigarette subjobber.

6 Subd. 2. [TAX COLLECTION REQUIRED.] A cigarette  
7 distributor must collect the tax imposed under subdivision 1  
8 from the retailer or cigarette subjobber and the tax must be  
9 stated and charged separately. The tax collected must be  
10 remitted to the commissioner in the manner prescribed by  
11 subdivision 4.

12 Subd. 3. [PAYMENT.] Each taxpayer must remit payments of  
13 the taxes to the commissioner on the same dates prescribed under  
14 section 297F.09, subdivision 1, for cigarette tax returns,  
15 including the accelerated remittance of the June liability.

16 Subd. 4. [RETURN.] A taxpayer must file a return with the  
17 commissioner on the same dates prescribed under section 297F.09,  
18 subdivision 1, for cigarette tax returns.

19 Subd. 5. [FORM OF RETURN.] The return must contain the  
20 information and be in the form prescribed by the commissioner.

21 Subd. 6. [TAX AS DEBT.] The tax that is required to be  
22 collected by the distributor is a debt from the retailer or  
23 cigarette subjobber to the distributor recoverable at law in the  
24 same manner as other debts.

25 Subd. 7. [ADMINISTRATION.] The audit, assessment,  
26 interest, appeal, refund, and collection provisions applicable  
27 to the taxes imposed under this chapter apply to taxes imposed  
28 under this section.

29 Subd. 8. [DEPOSIT OF REVENUES.] Notwithstanding the  
30 provisions of section 297F.10, the commissioner shall deposit  
31 all revenues, including penalties and interest, derived from the  
32 tax imposed by this section, in the general fund.

33 [EFFECTIVE DATE.] This section is effective for all sales  
34 made on or after August 1, 2005.

35 Sec. 19. [465.716] [TAX SHELTER TRANSACTION PROHIBITED.]

36 (a) No political subdivision may enter into a lease,

1 sublease, sale-leaseback, service contract, or similar  
2 ownership, use, or legal arrangement governing property or  
3 facilities of the political subdivision with a private person,  
4 if the arrangement:

5 (1) is intended to transfer the tax title to the private  
6 person, permitting it to claim the income tax benefits of  
7 ownership, such as depreciation, cost recovery allowances, or  
8 similar benefits under the federal or state income or corporate  
9 income taxes;

10 (2) permits or requires the political subdivision to  
11 continue operating or using the property or facilities for ten  
12 or more years in substantially the same manner as it did prior  
13 to the effective date of the arrangement; and

14 (3) considering the totality of the legal and financial  
15 arrangements, does not impose the risk of loss, obsolescence, or  
16 other incidents of equity ownership on the private person for a  
17 period of 20 years or more.

18 (b) For purposes of this section, "political subdivision"  
19 has the meaning given in section 465.719, subdivision 1.

20 (c) The political subdivision may rely on the  
21 representations of the advisors to the private person in  
22 determining whether an arrangement is intended to transfer tax  
23 title to the property or facilities.

24 [EFFECTIVE DATE.] This section is effective the day  
25 following final enactment.

26 Sec. 20. [FLOOR STOCKS TAX.]

27 Subdivision 1. [CIGARETTES.] A floor stocks tax is imposed  
28 on every retailer or cigarette subjobber, on the stamped  
29 cigarettes in the retailer's or cigarette subjobber's possession  
30 or under the retailer's or cigarette subjobber's control, at  
31 12:01 a.m. on July 31, 2005. The tax is imposed at the  
32 following rates:

33 (1) on cigarettes weighing not more than three pounds per  
34 thousand, 13.5 mills on each cigarette; and

35 (2) on cigarettes weighing more than three pounds per  
36 thousand, 27 mills on each cigarette.



1 Each retailer shall file a return with the commissioner, in the  
2 form the commissioner prescribes, showing the cigarettes on hand  
3 at 12:01 a.m. on August 1, 2005, and pay the tax due thereon by  
4 September 1, 2005. Tax not paid by the due date bears interest  
5 at the rate of one percent a month.

6 Subd. 2. [AUDIT AND ENFORCEMENT.] The tax imposed by this  
7 section is subject to the audit, assessment, and collection  
8 provisions applicable to the taxes imposed under Minnesota  
9 Statutes, chapter 297F. The commissioner may require a  
10 distributor to receive and maintain copies of floor stocks tax  
11 returns filed by all retailers requesting a credit for returned  
12 cigarettes.

13 Subd. 3. [DEPOSIT OF PROCEEDS.] Notwithstanding the  
14 provisions of Minnesota Statutes, section 297F.10, the revenue  
15 from the tax imposed under this section shall be deposited by  
16 the commissioner in the general fund.

17 [EFFECTIVE DATE.] This section is effective the day  
18 following final enactment.

19 Sec. 21. [DEPARTMENT OF REVENUE.]

20 The appropriation to the Department of Revenue in .....,  
21 is reduced by \$..... The reduction in this section must not  
22 be used to reduce tax compliance activities or the Tax Research  
23 Division.

### Governor's 2006-07 Budget Recommendations

