Short Subjects

Minnesota House of Representatives, House Research

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HOUSE RESEARCH | Short Subjects

Karen Baker and Nina Manzi

Updated: January 2005

Homeowner's Property Tax Refund Program

What is the property tax refund program?

The homeowner property tax refund program (sometimes called the "circuit breaker" or the PTR) is a state-paid refund that provides tax relief to homeowners whose property taxes are high relative to their incomes. If property tax exceeds a threshold percentage of income, the refund equals a percentage of the tax over the threshold, up to a maximum amount. As income increases:

- the threshold percentage increases,
- the portion of tax over the threshold that the taxpayer must pay increases, and
- the maximum refund decreases.

The program uses household income, a broad measure that includes most types of income. Deductions are allowed for dependents and for claimants who are over age 65 or disabled.

Has the program changed?

The 2001 tax law expanded the homeowner's property tax refund program, effective for refunds based on property taxes payable in 2002. The changes lowered the threshold for determining eligibility and increased the maximum refund allowed. The tax law also limited the amount of tax qualifying for the refund for farmers to the tax attributable to the house, garage, and first acre of property. (Previously the tax amount for farmers also included the tax on the first $600,000 of land and farm buildings.)

What are the maximums?

For refund claims filed in 2005, based on payable 2005 taxes and 2004 household income, the maximum refund is $1,590. Homeowners whose income exceeds $84,910 are not eligible for a refund.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue Schedule M-1PR. Claims filed before August 15, 2005, will be paid beginning in late September 2005. The deadline for filing claims based on taxes payable in 2005 is August 15, 2006; taxpayers filing claims after that date will not receive a refund. Forms are available on-line at www.taxes.state.mn.us/taxes/forms/m1pr_print.pdf.

What is the average refund and total amount paid?

2003 Statewide Homeowner Property Tax Refunds
Filed in 2003 (based on 2002 incomes and payable 2003 taxes)

	Number of returns	Total refund amount	Average per return
Under 65 years old	136,338	$67.3 million	$494
Senior/disabled	97,931	$47.9 million	$489
Total: all homeowners	234,269	$115.2 million	$492

How do refunds vary depending upon the filer's income and property tax?

The following table shows the refund amount for two example families with different incomes—one family in the metro area and one in greater Minnesota. Although the property tax refund threshold, copayment rates, and maximum refund amounts are the same statewide, the average residential homestead property tax in the metro area is higher than in greater Minnesota. The metro area family has payable 2005 property taxes of $2,469, the estimated average for the metro. The greater Minnesota family has payable 2005 property taxes of $1,206, the estimated average for greater Minnesota. Taxpayers who are over age 65, disabled, or have dependents are allowed a subtraction from income in determining the refund.

Married couple both under age 65, two dependents

		Metro area		**Greater Minnesota**	
		Taxpayer #1	**Taxpayer #2**	**Taxpayer #3**	**Taxpayer #4**
1	Taxable Market Value of Home	$223,600	$223,600	$126,600	$126,600
2	Gross Income	25,000	50,000	25,000	50,000
3	Deduction for dependents	8,370	8,370	8,370	8,370
4	Household income (2 – 3 = 4)	16,630	41,630	16,630	41,630
5	Property tax	2,469	2,469	1,206	1,206
6	Statutory threshold percentage	2.1%	2.8%	2.1%	2.8%
7	Threshold % x income (4 x 6 = 7)	349	1,166	349	1,166
8	Property tax over threshold (5 – 7 = 8)	2,120	1,303	857	40
9	Statutory copay percentage	30%	45%	30%	45%
10	Taxpayer copay amount (8 x 9 = 10)	636	587	257	18
11	Remaining tax over threshold (8 – 10 = 11)	1,484	717	600	22
12	Maximum refund allowed	1,330	1,060	1,330	1,060
13	Net property tax refund	$1,330	$ 717	$ 600	$ 22

For more information: Contact legislative analyst Karen Baker at 651-296-8959 or Nina Manzi at 651-296-5204.

Steve Hinze and Karen Baker

Updated: January 2005

The Fiscal Disparities Program: Commercial-Industrial Tax Base Sharing

What is the fiscal disparities program?

The fiscal disparities program is a system for the partial sharing of commercial-industrial (C/I) property tax base among all jurisdictions within a geographic area. In Minnesota, two programs are used: the primary one was created in 1971 and operates in the seven counties of the Twin Cities metropolitan area; a smaller scaled version was created in 1995 for the Iron Range in northern Minnesota.

Why share commercial/ industrial tax base?

The main purposes and goals of the program are to:

- *Support a regional approach to development.* Tax-base sharing spreads the fiscal benefit of business development spawned by regional facilities, such as shopping centers, airports, freeway interchanges, and sports stadiums. It also may make communities more willing to accept low-tax-yield regional facilities, such as parks.

- *Equalize the distribution of fiscal resources.* Communities with low tax bases must impose higher tax rates to deliver the same services as communities with higher tax bases. These high tax rates make poor communities less attractive places for businesses to locate or expand in, exacerbating the problem. Sharing C/I tax base can reduce this effect.

- *Reduce competition for commercial-industrial development.* Communities generally believe that some kinds of C/I properties pay more in taxes than it costs to provide services to them. This encourages communities to compete for these properties by providing tax concessions or extra services, which can weaken their fiscal condition. Tax-base sharing reduces the incentive for this competition, thereby discouraging urban sprawl and reducing the cost of providing regional services such as sewage and transportation.

How does the fiscal disparities program work?

Contributions to the areawide tax base. Each taxing jurisdiction annually contributes 40 percent of the growth in its C/I tax base since the year of enactment to an abstract entity called the "areawide tax base." This contribution value is not available for taxation by the jurisdictions where the property is located.

Distributions from the areawide tax base. Each municipality receives a share of the areawide tax base through a formula based on its share of the area's population and its relative property tax wealth (tax base per capita). The municipality is allowed to tax this distribution value at the same rate as the tax rate paid by its residents. All taxing jurisdictions whose boundaries encompass the municipality are also allowed to tax the municipality's distribution value (i.e., counties, school districts, and special taxing districts).

Calculating the property tax for each commercial-industrial property. The property tax statement for each C/I property has a local portion and an areawide portion, based on the relative amount of the tax base that is contributed (areawide portion) versus the relative amount that is retained (local portion) for the municipality where the property is located.

How has the metropolitan area program grown?

In the first year of implementation (1975), the areawide tax base included 6.7 percent of the total metro C/I tax base and 2.1 percent of the total metro tax base. For 2004, the areawide tax base was 32.3 percent of the total metro C/I base and 9.8 percent of the total metro tax base.

How much do fiscal disparities affect tax burdens?

A House Research study based on taxes payable in 2004 found that the average homestead tax in St. Paul, which is one of the largest net beneficiaries of the program, was 8.8 percent lower because of fiscal disparities. The study also found that the average homestead tax in Bloomington, which is one of the largest net contributors, was 5.5 percent higher. Homestead effects throughout the area generally varied between these extremes.

For commercial-industrial properties, average taxes were 2.7 percent lower in St. Paul due to fiscal disparities and 9.7 percent higher in Plymouth, another suburban city that is a large net contributor. Commercial-industrial properties elsewhere in the metro area fall in line between these extremes.

The study looked only at the direct effect of fiscal disparities, i.e., the redistribution of tax base, and made no attempt to factor in alternative development patterns that might have occurred without fiscal disparities.

How did the 2001 property tax reform affect fiscal disparities?

The elimination of the general education levy, imposition of a state property tax levy, and reduction in commercial-industrial class rates caused the nominal amount of money redistributed by the fiscal disparities program to decrease. However, based on the aforementioned House Research study, the net effect of fiscal disparities on tax burdens is similar to what it was before the reform.

What about the Iron Range program?

Tax effects of the Iron Range fiscal disparities program are much smaller in magnitude since the percentage of tax base being contributed is so low due to the relative infancy of the program.

For more information: Contact legislative analyst Steve Hinze at 651-296-8956 or Karen Baker at 651-296-8959. Also see the House Research publication *Minnesota's Fiscal Disparities Programs: Twin Cities Area and Iron Range.*

HOUSE RESEARCH | Short Subjects

Karen Baker and Nina Manzi

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Targeting Property Tax Refund

What is targeting?

The "additional property tax refund," generally referred to as "targeting," directs property tax relief to homeowners who have large property tax increases from one year to the next.

Who qualifies?

A homeowner qualifies if the property tax on the home has increased by more than 12 percent over the previous year's tax, and if the increase is over $100.

The homeowner must have owned and lived in the same home for both years. If any improvements were made to the home, that portion of the tax increase resulting from the improvements must be subtracted when determining the refund.

How does targeting work?

The refund equals 60 percent of the increase over the greater of (1) 12 percent or (2) $100. The maximum refund is $1,000. The following example shows how the refund is calculated.

Payable 2004 Property Tax	$1,400
Payable 2005 Property Tax	2,000
Tax increase – 2005 compared to 2004	$600
Taxpayer pays 1st 12% or $100 of increase (12% x 1,400)	168
Remaining increase eligible for relief ($600 - $168 = $432)	432
State pays 60% of excess over 12% increase up to a $1,000 maximum (60% x $432 = 259)	$259
Amount of 2005 increase paid by taxpayer ($600 - $259)	$341

The taxpayer's $600 increase (i.e., 42.9 percent) is reduced to an out-of-pocket property tax increase of $341 (i.e., 24.4 percent) as a result of the $259 refund.

The taxpayer pays the full $2,000 amount of the 2005 property tax to the county, the first half in May and the second half in October. The taxpayer applies to the state for a targeting refund, which is paid in September 2005 at the same time the regular homeowner property tax refund ("circuit breaker") is paid.

Does targeting have any other restrictions?

No, unlike the regular property tax refund, the targeting refund is not tied to the taxpayer's household income. Under the regular homeowner property tax refund, the taxpayer's household income may not exceed a specified maximum and the amount of household income affects the amount of the refund.

However, the targeting refund does not use income as a factor, nor is there any limitation on the taxpayer's household income. Therefore, many higher income taxpayers who do not qualify for the regular property tax refund due to income restrictions are eligible for the targeting refund.

Is targeting a new program?

No, the first targeting program was enacted in 1980. With the exception of a few years in the 1980s, the program has been in effect for about 20 years, although miscellaneous changes have been made to the program during that time.

What are statewide amounts?

The amounts paid out for the targeting program have been very low in recent years, but increased significantly from 2002 to 2003, with refunds rising from $1.0 million in 2002 to $7.6 million in 2003. Some of the 2003 increase is probably due to the high inflationary growth in the market value of residential housing.

The table below shows the statewide amount, with a breakdown for the metro and the 80 nonmetro counties, for the past three years.

Targeting Refunds, 2001 – 2003 (dollars in thousands)

	Filed 2001	Filed 2002	Filed 2003
Total Metro	$804	$359	$6,335
Total Nonmetro	$898	$674	$1,244
State	$1,702	$1,033	$7,579

Some taxpayers (e.g., those who typically don't qualify for the regular property tax refund) may not be aware of the targeting program, resulting in lower total refunds statewide than would be the case if the program were more widely known.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue Schedule M-1PR, the property tax refund form. There is a separate schedule on the back of the M-1PR ("Schedule 1 – Special Refund") for the targeting program. The taxpayer files for this refund after receiving their property tax statement in February or March. Claims filed before August 15, 2005, will be paid beginning in late September 2005. The deadline for filing claims based on taxes payable in 2005 is August 15, 2006; taxpayers filing claims after that date will not receive a refund. Forms are available on-line at www.taxes.state.mn.us/taxes/forms/m1pr_print.pdf.

For more information: Contact legislative analyst Karen Baker at 651-296-8959 or Nina Manzi at 651-296-5204. Also see the House Research Short Subject *Homeowner's Property Tax Refund Program*, January 2005.

Elisabeth Long

Updated: January 2005

Minimum Wage

What is the state minimum wage?

According to state law, the state minimum wage is $5.15 per hour for employers who do at least $500,000 of business per year, and $4.90 per hour for employers who do less than $500,000 of business per year. There is an exception for employees under age 20 during their first 90 days of work, who can be paid $4.25 per hour.

What is the federal minimum wage?

The federal minimum wage is $5.15 per hour, with a provision for a "training wage" of $4.25 per hour for employees under age 20 for their first 90 days of work.

Are employees covered by the state law, the federal law, or both?

As a general matter, the federal law covers all employees of establishments that have at least $500,000 in gross receipts per year. Further, any employee of an establishment that does not meet the $500,000 minimum is covered if that employee's individual work involves transactions that in some way touch interstate commerce. The way these provisions are interpreted, most employees are covered by the federal law.

The state law covers the great majority of employees in Minnesota unless they are specifically exempt. Therefore, unless they fit into one of the specific exceptions, most people who work in Minnesota are covered by both the state and federal law.

What are the state and federal exemptions?

Many of the specific exemptions from minimum wage requirements are the same in federal and state law. Some exemptions are broad, such as the one that applies to executive, administrative, and professional employees, which appear in both state and federal law, and some are narrow, such as the federal exemption of employees who work at home making evergreen wreaths. There are regulations at the state and federal levels that provide the boundaries of many of these categories.

Some of the important exemptions are for executive, professional, and managerial employees who work on a salary basis, and certain skilled computer workers.

If an employee is covered by both state and federal law, which prevails?

The short answer is that the higher wage prevails. If one law mandates a minimum of $4.90 and one mandates a minimum of $5.15, for instance, the employer can comply with both only by paying more than $5.15. Because the federal minimum wage is currently $5.15 for employers of all sizes, the only employees who would have the current state small-employer minimum wage of $4.90 as their lowest permissible wage are those employees who work for small employers and are covered by state law but not federal law.

What about employees who receive tips?

Minnesota does not allow a "tip credit," so tipped employees in Minnesota who are subject to the state minimum wage provisions must be paid the regular state minimum hourly wage by the employer, regardless of whether or not they also receive tips. Further, the employer may not require employees to share tips with the employer or with other employees, because the tips are the exclusive property of the person who receives them.

This differs from federal law, which allows a partial tip credit as long as the employer can prove that the employee actually receives enough tips to make up the difference between the lower hourly wage the employer pays and the statutory minimum wage. If a Minnesota employee is covered by state law, however, the employer cannot take the tip credit against the state minimum wage. This means that a tipped employee of a covered employer in Minnesota still must be paid a direct wage of either $4.90 or $5.15 per hour (depending on employer size), whether or not the employee also receives tips.

When was the last time the minimum wage was increased?

The most recent increases in the federal and state minimum wages were effective in September of 1997, except that the increase in Minnesota's small employer wage was effective January 1, 1998.

How does the minimum wage in Minnesota compare to the minimum wage in other states?

According to information published by the U. S. Department of Labor in January 2005, seven states have no minimum wage laws, 12 states and the District of Columbia have minimum wages higher than the federal minimum, 29 states have minimum wages the same as the federal minimum (including Minnesota), and two states have minimum wages lower than the federal minimum.

States have different approaches to setting and applying their minimum wage laws. Some states automatically make certain adjustments to their state rates when the federal rate changes. Many states also exclude from state coverage any employment that is covered by the federal law so that there is no overlap. In Washington, Alaska, and Oregon, the state minimum wage is automatically adjusted for inflation. Beginning in 2005, Florida will also automatically adjust the state minimum wage for inflation.

Who enforces minimum wage laws?

Minimum wage laws are enforced in Minnesota by the Minnesota Department of Labor and Industry and the U. S. Department of Labor.

For more information: Contact legislative analyst Elisabeth Long at elisabeth.long@house.mn

HOUSE RESEARCH | Short Subjects

Nina Manzi and Karen Baker

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Renter's Property Tax Refund Program

What is the renter's property tax refund program?

The renter property tax refund program (sometimes called the "renters' credit") is a state-paid refund that provides tax relief to renters whose rent and "implicit property taxes" are high relative to their incomes. "Rent constituting property taxes" is assumed to equal 19 percent of rent paid. If that rent constituting property tax exceeds a threshold percentage of income, the refund equals a percentage of the tax over the threshold, up to a maximum amount. As income increases:

- the threshold percentage increases,
- the portion of tax over the threshold that the taxpayer must pay increases, and
- the maximum refund decreases.

The program uses household income, a broad measure that includes most types of income. Deductions are allowed for dependents and for claimants who are over age 65 or disabled.

What are the maximums?

For refund claims filed in 2005, based on rent paid in 2004 and 2004 household income, the maximum refund is $1,300. Renters whose income exceeds $45,810 are not eligible for refunds.

What is the average refund and total amount paid?

2003 Statewide Renter Property Tax Refunds
Filed in 2003 (based on 2002 incomes and payable 2002 taxes)

	Number of returns	Total amount	Average per return
Under 65 years old	193,466	$94.4 million	$488
Senior/disabled	77,513	$41.9 million	$541
Total: all renters	270,979	$136.3 million	$503

How are claims filed?

Refund claims are filed using Minnesota Department of Revenue Schedule M-1PR. Claims filed before August 15, 2005, will be paid beginning in August 2005. The deadline for filing claims based on taxes payable in 2005 is August 15, 2006; taxpayers filing claims after that date will not receive a refund. Forms are available on-line at www.taxes.state.mn.us/taxes/forms/m1pr_print.pdf.

The table on the following page shows the refund amount for two example families with different incomes—a married couple without dependents in the metro area, and a married couple without dependents in greater Minnesota (a single person living alone would qualify for the same refund amounts).

How do refunds vary depending upon the filer's income and rent constituting property taxes?

Although the property tax refund threshold, copayment rates, and maximum refund amounts are the same statewide, the average rent is higher in the metro area than in greater Minnesota. The metro area family paid monthly rent in 2004 of $743, the fair market rent for a one-bedroom apartment in the metro area. (19% of $743 x 12 = $1,694, which is their rent constituting property tax.) The greater Minnesota family paid monthly rent in 2004 of $346, the fair market rent for a one-bedroom apartment in many greater Minnesota counties. (19% of $346 x 12 = $789, which is their rent constituting property tax.) Taxpayers who are over age 65, disabled, or have dependents are allowed a subtraction from income in determining the refund.

Married couple both under age 65, no dependents

		Metro area		Greater Minnesota	
		Taxpayer #1	**Taxpayer #2**	**Taxpayer #3**	**Taxpayer #4**
1	Gross income	$15,000	$30,000	$15,000	$30,000
2	Deduction for dependents	0	0	0	0
3	Household income (1 – 2 = 3)	15,000	30,000	15,000	30,000
4	Rent constituting property tax	1,694	1,694	789	789
5	Statutory threshold percentage	1.5%	2.7%	1.5%	2.7%
6	Threshold % x income (3 x 5 = 6)	225	810	225	810
7	Property tax over threshold (4 – 6 = 7)	1,469	884	564	0
8	Copay percentage	20%	35%	20%	35%
9	Taxpayer copay amount (7 x 8 = 9)	294	309	113	NA
10	Remaining tax over threshold (7 – 9 = 10)	1,175	575	451	NA
11	Maximum refund allowed	1,300	1,300	1,300	1,300
12	Net property tax refund	$1,175	$575	$451	$0

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Karen Baker at 651-296-8959.

Elisabeth Long

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Unemployment Benefit Extensions

Current law limits most unemployment benefit applicants to 26 weeks of benefits. In some cases, legislation has provided additional benefits when there is concern that the workers' circumstances or economic factors create special difficulties. State and federal law allow for general extensions when certain circumstances are present, and both Congress and the state legislature have sometimes passed extensions targeted to particular workers or in response to economic downturns.

Temporary Extended Unemployment Compensation (TEUC)

In March 2002, Congress passed a federal Temporary Extended Unemployment Compensation (TEUC) program that provided up to 13 weeks of federally funded additional benefits for individuals who exhaust their regular benefits and remain unemployed. This program was available for anyone who exhausted benefits on or after the week of March 15, 2001, provided that the person had worked the equivalent of at least 20 weeks of full-time employment during their base period (the year of employment history that is used to calculate benefits). The TEUC program terminated after the week ending April 3, 2004.

Congress has also provided for up to 39 weeks of extra benefits for some employees in airline and related industries who lose employment as a result of events related to September 11, 2001, or the war in Iraq. These benefits terminated on January 1, 2005, and any regular TEUC benefits the person has received are subtracted from them, meaning that the individual can only receive a total of 39 weeks through both the general and the airline-specific federal programs.

State Extended Temporary Unemployment Benefits

During the 2002 session, the Minnesota Legislature passed a law that provided 13 weeks of state-funded benefits for workers who were not eligible for TEUC benefits because they did not meet the 20-week work requirement. This law provided benefits on the same terms as the federal extension and expired at the end of calendar year 2002.

State and federal general extension provisions

Both state and federal law include provisions that allow for additional unemployment benefits to be paid under some conditions. The federal program provides 13 weeks of extended benefits when the unemployment rate in a state meets a specific level that the state has the authority to set for itself. Minnesota's trigger unemployment rate is 6 percent of insured employment or 6.5 percent of total employment. Neither of these levels has been reached recently.

Under the state program, any worker can receive another 13 weeks of benefits if he or she resides in a county with a seasonally adjusted unemployment rate above 10 percent and is part of a large layoff. This provision has been invoked several times.

Specific state extensions

In addition to the general provisions available under state and federal law, the legislature has, at times, provided additional benefits for particular workers.

- In 1998, the legislature suspended the unemployment rate and mass layoff requirements to make 13 weeks of additional benefits available to employees laid off from Hibbing Taconite.

- In 2000, the legislature suspended the same requirements to offer 13 weeks of extra benefits to employees from Eveleth Taconite and 26 weeks of extra benefits available to employees from Hennepin Paper. The Hennepin Paper employees were required to be in training in order to receive benefits.

- In 2001, the legislature provided an additional 26 weeks of benefits to employees from LTV Steel, again requiring that applicants be in training.

- In 2002, the legislature provided additional benefits to several categories of workers. Employees laid off during specified periods from Farmland Foods, from Fingerhut in St. Cloud, Mora, or Eveleth, or from a list of named airlines were provided with an additional 13 weeks of benefits. Again, these individuals were required to be in training in order to continue collecting benefits.

Criteria for future extensions

During the 2001 session, the legislature included criteria for future benefit extensions in a section of legislative findings. They are that the employer has permanently ceased operations and declared bankruptcy, that the community where the employees live is disproportionately affected by the layoffs, that the community is in a remote area where opportunities to find work are limited, and that those receiving benefits receive training while they receive benefits. These criteria are not binding on the legislature and do not state that extensions are necessarily appropriate in all cases where the criteria are met.

When the legislature passed the 2002 extensions, it included findings stating that the extensions were appropriate under slightly different criteria, where the employer had ceased operations at the particular location (though not necessarily in all locations, and not necessarily accompanied by a declaration of bankruptcy), the county unemployment rate was higher than the state average, and the community met the criteria of remoteness and disproportionate effect. The legislature also referred to the fact that some layoffs were related to an act of terrorism or war.

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HOUSE RESEARCH | Short Subjects

Mark Shepard

January 2005

State Agency Head Salaries

Salaries for executive agency heads are proposed by the appointing authority and approved by the legislature

The executive appointing authority proposes salaries for agency heads, within maximums established in law. Minn. Stat. § 15A.0815. The governor is the appointing authority for most agency heads. Some are appointed by other boards (e.g., public pension boards).

The maximum salary for most agency heads is 95 percent of the governor's salary. For several agency heads the maximum is 85 percent of the governor's salary. Minn. Stat. § 15A.0815, subds. 2 and 3. The governor's salary is $120,303 (95 percent of this amount is $114,288; 85 percent is $102,258).

Salaries recommended by the appointing authority must be approved by the legislature. During the interim between legislative sessions, the Legislative Coordinating Commission (LCC) may give interim approval to salary increase proposals. The LCC has appointed a Subcommittee on Employee Relations (SER) to perform these and other duties. Salary proposals from the governor submitted to SER during the interim are approved if the group does not modify or reject them within 30 days. Salary proposals submitted by other appointing authorities during the interim take effect only if approved by SER. Salaries implemented during the interim by SER must be approved by the next legislature, or they revert to the prior level. Salary proposals sent to the legislature during a legislative session must be approved by the full legislature before taking effect. Minn. Stat. §§ 3.855 and 15A.0815, subd. 5.

There is a different method for setting the salary of the lottery director. This salary is set in statute at 95 percent of the governor's salary ($114,288). Minn. Stat. § 349A.02, subd. 1.

Agency head salaries

The following table lists the salaries for agency heads appointed by boards, cabinet agency heads, and noncabinet agency heads.

Agency Heads Appointed by Boards	Salaries
Minnesota State Retirement System	$ 99,950
Public Employees Retirement Association	99,950
State Board of Investment	110,560
Teachers Retirement Association	99,950

Cabinet Agencies	Salaries
Administration	$108,393
Agriculture	108,393
Commerce	108,393
Corrections	108,393
Education	108,393
Employee Relations	108,393
Employment and Economic Development	108,393
Finance	108,393
Health	108,393
Higher Education Services Office	108,393
Housing Finance Agency	108,393
Human Rights	108,393
Human Services	108,393
Iron Range Resources and Rehabilitation	95,641
Labor and Industry	108,393
Mediation Services	95,641
Metropolitan Council, Chair	58,489
Natural Resources	108,393
Pollution Control Agency	108,393
Public Safety	108,393
Revenue	108,393
Transportation	108,393
Veterans Affairs	108,393
Noncabinet Agencies	
Gambling Control Board	$ 88,455
Metropolitan Airports Commission, Chair	20,833
Ombudsman for Mental Health and Retardation	88,455
Pari-mutuel Racing	88,455
Public Utilities Commission	88,455

For more information: Contact legislative analyst Mark Shepard at 651-296-5051.

Pat Dalton

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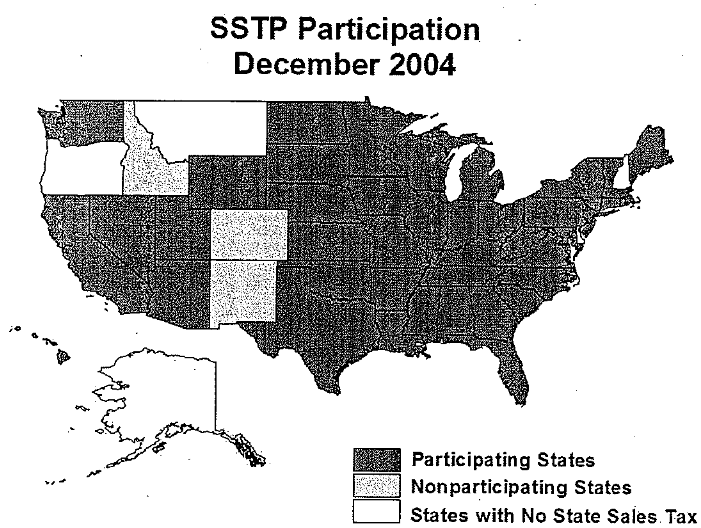
The Streamlined Sales Tax Project (SSTP)

What is SSTP?

The Streamlined Sales Tax Project (SSTP) is a voluntary effort by a number of states to "simplify and modernize the sales and use tax administration in states in order to substantially reduce the burden of sales tax administration for all sellers and all types of commerce." The project was organized in March 2000 under the auspices of the Federation of Tax Administrators, the National Conference of State Legislatures, and the Association of Governors.

Which states are participating in the project?

Nationally, 45 state impose a sales and use tax. Minnesota is one of 42 states that are voting participants in the project. The District of Columbia is also a voting participant. To be a voting participant, a state must either pass enabling legislation or their governor must issue an executive order authorizing participation.



How are decisions made in SSTP?

SSTP is divided into three groups—a project group, the implementing states group, and the conforming states group. The project group consists of staff from tax agencies in the participating states that develop recommendations for coordination and simplification related to sales tax definitions, tax administration, and use of technology for sales tax collection. Nonparticipating states may attend project meetings and participate in discussions as observer states, however they may not vote on recommendations.

The voting participants in SSTP make up the implementing states group. This group votes to accept, reject, or modify the recommendations proposed by the project group. Provisions accepted by this group make up the Streamlined Sales and Use Tax Agreement (SSTA).

The conforming states group consists of the 18 states that have passed conforming legislation and that the implementing states group voted as most likely to conform with the SSTA, as of April 2004. These states will set up the mechanism and vote on states in compliance with the agreement. Minnesota is one of these states.

Why is Minnesota participating in SSTP?

Minnesota is a member of SSTP because it hopes that sales tax simplification among the states will ultimately allow the state to collect sales tax on sales by remote sellers. The state cannot require sellers to collect our sales tax unless they have a physical presence in the state (the legal term is nexus). Requiring remote sellers to collect the sales tax is considered an undue burden on interstate commerce (see *Quill v. North Dakota*).

The long-term goal of the project is to simplify state sales tax systems enough so that either (1) Congress will pass legislation to require remote sellers to collect sales tax for states that have simplified their systems, or (2) the federal courts will overturn the *Quill* decision and determine that the simplification is sufficient to remove the undue burden on interstate commerce.

What will a streamlined sales tax system include?

The streamlined sales tax agreement (SSTA) developed by SSTP includes the following features:

- uniform definitions for common terms such as sales price, food, prepared food, and clothing
- rate simplification
- uniform sales tax bases within each state at the state and local level
- uniform sourcing rules (i.e., where a sales occurs)
- simplified administration for use and entity-based exemptions
- uniform audit procedures and joint audits for multi-state businesses
- third-party collection systems and other new technology models for sales tax collection

The agreement has not changed since November 12, 2002, although the project continues to work on additional uniform definitions.

Which states have conformed their sales tax laws to SSTA?

In 2001 and 2002, Minnesota modified its sales tax law to reflect most of the SSTA provisions. However, Minnesota still needs to pass some conforming legislation, particularly in the definitions of taxable and exempt medicines and medical devices, in order to fully comply with SSTA. As of December 2004, the following 21 states have adopted some or all of the conforming legislation required under SSTA:

Arkansas	Indiana	Iowa	Kansas	Kentucky	Michigan	**Minnesota**
Nebraska	Nevada	No. Carolina	No. Dakota	Ohio	Oklahoma	So. Dakota
Tennessee	Texas	Utah	Vermont	Washington	W. Virginia	Wyoming

For more information: Contact legislative analyst Pat Dalton at 651-296-7434. For further information on SSTP visit the project web site at http://www.streamlinedsalestax.org.

Joel Michael

Updated: January 2005

Alcoholic Beverage Taxes

Two special state taxes apply to alcoholic beverages: excise taxes and a higher retail sales tax

Minnesota imposes two types of special taxes on alcoholic beverages:

- **Special excise taxes** are imposed on manufacturers or wholesalers of these products. These taxes are a fixed dollar amount per unit (per barrel or liter). The tax rates vary by beverage type. See the table below for tax rates.

- A **special higher sales tax rate** of 9 percent (2.5 percentage points higher than the regular rate) applies to their retail sales—whether made on-sale (to be consumed in bars or restaurants) or off-sale (in liquor stores or by other sellers). The tax is a percentage of the retail price. It is scheduled to expire on January 1, 2006.

Excise tax rates are set as a dollar amount per volume of the beverage

Manufacturers of beer and wholesalers of distilled spirits and wines pay the special excise taxes. (If the beer manufacturer doesn't pay, the wholesaler or importer is liable for the tax.) The table shows the rates for the most common beverage categories. Higher rate categories apply to wines with alcoholic contents that exceed 21 percent and 24 percent, but little or no products of these types are sold. In addition, a special "bottle tax" of 1 cent per bottle applies to each wine and liquor bottle that is 200 milliliters or larger.

Beverage Type	**Excise Tax per gallon**	**liter**
Beer < 3.2% alcohol	.08	NA
Beer > 3.2% alcohol	.15	NA
Cider < 7% alcohol	.15	NA
Low-alcohol dairy cocktails	.08	.02
Wine < 14% alcohol	.30	.08
Wine > 14% alcohol	.95	.25
Sparkling wine	1.82	.48
Distilled spirits	5.03	1.33

Because the excise taxes are fixed dollar amounts, they don't vary with the price of the product. Higher priced products pay the same tax as lower priced products. Moreover, revenues grow only as more liters or barrels of the taxed products are sold; they don't increase with inflation (price increases). For revenues to keep pace with inflation, the legislature must adjust the tax rates periodically. It has done this only sporadically (most recently in 1987).

Few exemptions apply

The law exempts the following from the excise tax:

- Sacramental wine
- Product sold to food processors and pharmaceutical companies
- The first 25,000 barrels of beer produced by a brewery with annual production of less than 100,000 barrels (A barrel is 31 gallons.)

Revenues go to the general fund

Revenues from both the excise taxes and the additional 2.5 percentage point sales tax go to the general fund. Fiscal year 2004 revenues from the excise taxes were about $67 million and $54 million for the special sales tax. Thus, the special sales tax rate raised over 40 percent of alcohol tax revenues. The table to the right shows the collections by beverage type for the excise tax and for the additional sales tax on all alcoholic beverages. The excise tax revenue from liquor reflects the higher rates imposed on these products, rather than their share of the market (measured by dollars spent). It is safe to conclude that the sales tax imposes a much higher tax burden on wine and beer than the excise tax does.

Beverage Type	**FY2004 Revenues (000)**	**% of Total**
Beer < 3.2%	$345	0.3%
Beer > 3.2%	15,635	12.9%
Cider	34	0.0%
Wine < 14%	3,099	2.6%
Wine > 14%	290	0.2%
Sparkling Wine	747	0.6%
Distilled Spirits	46,729	38.6%
Excise tax total	66,880	55.2%
2.5% sales tax	54,208	44.8%
Total	**$121,088**	

Source: MN Department of Revenue

Minnesota tax compared with other states

Minnesota's wine and beer excise taxes are average or below average compared with most other states. Minnesota's tax on distilled spirits (liquor) is among the higher taxes for states with excise taxes. A number of states (including Iowa) have liquor monopolies and a portion of the price markup is a *de facto* tax; it is difficult to compare the tax burden with these states. The table compares Minnesota's tax rates with its bordering states. However, only North Dakota imposes an additional sales tax (an additional 2 percentage points). Thus, the total Minnesota alcohol tax burden is higher than suggested by simply comparing excise tax burdens.

Excise Tax Rates (per gallon) Bordering States

	Strong Beer	Table Wine	Liquor
IA	$.19	$1.75	N.A.
MN	**.15**	**.30**	**$5.03**
ND	.16	.50	2.50
SD	.27	.93	3.93
WI	.06	.25	3.25

Source: Federation of Tax Administrators

Tax relative to alcohol content varies

The excise taxes are imposed on the volume of the beverage, not its alcoholic content. (The federal tax on distilled spirits, by contrast, is imposed explicitly on alcoholic content.) Since alcoholic content varies significantly within beverage type, it is difficult to generalize about the tax on alcohol content. But using averages for beverage types, it is apparent that alcohol in beer and wine is lightly taxed compared with liquor. The excise tax per an ounce of alcohol in liquor is about 9 cents, while it is between 2 and 3 cents for wine and beer.

Tax is regressive

The alcohol taxes are regressive; they constitute a higher share of income for lower income families and individuals, on average. The Department of Revenue's Tax Incidence Study indicates they are less regressive than the tobacco taxes, but are nevertheless more regressive than the general sales tax.

For more information: Contact legislative analyst Joel Michael at 651-296-5057.

Karen Baker and Steve Hinze

Updated: January 2005

Senior Citizens Property Tax Deferral Program

What is the Senior Citizens Property Tax Deferral Program?

The Senior Citizens Property Tax Deferral Program allows property taxpayers who are 65 years or older, and whose total household income is $60,000 or less, to defer a portion of their homestead property taxes until some later time. It allows senior citizens whose property taxes are high relative to their incomes, but who wish to stay in their homes, an option for paying their property taxes.

How does it work?

Regardless of how high the tax is on the homestead, the taxpayer initially pays an amount equal to only 3 percent of the total preceding year's household income. The state pays any amount over 3 percent, called the "deferred tax," to the county in which the home is located. A lien attaches to the property. The deferred tax is a loan. Interest on the loan is calculated at the same rate as unpaid state taxes (a floating rate), but cannot exceed 5 percent. Before the owner can transfer the title of the property, the deferred tax plus interest must be repaid.

For example, John and Mary Jones own a home; its total property tax is $1,400. They have a total household income of $30,000. Under this program, they must pay $900 in tax (3 percent of $30,000); the remaining $500 ($1,400 minus $900) is deferred.

Who qualifies?

In order to qualify for the program, **all** of the following criteria must be met:

- The property must be owned and occupied as a homestead by a person 65 years of age or older (If married, both must be 65 years old)
- Total household income must be $60,000 or less for the calendar year preceding the year of the initial application
- The home must have been owned and occupied as the homestead of at least one of the homeowners for at least 15 years before the initial application
- There must be no state or federal tax liens or judgment liens on the property
- The total unpaid balances of debts secured by mortgages and other liens on the property, including deferred tax and interest amounts under the program, unpaid and delinquent special assessments and property taxes, penalties and interest (but excluding the current year's property taxes), do not exceed 75 percent of the assessor's estimated market value for the current year

Does the taxpayer need to annually reapply?

No, once a taxpayer is enrolled in the program, annual applications are not required. However, if household income exceeds $60,000 in any calendar year, the owner must notify the Department of Revenue. No *further* property taxes may be deferred until income falls below the $60,000 threshold. However, the owners will remain enrolled in the program until their income falls below the $60,000 threshold, at which point they must notify the state and request that the deferral be resumed.

Can the taxpayer still file for refunds?

Yes, a taxpayer is still allowed to file for the property tax refund and any other property rebates that the state may offer. However, no direct cash payments will be made to the taxpayer. Rather, the amount of the refund will be applied to the total amount of the deferred property tax on the taxpayer's home. The property tax refund is calculated on the full tax amount.

When does it terminate?

The deferral terminates when **any one** of the following events occurs:

- the property is sold or transferred
- all qualifying homeowners die
- the homeowner notifies the Commissioner of Revenue, in writing, of intent to withdraw from the program
- the property no longer qualifies as a homestead

How does this program differ from a reverse mortgage?

A reverse mortgage loan is a loan arrangement with a lender, secured by a mortgage (lien), where the homeowner **receives** a monthly payment from the lender. The total dollar amount is established at the beginning of the arrangement. The full amount, plus interest, is due when the home is sold. The lender charges closing costs, which can be substantial.

The senior citizen deferral program also constitutes a lien on the property, but the homeowner does not need to guess "up-front" how many dollars are needed. Rather any tax amount over 3 percent of income is automatically deferred. Interest, not to exceed 5 percent, is charged on the deferred tax as it is accumulated.

How many taxpayers are participating in the program?

For property taxes payable in 2005, qualifying taxpayers are using the program to defer taxes on about 100 homes. The Department of Revenue reimbursed the counties about $182,000 for the deferred tax in 2004.

Where does a taxpayer apply for the program?

Applications are available in the county auditor's office or may be obtained from the Department of Revenue's web site at www.taxes.state.mn.us/taxes/property/forms/crscd.pdf.

For more information: Contact legislative analyst Karen Baker at 651-296-8959 or Steve Hinze at 651-296-8956.

Joel Michael

Updated: January 2005

State Responses to the 2001 Federal Estate Tax Changes

The 2001 federal tax act or EGTRRA eliminated the ability of states to impose pure "pickup" estate taxes that are borne by the federal treasury

From 1924 through 2001, the federal estate tax allowed a dollar-for-dollar credit for state death taxes paid (up to maximum limits). All states imposed estate taxes up to the amount of the federal credit; some states also imposed additional inheritance or estate taxes. In 2001, 38 states, including Minnesota, imposed pickup estate taxes as their only form of a death tax.

The Economic Growth and Tax Relief and Reconciliation Act of 2001 (EGTRRA) repealed the federal credit for state death taxes in three steps. *See box at the right.* States now can no longer impose estate taxes that do not increase total taxes. EGTRRA also increased the exemption amounts and reduced tax rates.

Phaseout of State Death Tax Credit Under EGTRRA

Calendar Year	% allowed
2002	75%
2003	50%
2004	25%
2005 – 2010	No credit

Minnesota opted not to continue with a pure pickup tax. Minnesota now has a stand-alone estate tax equal to the federal credit before EGTRRA passed. This short subject summarizes how states have responded to EGTRRA's repeal of the federal credit. It reflects changes enacted by states through December 2004.

Thirty-two states are reducing their pickup taxes by the full amount of the reductions in the federal credit

Twenty states that impose only pickup taxes are automatically linked to federal law (AL, AK, AZ, CA, CO, DE, FL, GA, HA, ID, MI, MS, MO, MT, NV, ND, TX, UT, WV, and WY) and have not taken action to decouple. Constitutions in three states (AL, FL, and NV) limit the tax to a pure pickup tax.

Three states imposing only pickup taxes (AR, SC, and SD) legislatively adopted EGTRRA's changes.

Nine states with stand-alone taxes have pickup taxes that are automatically linked to federal law (CT, IN, IA, KY, LA, NH, OK, PA, and TN) and have not decoupled from EGTRRA. The pickup taxes will be reduced with the phaseout of the federal credit. The stand-alone taxes will continue, so EGTRRA will reduce revenues to the level of the stand-alone taxes. Louisiana's tax expired on June 30, 2004. Connecticut's is scheduled to expire on Jan. 1, 2006.

Three states temporarily opted out of EGTRRA's reductions

Illinois (2003-2009), North Carolina (2002 – July 1, 2005), and Wisconsin (Oct. 1, 2002 – Dec. 31, 2007) temporarily opted not to allow EGTRRA's reductions to reduce taxes. These states impose only pickup estate taxes. Absent additional legislative changes, their estate taxes will revert to full conformity and expire.

Five states adopted EGTRRA's higher exemptions, but not the credit reductions

Illinois, Maine, Maryland, North Carolina, and Vermont adopted at least two of EGTRRA's increases in the exemption amounts, but not the reductions in the federal credit for state death taxes. North Carolina, as noted above, delayed full conformity by three and one-half years. Vermont's tax will expire when the federal tax is repealed. Illinois did not adopt the final increase (to $3.5 million) in the federal exemption, but its tax is scheduled to expire in 2010.

Eleven states have adopted none of EGTRRA's major changes

Seven states with taxes tied to pre-EGTRRA federal law have not adopted EGTRRA or have made explicit changes confirming that EGTRRA's provisions do not apply (KS, MN, NY, OH, OR, VA, and WA). Four states whose laws were automatically linked to changes in federal law have decoupled by either linking to federal law at a specific date (MA, NJ, and RI) or by enacting an estate tax not explicitly tied to federal law (NE).

Changes in stand-alone taxes

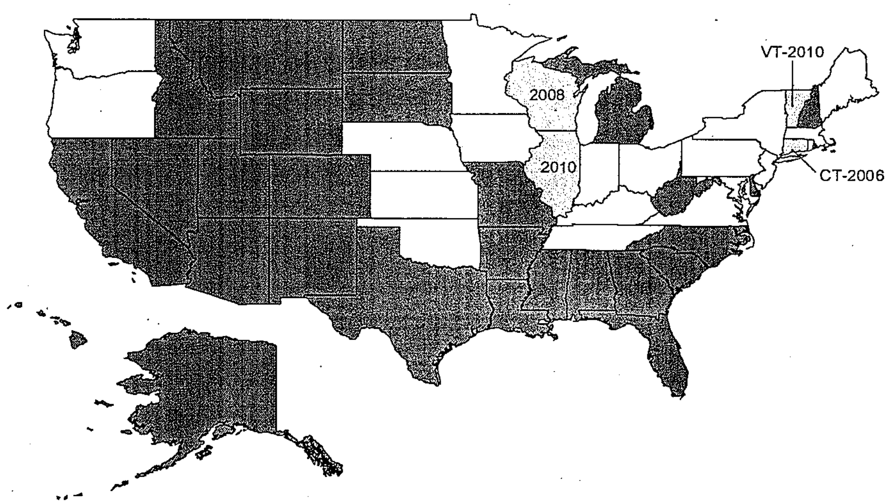
New Hampshire repealed its stand-alone succession tax, effective January 1, 2003. Kansas enacted a successions tax in 2002, but repealed it in 2003 and refunded any taxes paid.

Thirty-five states are scheduled to have no death tax

When the federal credit for state death taxes is fully repealed in 2005, 31 states are now scheduled to have no state death tax. Four additional states will have their taxes expire in later years. These states are shown in the map below.

States Without Estate or Inheritance Taxes

(2005 unless otherwise noted)



For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn. Also see the House Research publications *The Minnesota Estate Tax after the 2001 Federal Tax Act*, January 2003, and *State Responses to 2001 Federal Estate Tax Changes*, February 2004.

Joel Michael

Updated: January 2005

The Minnesota Estate Tax

The estate tax equals a percentage of the taxable estate

Minnesota imposes a tax on the estates of individuals who are residents of the state when they die or who own real property in Minnesota when they die. The tax is imposed under a graduated rate schedule on the taxable estate. The taxable estate is generally the fair market value of the estate on the day the decedent died, less deductions (e.g., transfers to a surviving spouse and charitable bequests) and an exemption amount. *See the box to the right for the exemption and rate amounts.*

Exemption Amount and Tax Rates

Exemption. The exemption amount is $950,000 for individuals dying in 2005, but is scheduled to increase to $1,000,000 for 2006 and later.

Because transfers to surviving spouses are exempt, a $1 million exemption allows a married couple with a joint net worth of less than $2 million to avoid the tax.

Tax rates. The tax rates range from 5.6 percent to 16 percent. The top rate applies to the amount of the taxable estate over $10,040,000.

The Minnesota tax evolved as a creature of the federal estate tax

The rules under the estate tax are determined largely by reference to the rules under the similar federal estate tax. For the 16 years ending December 31, 2001, the Minnesota estate tax was directly linked to the federal tax as a "pickup" or "soak-up" tax equal to the credit allowed under federal estate tax for state death taxes. As a pickup tax, the Minnesota tax imposed no additional tax burden on estates. For each dollar of state tax paid, federal tax was reduced by an equal amount. However, Congress repealed this credit in 2001, so that it is completely eliminated for decedents dying after December 31, 2004. In 2001, the legislature chose to continue imposing the estate tax under the rules in effect before Congress repealed the credit. As a result, the tax now is a stand-alone estate tax and imposes a real tax burden on estates and their heirs.

Few estates pay the tax; it is a progressive source of revenue

Fewer than 2 percent of estates pay the estate tax. The small number of estates paying tax results from the exemption amount and the fact that amounts left to surviving spouses are deductible. The decedents with taxable estates are, almost by definition, some of the most affluent individuals in the state. Most evidence also suggests that recipients of bequests from taxable estates also have above average income and assets. Thus, the tax is a "progressive" source of revenue; it rises as a percentage of income as income rises.

The estate tax provides a modest, but volatile, source of general fund revenue

All revenues from the tax are deposited in the general fund. The Department of Finance (November 2004 forecast) estimates that the tax raises about $80 million to $90 million per fiscal year. *See the box to the right for the last five years of actual collections.* Revenues from the tax are very volatile, since they depend on the deaths of a few individuals. If one very wealthy individual dies, collections can soar. For example in July 2002, the Department of Revenue received a check from one estate for tax of $55 million (compared with estimated revenues for the whole year of $65 million and total collections of $54.2 million in 2001). In other years, revenues may fall below estimates.

Estate Tax Revenues FY 1998-2002 (millions)	
2000	$58.1
2001	$54.2
2002	$68.2
2003	$127.7
2004	$90.1

Source: Department of Finance

Repeal of the federal credit creates an incentive for high net worth Minnesota residents to move to another state

The repeal of the federal credit creates an incentive for affluent, elderly Minnesotans to consider changing their domiciles to a state without an estate tax. When Minnesota imposed only a pickup tax, the federal treasury paid the effective burden of the tax. As a result, Minnesota residents had no reason to change their domiciles to another state to avoid the Minnesota tax. However, in 2001 Congress eliminated the credit. *See the table to the right for the phaseout schedule.* Repeal of the credit makes the state tax a "real" tax that reduces the amount of money and other property that can be left to heirs. Affluent individuals may be willing to change their domiciles to avoid paying potentially multi-million state estate tax liabilities. The fact that many of these individuals have second homes in states that will not have stand-alone estate taxes increases their ease of doing so. (Alabama, Florida, and Nevada, for example, are prohibited by their state constitutions from imposing a state tax that exceeds the federal credit; Texas has taken no action to impose an estate tax and seems unlikely to do so.) If these individuals change their domiciles, they would also avoid the state income tax, since most of these states (Florida, Nevada, and Texas, again) do not have individual income taxes.

Phaseout of State Death Tax Credit Under the Federal Estate Tax

Calendar Year	Percentage allowed
2002	75%
2003	50%
2004	25%
2005-2010	No credit

For more information: Contact legislative analyst Joel Michael at 651-296-5057. Also see the House Research short subject *State Responses to 2001 Federal Estate Tax Changes*, January 2005.

Joel Michael

Updated: January 2005

Cigarette and Tobacco Excise Taxes

Minnesota's cigarette tax is 48 cents per pack

Minnesota imposes an excise tax on the sale or possession of cigarettes of 48 cents per pack of 20 cigarettes. This tax is a "per unit" tax; it is imposed on the number of cigarettes sold, not as a percentage of the sale price. Because the tax is a per unit tax, it does not increase as the price of cigarettes increases. Unless the legislature increases the rate, inflation reduces the relative burden of the tax.

Tobacco products, such as cigars, pipe tobacco, snuff, and chewing tobacco, are subject to a tobacco products tax equal to 35 percent of their wholesale prices.

The legislature has increased the cigarette tax four times since 1985

Over the last 20 years, the legislature has increased the cigarette tax rate four times and the tobacco products tax rate twice. The table shows the years when rates were increased and the total rates (after the increase).

Years of Tax Rate Increases		
	Cigarette	Tobacco Products
1985	$0.23	25%
1987	$0.38	35%
1991	$0.43	35%
1992	$0.48	35%

Tax revenues are about $182 million per year

For fiscal year 2005, the Finance Department estimates collections from the two taxes will be about $182 million. Revenues from the tobacco products tax are deposited in the general fund. Revenues from 6.5 cents per pack of the cigarette tax go to fund the Academic Health Center, 2.5 cents to the medical education and research account, and the rest are deposited in the state general fund.

The tax is regressive

According to the Department of Revenue's *2003 Tax Incidence Study*, the cigarette and tobacco taxes are the most regressive of Minnesota's state and local taxes. The burden of these taxes falls much more heavily on lower income households (as a share of income) than any of the other categories of taxes analyzed in the study.

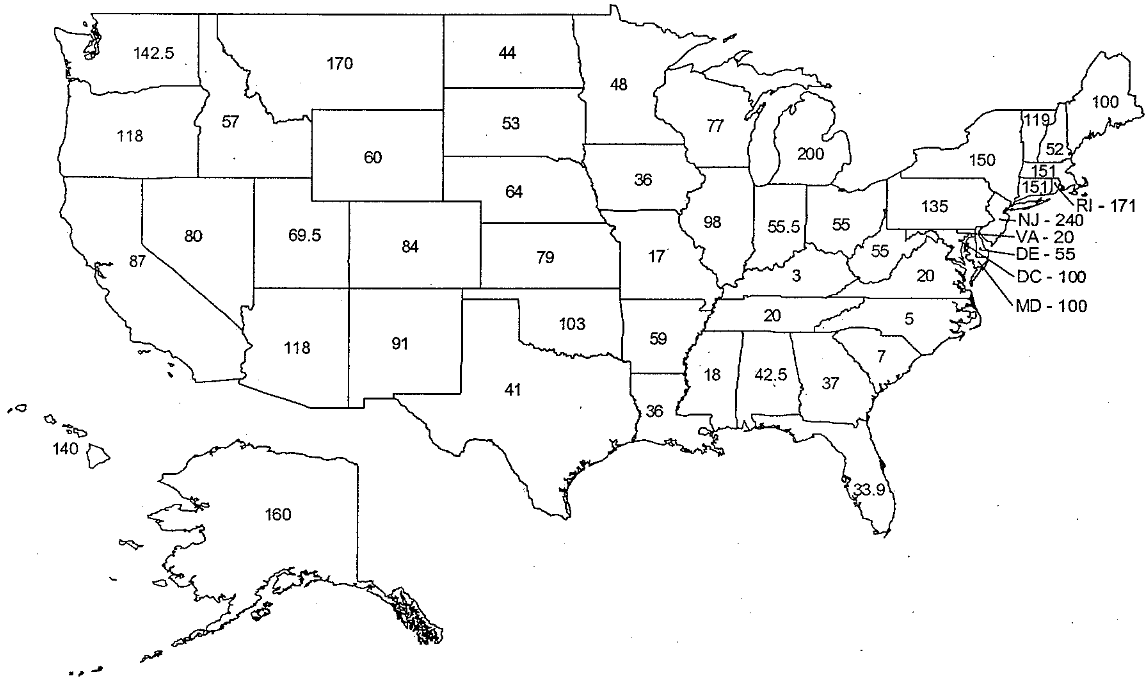
Neighboring states have comparable tax rates

Because cigarettes can easily be transported from one state to another, particularly by individuals who live near state borders, the tax rates in bordering states are important to tax policy. States bordering Minnesota have roughly comparable cigarette excise tax rates. Wisconsin (77 cents) and South Dakota (53 cents) have higher rates, while North Dakota (44 cents) and Iowa (36 cents) have lower rates.

The rates for all states are shown on the map. Minnesota's tax rate of 48 cents ranks 37th highest. The map does not reflect local cigarette taxes, which are allowed in some states; some of these local taxes are substantial (e.g., $1.50 per pack in New York City). Some states have no sales tax or exempt cigarettes from sales taxation, lowering the overall tax burden.

State Cigarette Tax Rates*

as of 1/1/2005
cents per pack



* These exclude some significant local taxes.
Source: Federation of Tax Administrators and other sources

Numerous states have recently increased their cigarette tax rates to balance their budgets or to fund program initiatives. Voters in three states approved cigarette tax increases in November 2004. The recent increases are listed in the table. A temporary 10-cent increase in the Oregon tax expired during 2004.

State Cigarette Tax Rate Increases in CY2004
cents per pack

Montana†	100	New Jersey	35
Oklahoma*†	80	Pennsylvania	35
Michigan	75	Alabama	26
Colorado†	64	Virginia	17.5
Alaska	60		

† Approved by voters 11/04.
Source: FTA, NCSL, and *State Tax Notes*, compiled by House Fiscal Analysis Department
* Also exempts cigarettes from sales tax, reducing the effective increase.

Settlements of the states' lawsuits against the tobacco companies have about the same economic effect as a cigarette tax, since these settlement payments are passed along to consumers (nationally) through higher cigarette prices. To compensate partially for the lower prices of nonsettlement cigarettes, the 2003 Minnesota Legislature imposed a 35-cent per pack "fee" on manufacturers who did not settle with the state. Michigan and Utah also impose a 35-cent surcharge on these cigarettes; Alaska imposes a 25-cent surcharge.

For more information: Contact legislative analyst Joel Michael at 651-296-5057.

HOUSE RESEARCH | Short Subjects

Jim Cleary

February 2005

Types of Service for Military Personnel

Types of active service for military personnel

"Active service" is defined similarly under both federal law and Minnesota Statutes section 190.05. Active service includes the following three types of service:

- **"Federal active service":** Service under U.S.C. Title 10, excluding the other two types of active service; this is what one usually thinks of as regular active military duty (e.g., service in the United States, Iraq, the Balkans, or elsewhere)
- **"Federally funded state active service":** Service under U.S.C. Title 32, typically for training purposes (e.g., reservist weekend drills and annual training (summer camp), but also airport security duty within Minnesota following 9/11, etc.) Title 32 also includes certain full-time voluntary employment in the Guard or Reserves (called AGR).
- **"State active service":** Activation by the governor (e.g., for flood and tornado emergencies, lost-person searches, riot control, etc.); entirely at state cost

Types of reserve military service

As with any person enlisting in active military service, a person enlisting in the National Guard or other Reserves signs an eight-year contract.

- **"Selective reserve status":** During the first six years of a person's enlistment, the Guard or Reserve member serves mostly in this status (except while in "active service" under Title 32 for basic training, summer training, and special training, or under Title 10 for duty in Iraq, the Balkans, etc.). Soldiers sometimes refer to this status as "drill status" or "active reserve status."
- **"Individual ready reserve status" (IRR):** During the final two years of the person's eight-year contract, the Guard or Reserve member typically stops training altogether, and returns to civilian life entirely. However, the person is actually in the IRR and, thus, may be placed on "stop loss" or ordered back into active service; if that happens, the person may be held well beyond the eight-year agreement of the enlistment contract.
- **"Active guard and reserve status" (AGR):** Full-time employment under Title 32 in the National Guard or Reserves, as a career job (but technically while still in the Guard or Reserves – e.g., an accountant). Most members of the Guard and Reserve never serve in AGR status.

For more information: Contact legislative analyst Jim Cleary at 651-296-5053.

Joel Michael

Updated: February 2005

State Responses to the 2001 Federal Estate Tax Changes

The 2001 federal tax act or EGTRRA eliminated the ability of states to impose pure "pickup" estate taxes that are borne by the federal treasury

From 1924 through 2001, the federal estate tax allowed a dollar-for-dollar credit for state death taxes paid (up to maximum limits). All states imposed estate taxes up to the amount of the federal credit; some states also imposed additional inheritance or estate taxes. In 2001, 38 states, including Minnesota, imposed pickup estate taxes as their only form of a death tax.

The Economic Growth and Tax Relief and Reconciliation Act of 2001 (EGTRRA) repealed the federal credit for state death taxes in three steps. *See box at the right.* States now can no longer impose estate taxes that do not increase total taxes. EGTRRA also increased the exemption amounts and reduced tax rates.

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Minnesota opted not to continue with a pure pickup tax. Minnesota now has a stand-alone estate tax equal to the federal credit before EGTRRA passed. This short subject summarizes how states have responded to EGTRRA's repeal of the federal credit. It reflects changes enacted by states through December 2004.

Thirty-three states are reducing their pickup taxes by the full amount of the reductions in the federal credit

Twenty states that impose only pickup taxes are automatically linked to federal law (AL, AK, AZ, CA, CO, DE, FL, GA, HA, ID, MI, MS, MO, MT, NV, ND, TX, UT, WV, and WY) and have not taken action to decouple. Constitutions in three states (AL, FL, and NV) limit the tax to a pure pickup tax.

Three states imposing only pickup taxes (AR, SC, and SD) legislatively adopted EGTRRA's changes. The Washington Supreme Court held the Washington tax expired with the repeal of the federal credit, despite a statute linked to federal law as of a date before enactment of EGTRRA.

Nine states with stand-alone taxes have pickup taxes that are automatically linked to federal law (CT, IN, IA, KY, LA, NH, OK, PA, and TN) and have not decoupled from EGTRRA. The pickup taxes will be reduced with the phaseout of the federal credit. The stand-alone taxes will continue, so EGTRRA will reduce revenues to the level of the stand-alone taxes. Louisiana's tax expired on June 30, 2004. Connecticut's is scheduled to expire on Jan. 1, 2006.

Three states temporarily opted out of EGTRRA's reductions

Illinois (2003-2009), North Carolina (2002 – July 1, 2005), and Wisconsin (Oct. 1, 2002 – Dec. 31, 2007) temporarily opted not to allow EGTRRA's reductions to reduce taxes. These states impose only pickup estate taxes. Absent additional legislative changes, their estate taxes will revert to full conformity and expire.

Five states adopted EGTRRA's higher exemptions, but not the credit reductions

Illinois, Maine, Maryland, North Carolina, and Vermont adopted at least two of EGTRRA's increases in the exemption amounts, but not the reductions in the federal credit for state death taxes. North Carolina, as noted above, delayed full conformity by three and one-half years. Vermont's tax will expire when the federal tax is repealed. Illinois did not adopt the final increase (to $3.5 million) in the federal exemption, but its tax is scheduled to expire in 2010.

Ten states have adopted none of EGTRRA's major changes

Six states with taxes tied to pre-EGTRRA federal law have not adopted EGTRRA or have made explicit changes confirming that EGTRRA's provisions do not apply (KS, MN, NY, OH, OR, and VA). Four states whose laws were automatically linked to changes in federal law have decoupled by either linking to federal law at a specific date (MA, NJ, and RI) or by enacting an estate tax not explicitly tied to federal law (NE).

Changes in stand-alone taxes

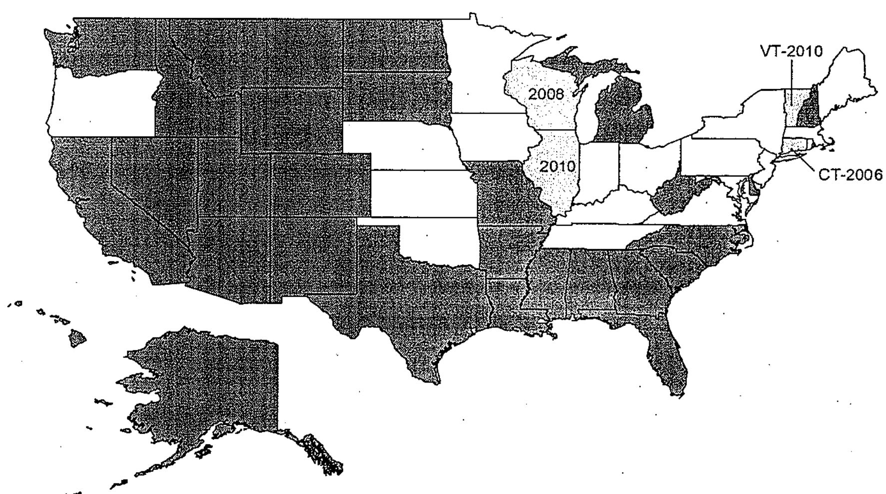
New Hampshire repealed its stand-alone succession tax, effective January 1, 2003. Kansas enacted a successions tax in 2002, but repealed it in 2003 and refunded any taxes paid.

Thirty-six states are scheduled to have no death tax

When the federal credit for state death taxes is fully repealed in 2005, 32 states are now scheduled to have no state death tax. Four additional states will have their taxes expire in later years. These states are shown in the map below.

States Without Estate or Inheritance Taxes

(2005 unless otherwise noted)



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HOUSE RESEARCH | **Short Subjects**

Karen Baker and Steve Hinze

Updated: February 2005

Limited Market Value

What is limited market value?

Limited market value (LMV) is a limitation on the amount that a property's market value may grow from one year to the next for purposes of property taxation. It was enacted to help mitigate rising property taxes resulting from rapidly inflating property values.

What property does LMV apply to?

The following classes of property qualify for LMV:

- agricultural homestead and nonhomestead
- residential homestead and nonhomestead
- seasonal recreational residential property (i.e., cabins)
- timberland (beginning with the 2001 assessment)

Is it permanent?

LMV provisions were in effect from 1973 to 1979, and again from 1993 to the present. The 2001 Legislature enacted a law to phase out LMV over a six-year period—from assessment years 2002-2007. Beginning in assessment year 2007 (for taxes payable in 2008), all property will be valued at its estimated full market value for property tax purposes.

Does the assessor continue valuing the property?

The assessor continues to determine the property's fair market value. This value is called the "estimated market value" (EMV). However, property that qualifies for treatment under LMV may not be taxed at the full value of the property if its growth exceeds the limits.

How does it work?

For qualifying property in assessment year 2004 (taxes payable in 2005), the increase in market value shall not exceed the **greater** of:

- 15 percent of the LMV in the preceding assessment year, or
- 25 percent of the difference between the current year's EMV and the previous year's LMV.

How does the phaseout work?

For each year, the maximum valuation increase is determined by calculating the increase allowed under columns (1) and (2), and choosing whichever is higher.

Assessment Year	(1) Percentage of previous year's LMV	(2) Percentage of difference between previous year's LMV and current year's EMV
2002	10%	15%
2003	12	20
2004	15	25
2005	15	33
2006	15	50

Example calculations

Assessment year 2004/payable year 2005
The LMV of a home is $100,000 for assessment year 2003. For assessment year 2004, the assessor determines that the EMV of the home is $130,000. The maximum market value increase for tax purposes is the greater of:

- 15 percent increase over the previous year, which is $15,000, or
- 25 percent of the $30,000 difference in value, which is $7,500.

Therefore, the home's LMV is $100,000 plus $15,000, or $115,000 for assessment year 2004.

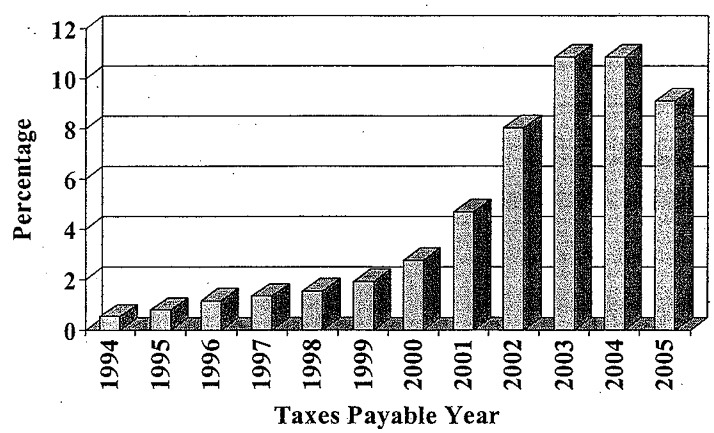
How much has LMV grown?

For taxes payable in 2005, $33.1 billion of market value was excluded from the tax rolls due to LMV. The table shows the amounts for 1994-2005.

Taxes Payable Year	EMV*	LMV*	Excluded Value* Amount	Excluded Value* Percentage
1994	$124.1	$123.5	$0.7	0.5%
1995	132.0	131.0	1.0	0.8
1996	142.1	140.4	1.6	1.1
1997	152.1	150.0	2.0	1.3
1998	163.6	161.1	2.5	1.5
1999	176.6	173.3	3.4	1.9
2000	202.6	197.0	5.6	2.8
2001	226.4	215.8	10.6	4.7
2002	260.4	239.4	21.0	8.1
2003	284.8	253.9	30.9	10.8
2004	322.9	288.0	34.9	10.8
2005	364.6	331.5	33.1	9.1

* Affected property classes only. All amounts in billions.

Statewide Percentage of Tax Base Excluded due to LMV (affected classes only)



For more information: Contact legislative analyst Karen Baker at 651-296-8959 or Steve Hinze at 651-296-8956.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

Deborah K. McKnight

February 2005

Constitutional Issues in the Initiative Process

This short subject summarizes initiative regulations that have been invalidated by the U.S. Supreme Court or lower courts. If the initiative process were adopted in Minnesota, regulation of the process would be restricted as indicated by this case law.

Spending limits on proponents and opponents

There is no case dealing with the validity of laws that limit how much proponents and opponents can spend on a ballot drive. However, the distinction between candidate contributions and issue advocacy in *Buckley v. Valeo* is generally understood to prevent imposing spending limits in a ballot question campaign. 424 U.S. 1 (1976).

Corporate spending bans

Corporations have a constitutional right to spend money in a ballot question campaign. *First National Bank v. Bellotti*, 435 U.S. 765 (1978).

Contribution limits in ballot question campaigns

It is unconstitutional to limit the size of a contribution that can be given to a group working for or against a ballot question. *Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290 (1981).

Petition signature requirements

One state and one federal court have struck down geographic distribution requirements for gathering signatures for initiative petition. The courts ruled that the requirements dilute urban voters' exercise of their constitutional right to participate in the initiative process. *Gallivan v. Walker*, 54 P.3d 1069, 1086 (Utah 2002); *Idaho Coalition United for Bears v. Cenarussa,* 342 F.3d 1073, 1076 (CA9 2003). These cases are not controlling authority in Minnesota but might influence the Minnesota Supreme Court or local federal courts in interpreting a geographic distribution requirement.

Paid petition circulators

States may not ban paid petition circulators. *Meyers v. Grant*, 486 U.S. 414 (1988). A variation, banning payment per signature, has been struck down by three federal courts and upheld by another federal court in a case involving North Dakota. (Struck down: *Limit v. Maleng*, 874 F. Supp. 1138 (W.D. Wash. 1994); *On Our Terms '97 PAC v. Secretary of State of the State of Maine*, 101 F. Supp. 2d 19 (1999); *Idaho Coalition for Bears v. Cenarussa*, 342 F.3d 1073, 1165-66 (CA9 2003); Upheld: *Initiative and Referendum Institute v. Jaeger*, 241 F.3d 614 (CA8 2001).)

In the North Dakota situation, the per-signature ban was enacted following an experience with irregularities in a particular ballot campaign, so the court found the legislature was responding to a genuine problem as opposed to a theoretical possibility.

Other circulator regulations

Colorado enacted comprehensive regulations of petition circulators in the 1990s. The U.S. Supreme Court upheld parts and struck down other parts. *Buckley v. American Constitutional Law Foundation*, 119 S. Ct. 636 (1999). The table below summarizes the case result.

State Requirement	Upheld	Struck Down
Circulators must be at least 18	X	
Circulation time limits	X	
Petition must show circulator name and address in attached affidavit	X	
Sponsors must file a monthly report showing names of proponents and ballot measure	X	
Sponsors must disclose amount paid per signature	X	
Circulator must wear ID badge with his or her name		X
Circulator must be registered voter		X
Sponsors must disclose paid circulators' names, addresses, and counties where registered to vote		X
Sponsors must file a monthly report showing (1) each circulator's name and address and (2) money paid and owed to each circulator		X

For more information: Contact legislative analyst Deborah McKnight at 651-296-5056. Also see the House Research publication *Initiative and Referendum*, February 1999.

HOUSE RESEARCH | **Short Subjects**

Jim Cleary

February 2005

Benefits for the Family of a Fallen Soldier

Assistance from military personnel

The military will assign a casualty assistance officer to work with the family for a National Guard member, probably a person from the Minnesota Department of Military Affairs. That person contacts the family in person immediately following the soldier's death. The military casualty assistance officer will help the family to make arrangements for the funeral and the honor guard, and to apply for all military benefits at the appropriate time.

Local veterans organizations are available to assist, at the family's discretion.

General benefits

The following benefits are available to the family of a Minnesota soldier who dies while in active military service.

- A military honor guard at the soldier's funeral and/or burial (arranged by funeral home and military casualty assistance officer)
- An American flag to cover the soldier's coffin (federal benefit; by funeral director)
- Free burial in a national cemetery (Fort Snelling or any national cemetery, except Arlington) or at the Minnesota State Veterans Cemetery at Little Falls
- A bronze-star grave marker (from the state)
- Any remaining military pay for the month
- A $12,000 death gratuity payment from the military (not taxable, since late 2004)
- Eligible for Servicemembers Group Life Insurance (SGLI) (up to $250,000, depending on whatever level the soldier has contracted for and paid premiums)
- The soldier's surviving spouse would be eligible for Death Indemnity Compensation (a monthly payment, no longer depending on rank, to the surviving spouse for life, irrespective of the soldier's rank or the recipient's income). This benefit terminates if the surviving spouse remarries within ten years.

Education benefits

If the soldier had any dependent children, those dependent children would qualify to attend any Minnesota public higher educational institution tuition-free (except the University of Minnesota system). This state benefit includes any legally adopted children, but not foster children.

The soldier's surviving spouse and dependent children are eligible to attend any public or private higher educational institution and receive a monthly stipend from the U.S. Department of Veterans Affairs. The dependent children can also receive this benefit while attending high school.

County veterans service officer

The county veteran service officer (the CVSO, of any county in the state) can help the family apply for all state and federal veterans benefits, both immediately and over the months and years following the death of the soldier, as benefit laws and each survivor's situation changes.

If the family has an immediate financial crisis at the time of the soldier's death or at any time thereafter, the CVSO can help the family apply for a grant from the Minnesota Department of Veterans Affairs State Soldiers Assistance Fund for immediate financial assistance (of up to $1,000 or more, depending upon family size and need) for daily living expenses. The local CVSO can be found in the local phone book under county government listings.

For more information: Contact legislative analyst Jim Cleary at 651-296-5053.

HOUSE RESEARCH | Short Subjects

Deborah K. McKnight

February 2005

Features of State Same-Sex Marriage Constitutional Amendments

At the 2004 general elections, 13 states adopted state constitutional bans on same-sex marriage. Before that year, four states had such bans in effect. This table summarizes key features of the amendments.

State/Date of Adoption	Defines or recognizes marriage as only between a man and a woman	Provides for the legislature to define marriage	Prohibits same sex marriage	Does not recognize/voids same sex marriage	Bans/does not recognize civil unions
Alaska (1999)	X				
Arkansas (2004)	X				
Georgia (2004)	X		X	X[1]	X
Hawaii (1998)		X			
Kentucky (2004)	X			X	X
Louisiana[2] (2004)	X			X[3]	X
Michigan (2004)	X			X	X
Missouri (2004)	X			X[4]	
Mississippi (2004)	X				
Montana (2004)	X				
Nebraska (2000)	X				X
Nevada (2002)	X				
North Dakota (2004)	X			X	X
Ohio (2004)	X				X
Oklahoma (2004)	X		X[5]	X[6]	X
Oregon (2004)	X				
Utah (2004)	X				X

[1] Specifically mentions marriage entered in another jurisdiction or state.
[2] After the amendment was ratified by voters, it was challenged on grounds of violating the single subject rule. Plaintiffs argued that defining marriage and banning civil unions were two different questions. The state supreme court rejected that argument. *Forum for Equality PAC v. McKeithen*, 2005 WL 106567 (January 19, 2005).
[3] Specifically mentions marriage entered in another jurisdiction or state.
[4] Specifically mentions marriage entered in another jurisdiction or state.
[5] Misdemeanor to issue marriage license to same-sex couple.
[6] Specifically mentions marriage entered in another jurisdiction or state.

For more information: Contact legislative analyst Deborah McKnight at 651-296-5056.

HOUSE RESEARCH | Short Subjects

Karen Baker and Deborah A. Dyson

March 2005

Housing Improvement Areas

What are housing improvement areas?

A housing improvement area (HIA) is a defined area in a city in which housing improvements in condominium or townhome complexes may be financed with the assistance of the city, or the city's economic development authority (EDA) or housing and redevelopment authority (HRA).

Prior to 1996, cities needed special legislation to establish an HIA. In 1996, cities were granted the authority under general law. The general law, codified in Minnesota Statutes, sections 428A.11 to 428A.21, sunsets June 30, 2005.

What kind of improvements can be made in an HIA?

The improvements that may be made under this law include improvements to the common elements in a condominium complex or townhome development. Examples include roofing, siding, landscaping, roadways, and walkways.

How is an HIA established?

At property owner's request. An HIA can only be established at the request (petition) of at least 25 percent of the property owners in the proposed area. If the petition is filed, then the city prepares an ordinance that:

- describes the area specifically,
- states the basis for imposing fees and the number of years the fees will be imposed, and
- makes a finding that without the HIA, the proposed improvements could not be made.

The ordinance must also specify if the city, the EDA, or HRA will implement the ordinance.

Notice, public hearing, ordinance. Before adopting the ordinance, the city must hold a public hearing at which the proposed improvements, affected housing units, and the exempt units are listed. Potentially affected property owners may testify at the hearing. Those property owners may object in writing, and if the city agrees, may be excluded from the area or fee imposed.

The ordinance may be adopted within six months after the conclusion of the public hearing.

How are the improvements financed?

The city may finance the housing improvements by:

(1) advancing funds available to the city to pay up front and then recover the costs by charging fees; or

(2) issuing bonds to pay the costs and then imposing fees or assessments to repay the bonds. Obligations are not included in the city's net debt and no election is required for their issuance.

Before imposing fees, the notice must be issued and a public hearing held. Within six months of the conclusion of the public hearing, the city may adopt a resolution to impose the fees.

What plans or reports are required?

Before the city imposes and collects a fee provided for in the resolution, the condominium or townhome association must develop a long-term plan to maintain the complex. The plan must address operations, maintenance, and necessary capital improvements of the common elements. It must identify financing for the projects. The association must also submit its audited financial report to the city annually.

Although each city with an HIA is required to submit the HIA ordinance to the Commissioner of Revenue, this reporting has not been done. The fees imposed are reported as special assessments by the cities to the county auditor and collected through the property tax statements. Since these amounts are not identified separately, and with no effective statewide reporting, it is impossible to know how much money is collected for HIA purposes statewide.

How many cities have established HIAs?

As indicated above, there is no way to know how many HIAs have been established, but as of 2004, at least six cities have adopted HIA ordinances.

City	# of Districts Established	Year Authority Granted
Coon Rapids	4	2002
Hopkins	4	1989
New Hope	3	1997
Plymouth	1	N/A
St. Louis Park	1	2002
Victoria	1	2003

The scope and length of projects vary within each HIA. The ordinances establishing HIAs are for three to 20 years, with fees assessed annually. However, the HIA ordinance may allow prepayment of fees.

For more information: Contact legislative analyst Karen Baker at 651-296-8959 and Deborah Dyson at 651-296-8291.

HOUSE RESEARCH | **Short Subjects**

Judie Zollar

March 2005

Separation of Powers: When Statutes and Court Rules Conflict

What is meant by "separation of powers" and what does it require?

Both the United States and Minnesota Constitutions provide for the separation of powers of the legislative, executive, and judicial branches. The branches of government are co-equal. If one branch takes action that infringes too greatly on another branch of government, the courts may rule this action unconstitutional because it violates the constitutional separation of powers.

Article 3, section 1, of the Minnesota Constitution sets forth the separation of powers in this state and provides:

> *The powers of government shall be divided into three distinct departments: legislative, executive, and judicial. No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution.*

Which branch of government has authority over the rules governing criminal proceedings?

The Minnesota Constitution is silent on which branch of government has authority over the rules governing criminal proceedings, thereby leaving the matter to the courts for resolution. The Minnesota Supreme Court has determined that, when a particular function comes within its "inherent judicial power," only the court may govern that function.

Although the term "inherent judicial power" is often used without being defined, the court has stated the following about this power:

> *Inherent judicial power governs that which is essential to the existence, dignity, and function of a court because it is a court. Its source is the constitutional separation of powers as expressed and implied in our constitution. Its scope is the practical necessity of ensuring the free and full exercise of the court's vital function—the disposition of individual cases to deliver remedies for wrongs and "justice freely and without purchase; completely and without denial; promptly and without delay; conformable to the laws."*

Applying this rule, the Minnesota Supreme Court has determined that it has inherent and ultimate power to determine procedural rules in judicial proceedings. If a rule is procedural, as opposed to substantive, it falls within the judiciary's inherent judicial power.

What happens if the legislature passes a law that conflicts with a court rule?

If the legislature passes a law that conflicts with a court rule, the court will uphold that law if it is substantive. If, however, the law deals with procedural rules that apply in court proceedings, the court will find the statute unconstitutional on separation of powers grounds. In certain cases, however, the court may tolerate the legislature's action in an area it views as procedural (i.e., judicial), provided the infringement on the judicial function is minimal. In these situations, the court may enforce the legislative action as a matter of comity (mutual respect for another branch of government).

What makes a law procedural versus substantive?

The question of whether a law is procedural or substantive is often a difficult one to resolve. The Minnesota Supreme Court has looked at several ways of distinguishing substantive laws from procedural ones and relied primarily on the following test:

1. Substantive laws define **which acts** are criminal and what the **punishment** is for violating them
2. Procedural laws regulate **the steps** by which the guilt or innocence of one who is accused of a crime is determined

Another test used to distinguish between substantive and procedural laws, particularly outside the criminal law context, states that "substantive law is that part of the law which creates, defines, and regulates rights, as opposed to . . . remedial law, which prescribes method [sic] of enforcing the rights or obtaining redress for their invasion."

What types of statutes have been found to violate separation of powers?

The following statutes have been ruled unconstitutional due to a conflict with a court rule:

- A statute allowing a prosecutor to certify an offense as a petty misdemeanor without the defendant's consent
- A statute prescribing the order of final argument in criminal cases (although the court enforced the statute in the case before it as a matter of comity, while instructing courts to follow the Minnesota Rules of Criminal Procedures in future proceedings)
- A statute on the assignment and removal of judges

What types of statutes have been found to impair the court's function only minimally and enforced based upon comity?

The following statutes have been upheld as they impair the court's function only minimally and the court has been willing to enforce the statute based on comity:

- A statute determining venue when a crime is committed in a municipality located in more than one county
- Statutory rules of evidence deemed reasonable that do not conflict with the Minnesota Rules of Evidence
- Statutory interest rates for condemnation actions

For more information: Contact legislative analyst Judie Zollar at 651-296-1554 for information on separation of powers issues, including case law citations for the quotes and examples provided in this document.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Lisa Larson

Updated: April 2005

The K-12 Education Deduction and Credit: An Overview

What is the K-12 deduction?

A state income tax deduction is allowed for K-12 education-related expenses. The deduction is for up to $2,500 for each dependent in grades 7-12, and up to $1,625 for each dependent in grades K-6.

What expenses qualify for the deduction?

Qualifying expenses include the following:
- Tuition, including nonpublic school, after school enrichment, academic summer camps, music lessons, and tutoring
- Textbooks, including instructional materials and supplies, musical instrument rental and purchase, and up to $200 of computer hardware and educational software
- Transportation (paid to others for transporting children to school)

What is the tax benefit of the deduction?

A deduction reduces an individual's taxable income. The tax benefit depends on the taxpayer's marginal tax rate and the total amount deducted. Minnesota has three marginal tax rates: 5.35 percent, 7.05 percent, and 7.85 percent. A taxpayer in the 5.35 percent bracket who claims a $2,500 deduction will pay $133.75 less in state income taxes (5.35% x $2,500). A taxpayer in the 7.85 percent bracket with the same deduction will pay $196.25 less in taxes. A taxpayer with too little income to have tax liability will not benefit from the deduction. In tax year 2005, a typical married couple with two dependents would need to have $21,100 of gross income before owing any state income tax.

How many people claim the deduction, and how much does it cost?

In 2005, an estimated 186,000 returns will claim the deduction at a cost to the state of $13.8 million.

What is the K-12 education credit?

A state income tax credit is allowed for 75 percent of K-12 education-related expenses. The credit is for up to $1,000 per child and $2,000 per family. The credit is subject to an income-based phaseout. It begins to phase out when income exceeds $33,500, and is not available to families with incomes over $37,500.

What expenses qualify for the credit?

The same expenses qualify for the credit as for the deduction, except nonpublic school tuition does not qualify for the credit.

What are the tax benefits of the credit?

The K-12 credit directly reduces tax liability and is fully refundable. If an individual qualifies for a credit that is greater than his or her tax liability, the excess is paid as a refund.

Can parents obtain loans to pay for educational services that qualify for the credit?

Parents may assign payment of their credits to participating financial institutions and tax-exempt foundations. In exchange, parents receive a loan that is paid directly to a third-party provider of educational services and programs. This allows very low-income families to purchase educational products and services in anticipation of receiving a credit when they file their tax return the following year, with the credit paid directly to the financial institution or foundation that accepted the assignment.

How many people claim the credit, and how much does it cost?

In tax year 2002, 59,524 Minnesotans claimed a total of $15.6 million in K-12 education credits.

How do taxpayers claim the deduction and credit?

Taxpayers claim the deduction on form M-1, the Minnesota income tax return. Taxpayers claiming the credit must complete form M1ED and attach it to their state tax return.

Have the deduction and credit been subject to legal challenge?

The constitutionality of the dependent education expense deduction was challenged in *Mueller v. Allen* in 1983. The U.S. Supreme Court upheld the statute authorizing the deduction in a 5-4 decision. The Court found that the deduction did the following:

- offset parents' educational expenses and helped ensure an educated populace
- helped ensure the financial health of nonpublic schools and relieved the financial burden on public schools
- promoted "wholesome competition" between public and nonpublic schools and provided a high-quality education for all children

Minnesota's current K-12 education credit has not been subject to legal challenge.

What do other states provide in terms of income tax credits for education-related expenses?

To date, five states in addition to Minnesota provide income tax credits for education-related expenses: Arizona, Florida, Illinois, Iowa, and Pennsylvania. **Arizona** gives taxpayers tax credits for contributions to school tuition organizations that operate like charities and for extracurricular public school fees. **Florida** allows individual and corporate taxpayers to claim a nonrefundable tax credit for contributions to nonprofit scholarship funding organizations. **Illinois** gives taxpayers a nonrefundable tax credit for qualified education expenses. **Iowa** gives taxpayers a tax credit for tuition, secular textbooks, and extracurricular activities for children attending accredited not-for-profit K-12 schools. **Pennsylvania** allows corporations to claim a nonrefundable tax credit for contributions to nonprofit scholarship funding organizations and innovative public school programs. Courts in Arizona, Illinois, and Iowa have upheld the permissibility of these education credits in their respective states.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Lisa Larson at 651-296-8036. Also see the House Research publication *Income Tax Deductions and Credits for Public and Nonpublic Education in Minnesota*, December 2003.

HOUSE RESEARCH | Short Subjects

Elisabeth Long

June 2005

Texas Hold'em

Texas hold'em is an increasingly popular form of poker in which each player is dealt two cards and there are five common cards. The legislature recently enacted a law authorizing Texas hold'em tournaments that are conducted according to certain requirements.

Does Minnesota prohibit all forms of betting?

Minnesota law generally prohibits betting and the operation of any location where betting is permitted or promoted. A "bet" occurs when parties agree that one party will give another party money, property, or some other benefit in the event of an outcome that is dependent upon chance, even if the outcome is also dependent upon an element of skill.

Over time, Minnesota has established a number of statutory exceptions to the general prohibition of betting. For example, Minnesota law authorizes the operation of a state lottery, bets on horse races at licensed racetracks, and private social bets that are not part of or incidental to organized, commercialized, or systematic gambling. Minnesota also allows gambling on some social skill games (e.g., cribbage, bridge, gin) and social dice games (e.g., "shake-a-day," "3-2-1," "who buys"), provided that they meet certain conditions.

When are card tournaments legal?

Minnesota permits gambling in certain card tournaments, as long as the tournaments do not provide any direct financial benefit to the promoter or organizer and the value of all prizes awarded in a tournament does not exceed $200.

Until June 2005, only ten card games were permitted under these circumstances: cribbage, skat, sheephead, bridge, euchre, pinochle, gin, 500, smear, and whist. However, as of June 4, 2005, Texas hold'em tournaments and contests are also permitted, subject to the restrictions described below. Gambling in tournaments consisting of any other social skill game are illegal in Minnesota.

When are Texas hold'em tournaments legal?

Texas hold'em tournaments are subject to the same restrictions as other social skill game tournaments in Minnesota. However, there are additional requirements for Texas hold'em tournaments that do not apply to other social skill game tournaments.

Can players be charged to participate in a Texas hold'em tournament?

Players in Texas hold'em tournaments cannot be charged *any* fee or be required to give *any* consideration (something of value) as a condition of participation. In other words, players must be able to participate in a Texas hold'em tournament for free.

Can prizes be awarded in a Texas hold'em tournament?

Prizes can be awarded in Texas hold'em tournaments. However, as is the case with tournaments involving other social skill games, the value of all prizes awarded in a single tournament cannot exceed $200. With respect to Texas hold'em, the law further specifies that the value of all prizes awarded to *an individual winner* of a tournament at a single location may not exceed $200 per day.

Is there an age requirement to play Texas hold'em?

To participate in a Texas hold'em tournament or contest, a player must be at least 18 years old.

Can players with disabilities participate in Texas hold'em tournaments?

Minnesota law requires the organizer or promoter of any Texas hold'em tournament to ensure that reasonable accommodations are made for players with disabilities. In addition to making other accommodations to tournament tables and cards, a tournament organizer or promoter has to make sure that Braille cards are available for blind players and that the cards visible to the entire table are announced.

Who regulates Texas hold'em tournaments?

The Alcohol and Gambling Enforcement Division (AGED), Department of Public Safety, in conjunction with local law enforcement authorities, has jurisdiction over Texas hold'em tournaments and other social skill game tournaments. The Gambling Control Board has no jurisdiction over these tournaments. Please contact your county attorney with questions about the conduct of Texas hold'em tournaments.

For more information: Contact legislative analyst Elisabeth Long by e-mail at elisabeth.long@house.mn.

Deborah K. McKnight **June 2005**

How a Constitutional Amendment Is Proposed and Ratified

A constitutional amendment is a change to the state's constitution that is decided by voters in an election. Since 1858, 211 constitutional amendments have been voted on by the electorate. The most recent constitutional amendments that were approved by voters were in 1998, when voters approved changes to the Minnesota Constitution to extend the use of lottery proceeds for the environment, preserve hunting and fishing heritage, and abolish the office of the state treasurer. The Minnesota Constitution and election statutes govern the process of proposing and ratifying amendments.

The legislature passes an act to change the constitution

First, the legislature passes an act proposing a change in the constitution. A constitutional amendment is just like a session law, but it does not require the governor's signature and cannot be vetoed. The act includes the statement of the question the legislature wants placed on the ballot. The constitution requires that the act be assigned a session law chapter number, published with other legislative acts of the same year, and presented to the voters at a general election. Each amendment must be submitted separately.

Constitutional amendments appear on different ballots from the regular ballot

For every election, a state white ballot is prepared, which voters use to elect candidates for various state offices. When constitutional amendments are on the ballot, the county auditor, at the direction of the secretary of state, prepares a pink ballot for constitutional amendments; that ballot is used in all precincts that use paper ballots.

The secretary of state, with approval of the attorney general, prepares a short title to identify each amendment on the ballot. The ballot question specified by the legislature appears under the title. The text of the constitution as it would appear if amended is not printed on the ballot. Sample copies of the pink paper ballot are available for public examination at the secretary's office and each county auditor's office before the state general election.

On optical scan voting systems, the title of each amendment and the question specified by the legislature is placed in the same booklet with the candidates. Questions appear just after the last candidate's name on the white (state) ballot, and preceding the canary (county) ballot.

In the act proposing an amendment, the legislature may designate the order in which constitutional amendments will be listed on the ballot if there is more than one amendment at an election. Otherwise the secretary of state will designate the order. During the 1990s, questions were placed on the ballot in the order they passed the legislature. (No amendments have been proposed since 1998.)

Amendments must be approved by a majority voting in an election, not just a majority voting on the amendment

Since 1900, the constitution has required the approval of a majority voting at the election, not just a majority voting on the question, to ratify a constitutional amendment. Thus, failure to vote on an amendment is the equivalent of a "no" vote. A notice to this effect is printed on the pink ballot. In practice, it takes a 60-percent "yes" vote to pass an amendment.

If the state canvassing board finds that a proposed amendment received the approval of a majority of the voters at the election, the amendment takes effect once the canvassing board makes this finding, unless the amendment specified a later effective date.

For more information: Contact legislative analyst Deborah K. McKnight at 651-296-5056. Also see the House Research publication *Minnesota State Constitutional Amendments*, November 2004.

HOUSE RESEARCH | **Short Subjects**

John Williams **June 2005**

Motorized Foot Scooters

A new law passed in the 2005 legislative session (Laws 2005, chapter 135) generally gives to motorized foot scooters the same rights and responsibilities as bicycles on streets and highways. This law takes effect August 1, 2005.

What is a "motorized foot scooter"?

The new law defines "motorized foot scooters" as vehicles that:

- have handlebars;
- can be either stood on or sat on by the operator (saddle optional);
- are powered by an electric motor or internal combustion engine that is capable of powering the device with or without human propulsion; and
- have either (1) wheels no more than 10 inches in diameter, or (2) an engine that is capable of a maximum speed of not more than 15 miles per hour on a flat surface.

What is and isn't included?

Most devices generally regarded as "scooters" that have some type of motor are included in the definition of "motorized foot scooter." However, the new law doesn't cover some other devices that are sometimes referred to as motorized scooters or motor scooters. These include the following:

- "Step-through" motor scooters such as Vespas and similar vehicles. These must be registered as motorcycles. Operators must have a driver's license with a motorcycle endorsement and must wear a helmet if under age 18.

- Many "pocket bikes" and "mini-choppers" that have wheels over 10 inches and a speed capability over 15 mph. These too are treated as motorcycles.

- Motorized bicycles or "mopeds," which are bicycles that also have attached electric or liquid-fuelled motors and have a maximum speed capability of 30 mph. These must be registered as motorized bicycles and can be operated on either a driver's license or a motorized bicycle permit.

- "Segways" (human transporters), which are exempt from registration and require no driver's license.

Motorized foot scooters are treated as bicycles

The new law generally treats motorized foot scooters as bicycles, meaning that their operators have the same rights and responsibilities as bicyclists. This means that these vehicles may be operated on streets and highways without a driver's license and without the vehicle being registered, licensed, or insured.

Drivers of motorized foot scooters must follow certain operating rules

There are some operating rules for motorized foot scooters that apply whenever the vehicle is operated on a public street or highway.

Sidewalks. Motorized scooters may not be operated on sidewalks except when necessary to go on or off adjacent property.

Passengers. A motorized scooter cannot carry anyone but the operator.

Helmets. An operator of a motorized scooter who is under age 18 must wear a helmet approved by the Department of Public Safety.

Minimum age. A person must be at least 12 years old to operate a motorized scooter on public streets and highways.

Lights. A motorized scooter must have a headlight and taillight that meet Department of Public Safety standards if it is operated when lights are required on vehicles (from sunset to sunrise, and whenever weather or other atmospheric conditions such as fog or smoke reduce visibility to 500 feet).

Riding. Operators must ride as close as practicable to the right-hand curb or edge of the roadway, except to pass another vehicle or avoid impediments. The operator of a motorized scooter making a left turn must dismount at the right-hand curb and cross the roadway on foot; that person is also subject to any pedestrian restrictions. Riders must ride in the same direction as adjacent traffic, even when on a shoulder. Riders may ride up to two abreast.

Bicycle paths, bicycle lanes, and bicycle trails. Motorized foot scooters may be operated on bicycle paths, bicycle lanes, bicycle trails, and bikeways unless (1) the path, lane, trail, or bikeway is reserved exclusively for nonmotorized traffic, or (2) the path, lane, trail, or bikeway is under local jurisdiction and that local jurisdiction prohibits their use.

For more information: Contact legislative analyst John Williams at 651-296-5045.

Deborah K. McKnight **Updated: June 2005**

House Approval of Campaign Finance and Public Disclosure Board Appointments

The Campaign Finance and Public Disclosure Board oversees the law on campaign finance and disclosure, lobbyist reporting, economic interest statements, and conflicts of interest.

How are board members appointed and approved?

There are six members, appointed by the governor. After they are appointed, members must be approved by three-fifths of the members of the House and three-fifths of the members of the Senate acting separately (total members, not just those present).

What is the deadline for approving appointments?

Appointments may be made during session or during the interim. In either case, the legislature would act when it is in session. The deadline for approval is the earlier of 45 legislative days after appointment or adjournment sine die. A legislative day is a day that either the House or Senate meets during a biennium.

- If either house fails to approve an individual within that time period, the appointment terminates the day after the 45th legislative day/adjournment sine die, whichever applies.
- If either house votes not to confirm an appointment, the appointment terminates the day after the vote not to confirm.

What are the membership requirements for the board?

The board members must meet the following requirements:

- Two must be former legislators of different parties
- Two must be persons who have not been public officials as defined by Minnesota Statutes, chapter 10A, held any political party office other than precinct delegate, or been elected to a partisan office in the three years before the appointment
- Two must support different political parties
- Overall, no more than three board members may support the same political party
- No board member may be a lobbyist while serving on the board

How long do board members serve?

Board terms are four years and end the first Monday in January. Minn. Stat. § 15.0575, subd. 2. Of the current members, one has a term ending January 2006. Two members' terms end January 2007. Two others have terms that end January 2008. The sixth member was appointed in May 2005 and has not yet been confirmed.

How are vacancies handled?

Vacancies are filled by appointment for the duration of the time left in the term. The new appointee must meet the criteria met by the departed member. The approval process for individuals filling vacancies is the same as for members appointed to a full term. Minn. Stat. § 10A.02, subd. 2.

Do board members receive compensation?

Members receive $55 per day if authorized by the board, plus expenses authorized by the Commissioner of Employee Relations' plan. Expenses include child care costs that would not otherwise be incurred.

Members who are full-time state or local government employees may not receive the daily payment and may receive child care reimbursement only for time outside normal work hours. These individuals must not suffer loss in compensation or benefits as a result of board service and may receive expense reimbursement from the board unless compensated by another source. Minn. Stat. § 15.0575, subd. 3.

May board members be removed?

The governor may remove a member: (1) for cause, after notice and hearing, or (2) after the member misses three consecutive meetings. Minn. Stat. § 15.0575, subd. 4.

For more information: Contact legislative analyst Deborah McKnight at 651-296-5056.

Kathy Novak

Updated: June 2005

Child Care Assistance for Postsecondary Students

Does the state subsidize child care costs for students in higher education?

The child care grant program is one of the financial aid programs funded by the state and administered by the Minnesota Office of Higher Education (formerly the Higher Education Services Office; the 2005 Legislature changed the name to the Minnesota Office of Higher Education. Laws 2005, ch. 107, art. 1, § 61.). Its purpose is to reduce the child care costs for higher education students. The availability of child care assistance depends, in part, on the level of funding provided by the legislature.

Who is eligible for the child care assistance grant?

To be eligible for a child care grant, a student must:

- be a resident Minnesota undergraduate enrolled at least half-time in a nonsectarian program leading to an undergraduate degree, diploma, or certificate at an eligible institution;
- have one or more children age 12 or under who receive regular care from a licensed or legal nonlicensed child care provider;
- have had less than four years of full-time postsecondary education;
- meet the income guidelines that provide the maximum grant amount to families with incomes at or below 130 percent of the 2003 federal poverty guidelines adjusted for family size ($15,756 for a two-person family);
- have demonstrated financial need; and
- not receive tuition reciprocity or assistance through the Minnesota Family Investment Program (MFIP).

Are all postsecondary institutions part of the grant program?

No, for-profit institutions are not eligible to participate. State law limits the child care grant program to Minnesota institutions that are:

- public postsecondary colleges and universities;
- private four-year colleges and universities; and
- nonprofit, degree-granting vocational-technical institutions.

Schools must sign an agreement with the office to be part of the program.

What is the size of the grant award?

The 2005 Legislature increased the maximum grant by $100 to $2,300 per student for a nine-month grant. A student may also receive a separate summer grant. The actual grant award depends on the availability of appropriations and the student's income, number of children, child care costs, and financial need.

The average child care grant in 2003-2004 was $1,679.

What are the trends in funding and participation for the child care grant program?

Appropriations for the 2006-2007 biennium are $4.9 million each year, an increase over the $4.7 million per year for the last seven years. Student participation peaked in 2000-2001 when 2,736 students received grants. The legislature increased the maximum grant to $2,600 beginning with the 2001-2002 school year, reduced it to $2,200 for the 2003-2004 year as part of budget balancing efforts, and increased it to $2,300 beginning in fiscal year 2006.

The actual amount available for grants in fiscal year 2003 was significantly less than in other years because $3.6 million of child care appropriations were transferred to the state grant program to contribute to its full funding.

Trends in Child Care Grant Program

Year	Maximum Award	Appropriation	Number of Students	Average Award
00-01	$2,000	$4,710,000	2,736	$1,618
01-02*	$2,600	$4,743,000	2,429	$1,956
02-03**	$2,600	$4,743,000	932	$1,146
03-04	$2,200	$4,743,000	2,536	$1,679
04-05	$2,200	$4,743,000		
05-06	$2,300	$4,934,000		

* FY02 expenditures exceeded appropriations because of carryforward

** $3,610,000 of FY03 appropriation transferred to state grant program

Are postsecondary students eligible for other types of child care assistance?

Higher education students with children may be eligible for the Basic Sliding Fee (BSF) child care assistance program administered by the Department of Human Services. Students who meet the income and other criteria are eligible, on a space-available basis, in the county where they live.

Students are not required to work to receive BSF assistance but must be enrolled in a course of study approved by the county. Students who need child care assistance for both employment and school must work at least ten hours per week at a wage at least equal to the minimum wage.

Typically, more families are eligible for BSF assistance than can be served with the state and federal appropriations. Students tend to be a lower priority for assistance than working families.

The two child care assistance programs are funded by different legislative committees. The committee with responsibility for higher education finance appropriates money for the grant program administered by the Office of Higher Education, but does not fund the BSF program. BSF received a general fund appropriation of $27.6 million for fiscal year 2004.

For more information: Contact legislative analyst Kathy Novak at 651-296-9253.

John Williams

July 2005

Survey of State and Local Gasoline Taxes

This short subject shows state and local gasoline taxes in each state, as of July 1, 2005. Because of the interrelationship in many states between per-gallon gasoline taxes and gasoline sales taxes, and between state and local gasoline taxes, a compilation of all such taxes is necessary to reflect the total tax burden on gasoline in each state. Minnesota's total tax burden on gasoline, which includes the 20-cent per-gallon excise tax plus the 2-cent per-gallon Petrofund "inspection fee," places it 29th among all states.

Gasoline taxes include state and local taxes

The columns in the table below represent the following:

- State tax: Per-gallon tax on gasoline imposed at the state level
- State sales tax: State retail sales tax applied to gasoline; in some states, the sales tax rate is prefigured and prepaid at the wholesale level rather than being calculated and paid at the pump
- Other state tax/fee: Leaking underground storage fees, inspection fees, various environmental fees; in some states, including Minnesota, these are "blink-on" taxes that are imposed whenever a specified fund reaches a certain level
- Total state taxes: Combined per-gallon tax, sales tax, other state taxes and fees; "blink-on" taxes were assumed to be on
- Local gas tax: Locally imposed per-gallon taxes
- Local sales tax: Local retail sales taxes that apply to gasoline
- Total local tax: Combined local gas taxes and sales taxes
- Total tax: Combined state and local taxes

For price-based taxes, the assumed price was $2.15 per gallon (all taxes included), which was the median price for regular unleaded gasoline in the Twin Cities on June 30, 2005. This price was adjusted in those states that impose a sales tax on gasoline, but exclude state or federal per-gallon taxes from the taxable price.

Total State and Local Taxes on Gasoline as of July 1, 2005

	State Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	Local Gas Tax	Local Sales Tax	Total Local Tax	Total Tax
1. Florida	$0.145	$0.129	$0.022	**$0.296**	$0.146	$0.016	**$0.162**	**$0.458**
2. New York	0.232	0.138	0.002	**0.372**		0.086	**0.086**	**0.458**
3. Hawaii	0.160	0.066	0.001	**0.227**	0.155		**0.155**	**0.382**
4. Illinois	0.190	0.097	0.011	**0.298**	0.041	0.030	**0.071**	**0.369**
5. California	0.180	0.134	0.012	**0.326**		0.022	**0.022**	**0.348**
6. Wisconsin	0.299		0.030	**0.329**				**0.329**
7. Nevada	0.230			**0.230**	0.095		**0.095**	**0.325**
8. West Virginia	0.205	0.108		**0.313**				**0.313**
9. Rhode Island	0.300		0.010	**0.310**				**0.310**
10. Washington	0.310			**0.310**				**0.310**

	State Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	Local Gas Tax	Local Sales Tax	Total Local Tax	Total Tax
11. Pennsylvania	$0.120		$0.185	**$0.305**				**$0.305**
12. Michigan	0.190	0.099	0.009	**0.298**				**0.298**
13. Indiana	0.180	0.107	0.001	**0.288**				**0.288**
14. Ohio	0.280			**0.280**				**0.280**
15. Montana	0.270		0.008	**0.278**				**0.278**
16. New Jersey	0.105	0.129	0.040	**0.274**				**0.274**
17. North Carolina	0.266		0.003	**0.269**				**0.269**
18. Maine	0.259		0.008	**0.267**				**0.267**
19. Nebraska	0.253		0.006	**0.259**				**0.259**
20. Kansas	0.240		0.010	**0.250**				**0.250**
21. Connecticut	0.250			**0.250**				**0.250**
22. Idaho	0.250			**0.250**				**0.250**
23. Delaware	0.230	0.020		**0.250**				**0.250**
24. Utah	0.245			**0.245**				**0.245**
25. Oregon	0.240			**0.240**				**0.240**
26. South Dakota	0.220		0.020	**0.240**				**0.240**
27. Maryland	0.235			**0.235**				**0.235**
28. Colorado	0.220			**0.220**				**0.220**
29. Minnesota	**0.200**		**0.020**	**0.220**				**0.220**
30. Arkansas	0.215		0.002	**0.217**				**0.217**
31. Iowa	0.207		0.010	**0.217**				**0.217**
32. Tennessee	0.200		0.014	**0.214**				**0.214**
33. Massachusetts	0.210			**0.210**				**0.210**
34. North Dakota	0.210			**0.210**				**0.210**
35. Louisiana	0.200		0.001	**0.201**				**0.201**
36. Washington, D.C.	0.200			**0.200**				**0.200**
37. Texas	0.200			**0.200**				**0.200**
38. Vermont	0.190		0.010	**0.200**				**0.200**
39. Alabama	0.160		0.010	**0.170**	0.023		**0.023**	**0.193**
40. Arizona	0.180		0.010	**0.190**				**0.190**
41. New Mexico	0.170		0.019	**0.189**				**0.189**
42. Kentucky	0.174		0.014	**0.188**				**0.188**
43. Virginia	0.175		0.002	**0.177**		0.011	**0.011**	**0.188**
44. Mississippi	0.180		0.004	**0.184**				**0.184**
45. New Hampshire	0.180			**0.180**				**0.180**
46. Missouri	0.170		0.005	**0.175**				**0.175**
47. Oklahoma	0.160		0.010	**0.170**				**0.170**
48. South Carolina	0.160		0.008	**0.168**				**0.168**
49. Georgia	0.075	0.086		**0.161**				**0.161**
50. Wyoming	0.130		0.010	**0.140**				**0.140**
51. Alaska	0.080			**0.080**		0.011	**0.011**	**0.091**

Note: The table does not include special tax rates for alcohol-gasoline blends or for gasoline used in commercial vehicles.
Sources: Commerce Clearing House, American Petroleum Institute, Institute of Tax Administrators, and state revenue agencies.

For more information: Contact legislative analyst John Williams at 651-296-5045.

Kathy Novak

Revised: July 2005

Governing Higher Education in Minnesota: Public Postsecondary Systems and Agencies

Minnesota has two public postsecondary systems and one state agency dealing with postsecondary education

Minnesota has two public postsecondary systems:

- The **Minnesota State Colleges and Universities (MnSCU)** system has seven four-year universities and 25 two-year colleges located throughout Minnesota. MnSCU institutions provide occupational, general, baccalaureate, and graduate education. The 2005 Legislature authorized state universities to offer certain applied doctoral degrees. The MnSCU system office—the office of the chancellor—is in St. Paul.
- The **University of Minnesota** is a major research institution with four campuses providing undergraduate, graduate, and professional education. The main campus and central administration are in the Twin Cities.

The **Minnesota Office of Higher Education** is a state agency responsible for postsecondary financial aid and other assistance programs, data and information, and registration and licensing of private postsecondary institutions. In 2005, the legislature changed the office name to the Minnesota Office of Higher Education from the Higher Education Services Office and added responsibility for measuring and reporting on the effectiveness of postsecondary education.

MnSCU is governed by state law and a board of trustees

Minnesota Law. MnSCU is established in Minnesota Statutes, chapter 136F. In 1991, the legislature created MnSCU through the merger of the state universities, community colleges, and technical colleges. Minnesota Statutes:

- establish a 15-member board of trustees to govern MnSCU;
- specify the board's powers to manage MnSCU, its assets, and its institutions;
- designate the specific colleges and universities in the MnSCU system;
- require legislation to create any new MnSCU institution or location;
- authorize the colleges and universities to operate specific enterprises; and
- require the board to recognize statewide student associations.

Board of Trustees. Under state law, the governor appoints 15 trustees with the advice and consent of the Senate. Eight members of the board must reside in the state's eight congressional districts, one in each district. Three members must be MnSCU students or recent graduates. Trustees serve staggered six-year terms. Trustee candidates are recruited and screened by the Trustee Advisory Council, established in state law. The council makes its recommendations to the governor.

Minnesota Statutes give the board of trustees all the power necessary to govern MnSCU, unless otherwise directed or prohibited in law. The board is responsible for appointing a chancellor with the authority to perform duties the board delegates. Minnesota law can put conditions on state appropriations for MnSCU.

The University of Minnesota is governed by the state constitution, state laws, and a board of regents

University Charter, Minnesota Constitution. The territorial legislature established the University of Minnesota in 1851 with a 12-member board of regents to govern the university. The Minnesota Constitution incorporates the university charter by continuing all of the "rights, immunities, franchises and endowments" previously conferred to the university.

Board of Regents. The constitution requires the legislature to elect 12 regents to staggered six-year terms. The governor may appoint a regent to fill a vacancy who serves until the legislature elects a replacement. Regent candidates are recruited and screened by the Regent Advisory Council established in state law. Under changes enacted in 2005, the council makes its recommendations to the governor who recommends candidates to a joint committee of the legislature established in law. The regents have the power to manage the university and all four of its campuses. Under the university charter, the board has responsibility for selecting the university president.

Minnesota Law. Minnesota Statutes specify that eight regents must be elected from each of the state's congressional districts, and one at-large regent must be a student when elected. The statutes specifically provide authority for the regents to exercise eminent domain, accept federal money, control the permanent university fund, and establish a nonresidential branch in Rochester. State law prohibits the regents from allowing expenditures for a purpose beyond the amount appropriated. State law also may put conditions on the university appropriations, if the conditions don't violate the university's constitutional autonomy.

The Minnesota Office of Higher Education is created by state law and advised by a council

Minnesota Law. Minnesota Statutes create the Minnesota Office of Higher Education. Since 2004, the office has been under the administrative control of a director appointed by the governor with the advice and consent of the Senate.

Advisory Councils. The statutes establish a higher education advisory council (HEAC) consisting of a representative of the University of Minnesota, the Minnesota State Colleges and Universities, the Department of Education, the Private Colleges Council, the Career College Association, and a member appointed by the governor. HEAC brings higher education matters to the attention of the Office. A student advisory council (SAC) is also established in law with student representatives of public and private postsecondary student associations. The Office must inform SAC of relevant issues, and SAC reports quarterly to the Office and may make recommendations, as appropriate.

Director. The director of the Office serves at the pleasure of the governor and has administrative control over the office.

For more information: Contact legislative analyst Kathy Novak at 651-296-9253.

Nina Manzi

Updated: July 2005

Minnesota Taxable Income

What is Minnesota taxable income?

Minnesota taxable income (MTI) is the tax base used to calculate Minnesota income tax liability. Minnesota taxable income equals federal taxable income after Minnesota subtractions and additions.

Federal taxable income (FTI)	+	Minnesota additions	–	Minnesota subtractions	=	Minnesota taxable income (MTI)

What are Minnesota additions to taxable income?

Minnesota requires the following *additions* to federal taxable income:

- State income or sales tax deduction. Filers who claimed a federal itemized deduction for state income or sales taxes paid must add that amount back into Minnesota taxable income. Taxpayers making this addition are always allowed to claim at least the full standard deduction in effect in Minnesota for the tax year.
- Bond interest and mutual fund interest dividends paid by non-Minnesota state and local governments. The federal government does not tax state and local bond interest. Minnesota does not tax Minnesota state and local bond interest, but does tax interest on bonds of other states and their local governments.
- Expenses relating to income not taxed by Minnesota. These are mainly expenses deducted at the federal level and attributable to U.S. bond interest income, which is excluded from Minnesota taxable income.
- Capital gain portion of a lump-sum distribution from a qualified retirement plan
- The difference between the federal standard deduction and the standard deduction allowed in Minnesota ($1,300 for married joint filers in 2005, decreasing to $850 in tax year 2006).

What subtractions does Minnesota allow from taxable income?

Minnesota allows the following *subtractions* from federal taxable income. The estimated cost of most subtractions is taken from the Department of Revenue's *Tax Expenditure Budget for 2004-2007*. Revenue estimates made during the 2006 legislative session differ from the *Tax Expenditure Budget* because they were based on a more recent economic forecast.

- **State income tax refund** (filers who claimed federal itemized deductions only). The federal income tax allows a deduction for state income taxes. Minnesota requires filers to add back the amount deducted, and allows a subtraction for amounts refunded in order to avoid twice taxing the same income.

- **Subtractions required by federal law.** Federal law prohibits state taxation of these three types of income:
  - U.S. bond interest
  - Railroad retirement benefits
  - On-reservation earnings of enrolled tribal members
- **K-12 dependent education expenses** ($14.6 million in fiscal year 2006). The deduction applies to school-related expenses, including tuition, textbooks, academic tutoring and camps, and instructional materials and supplies. The maximum deduction is $1,625 for each child in grades K-6 and $2,500 for each child in grades 7-12.
- **50 percent of charitable contributions in excess of $500** ($4.4 million in fiscal year 2006). Allowed only for filers who do not claim federal itemized deductions—those who itemize have already deducted their charitable contributions in computing federal taxable income.
- **Compensation for military active service outside of Minnesota** ($960,000 in fiscal year 2006).
- **Compensation for National Guard and reserve active service in Minnesota** ($42,000 in fiscal year 2006). Allowed for state active service and federally funded state active service (generally floods, other disasters, and airport security) but not for drill pay.
- **Organ donation expenses** ($104,000 in fiscal year 2006). Allowed for up to $10,000 of expenses related to organ donation by the taxpayer or a dependent, including lost wages.
- **Minnesota elderly/disabled exclusion** ($1.0 million in fiscal year 2006). An exclusion of up to $12,000 is allowed for low-income elderly and disabled filers with low amounts of Social Security and nontaxable pensions.
- **Foreign subnational income taxes.** Taxpayers subject to a foreign subnational income tax may subtract the amount of tax paid to the foreign governmental unit, to the extent the taxpayer did not use the subnational taxes to claim the federal foreign tax credit.
- **Gain on sale of farm property for insolvent taxpayers** ($100,000 in fiscal year 2006). This subtraction is allowed for taxpayers who use the proceeds of the sale of a farm to pay off a mortgage, contract for deed, or lien on the property.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at 651-296-5057. Also see the House Research publications *Income Tax Terms: Deductions and Credits*, July 2005; and *Minnesota's Elderly Exclusion* (web only) at www.house.mn/hrd/issinfo/tx_inc.htm.

Lisa Larson

Revised: July 2005

Minnesota's Charter School Law

A charter school is a public school with a specialized purpose

A charter school is a public school, part of the state's system of public education, and subject to the state's high school graduation requirement. A charter school's purpose is to enhance students' learning opportunities, improve teaching opportunities and methods, or improve school accountability measures. It must be nonsectarian and provide a comprehensive instructional program for at least one grade or age group of students. The instructional calendar must meet or exceed the number of instructional days provided to other public school students. A charter school may offer instruction throughout the school year under the flexible learning year or learning year program.

A charter school is exempt from statutes and rules applicable to a school, a school board, or a school district, except as provided in the charter school law.

Teachers and parents may form a charter school

Interested teachers and parents may form and operate a charter school, or a school board may convert a school to a charter school if 60 percent of the school's full-time teachers petition the board. A charter school operator must incorporate as a cooperative or a nonprofit corporation. An initial board of directors must adopt articles and bylaws, and school staff and parents must elect the board of directors. Generally, teachers must be a majority of board members. Board meetings are subject to the open meeting law. A charter school may be located in any school district unless the local school board objects. A charter school is eligible to receive state and federal start-up funds.

A charter school must be sponsored

Any one of six entities may sponsor one or more charter schools: a school board, an intermediate school board, certain charitable organizations, a private college, a college or university that is part of the Minnesota State Colleges and Universities system, and the University of Minnesota. The Commissioner of the Department of Education must approve a sponsor's authorization of a charter school within 60 days. A sponsor annually must monitor and evaluate the financial and student performance of any charter school it authorizes. The commissioner must review these evaluations. The sponsor may charge a capped amount for the evaluation. A sponsor may renew or not renew a charter school contract at the end of the term and may unilaterally terminate a contract during the term for cause. A sponsor is immune from civil and criminal liability for sponsoring a charter school or approving charter school activities.

An advisory council brings charter school matters to the commissioner's attention.

A charter school must have a contract

A sponsor and a charter school board of directors must sign a contract that at least specifies the program purpose, student outcomes, admissions requirements, managerial and administrative structure, audit requirements, compliance with applicable state and local requirements including the instructional calendar and transportation agreements, liability and insurance, contract length up to three years, applicable special education agreements, and the process and criteria for monitoring and evaluating fiscal and student performance. The board of directors may sue and be sued.

A charter school receives state funding

A charter school receives general education and transportation revenue, special education and building lease aid, and other funds as though it were a school district. A charter school may use total operating capital revenue, accept funds for capital facilities needs, and apply for integration aid. It may not use state funds to purchase land or buildings. A charter school in statutory operating debt must have a plan to eliminate the debt. A charter school that notifies the commissioner by July 1 that it will transport students receives state transportation aid. A charter school need not transport students between a nonresident student's home and the border of the school district in which the charter school is located. A board of directors may not levy taxes or issue bonds. Conflicts of interest are prohibited and any board member who violates the prohibition is individually liable. A charter school is subject to the same financial audits and audit procedures as a school district. The commissioner must provide board members with financial management training.

A charter school may buy or lease facilities

A charter school may purchase land or buildings with nonstate funds and may lease instructional space from an eligible school board, a public or private nonprofit nonsectarian organization or other nonsectarian organization, or from a sectarian organization in some cases. A charter school with insufficient total operating capital revenue may receive state building lease aid to rent or lease a building or land. To avoid any conflict of interest, a charter school may not enter into a lease with a related party unless the lessor is a nonprofit corporation or a cooperative and the lease cost is reasonable. The commissioner may recover excess lease payments when a charter school enters into a lease with a related party and later closes.

A charter school can be dissolved

When a sponsor unilaterally terminates or does not renew a charter school contract after notifying the board and conducting an informal hearing if requested, the charter school must be dissolved unless the commissioner allows a different eligible sponsor to authorize the charter school. The commissioner may terminate a charter school contract for financial mismanagement or violations of law. If a sponsor or charter school voluntarily terminates a contract at the end of a contract term, the school must be dissolved unless the commissioner approves a different eligible sponsor. Students enrolled in a charter school that is closed may enroll in the resident district or apply to a nonresident district under the open enrollment program; open enrollment application and notice deadlines do not apply in this case. Although not specified in law, properly closing a charter school requires an accurate final financial accounting, decisions about distributing school assets purchased with public funds, final payment of employee compensation and other benefits, and preparation of final tax returns and other forms.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036. Also see the House Research information brief *Charter Schools*, September 2001.

Danyell LeMire

Revised: July 2005

Child Care Assistance

What is child care assistance?

Child care assistance programs subsidize the child care expenses of eligible low-income families. Minnesota administers two child care assistance programs, Minnesota Family Investment Program (MFIP) child care assistance and Basic Sliding Fee (BSF) child care assistance. MFIP child care subsidizes the child care costs of families receiving cash assistance through MFIP and provides child care assistance for eligible families for the first 12 months after the family leaves MFIP cash assistance (transition year child care). BSF child care provides a child care subsidy to low-income working families who are not receiving cash assistance from MFIP. BSF child care assistance also includes a set-aside, which allows a parent to stay home with their infant and receive a subsidy in lieu of assistance (at-home infant child care).

What are the eligibility requirements for child care assistance?

To be eligible for child care assistance, both parents (or one parent in single-parent households) must participate in an authorized work, education, or training activity, cooperate with child support enforcement, and meet income eligibility guidelines. The maximum income limit to be eligible for child care assistance is 175 percent of the federal poverty guidelines at program entry and 250 percent or less of the federal poverty guidelines at program exit.

Children up to age 13 are eligible for child care assistance (up to age 15 for disabled children).

County agencies or their contractors must determine eligibility within 30 days of receiving a request for child care assistance. Direct reimbursement is the only method of receiving child care assistance.

What is the average annual subsidy a family receives?

In fiscal year 2005, the estimated average annual subsidy for a family receiving MFIP child care assistance was $11,095, and the estimated average annual subsidy for a family receiving BSF child care assistance was $8,110.

Beginning January 1, 2006, the maximum reimbursement rate for child care assistance is capped at the lesser of the 75th percentile of the cost of similar care in each county or multicounty region, based on a survey of providers, or the previous year's rate for similar care in the county increased by 1.75 percent.

Are families required to pay for some child care expenses?

There is a family co-payment requirement based on family size and income. The maximum family co-payment is about 18 percent of gross monthly income. Families with incomes below 75 percent of the federal poverty level are exempt from making co-payments.

How is child care assistance funded?

The child care assistance programs receive funding from a variety of sources, including: the federal Child Care Development Fund (CCDF), federal Temporary Assistance for Needy Families (TANF) funds, the state general fund, the state special revenue fund, and county funds.

How many families receive child care assistance?

During fiscal year 2005, an estimated average of 8,601 families received MFIP child care assistance and 9,541 families received BSF child care assistance per month.

Not all families who apply for child care assistance receive it. MFIP child care is a forecasted, fully funded program, while BSF child care receives a capped allocation. As of May 31, 2005, there were 1,414 families on the waiting list for BSF child care assistance.

What are some potential legislative issues?

During the 2001 legislative session, there were several proposals to consolidate the child care assistance programs into one program to reduce administrative and program complexity. However, none of these proposals were passed by the legislature. There may be future attempts to consolidate the child care assistance programs.

The 2003 Legislature made several changes to the child care assistance program, including reducing the income eligibility level, freezing maximum provider reimbursement rates, and repealing accreditation bonuses. These issues may be revisited in future legislative sessions.

For more information: See the House Research publication *Funding to Support Child Care Assistance*, September 2003.

HOUSE RESEARCH | **Short Subjects**

Danyell LeMire

Revised: July 2005

Basics of EGA

Emergency General Assistance (EGA) is a program that provides income assistance in emergency situations.

Who is eligible?

An individual, childless couple, or family without resources immediately available to resolve an emergency situation is eligible for EGA if:

- The person or family is not eligible for Minnesota Family Investment Program (MFIP) or the Diversionary Work Program (DWP);
- The person or family has not, without good cause, used more than 50 percent of available income and resources for purposes other than basic needs during the 60 days before application;
- The person or family is without resources immediately available to resolve the emergency; and
- The emergency did not arise because the person or family member has been disqualified from the General Assistance (GA) program.

Persons or families in need who are not state residents may also receive assistance to meet emergency needs. State law requires that nonresidents must reside in Minnesota for 30 days before applying for EGA.

An individual or family may receive EGA not more than once in any 12-month period.

What is an "emergency situation"?

An emergency situation is a situation in which an individual or family is without, or will lose within 30 days after application, a basic need item and requires immediate financial assistance. "Basic needs" are limited to food, clothing, shelter, utilities, and other items, the loss or lack of which pose a direct, immediate threat to the physical health or safety of the applicant.

The assistance must be temporary and must not exceed 30 days following the date of application. Assistance must be paid for needs that accrue before the 30-day period when it is necessary to resolve emergencies arising or continuing during the 30-day period.

How is EGA funded and how are benefits paid?

EGA is funded with state general fund dollars.

EGA grants are paid for with vouchers or in the form of a vendor payment unless the county determines that a cash grant will better meet the needs of the emergency situation.

For more information: Contact legislative analyst Danyell LeMire at 651-296-5058. Also see the House Research publication *Minnesota Family Assistance*, January 2004.

Mark Shepard

August 2005

Legislative Review of State Employee Collective Bargaining Agreements

The executive branch negotiates agreements that must be approved by the legislature

The Commissioner of Employee Relations negotiates collective bargaining agreements with exclusive representatives of state employees. The law establishes a process for legislative review of these collective bargaining agreements. (Minn. Stat. §§ 3.855, 43A.06, 179A.22.)

The legislative review process has two parts:

- review and possible interim approval by a legislative subcommittee
- ratification by the full legislature

A legislative subcommittee may give interim approval to agreements

The law provides for a legislative commission or subcommittee to initially review collective bargaining agreements between the state and exclusive representatives of state employees. The Legislative Coordinating Commission (LCC) has created a Subcommittee on Employee Relations (SER) to review collective bargaining agreements and to carry out other powers and duties dealing with state employee compensation and related matters.

The Commissioner of Employee Relations must submit a negotiated collective bargaining agreement to the chair of the SER for legislative approval. The agreement must be submitted within five days of the date of approval by the commissioner or the date of approval by the affected state employees, whichever is later.

When the legislature is not in session, the SER may give interim approval to a negotiated collective bargaining agreement, arbitration award, compensation plan, or salary. Failure of the SER to disapprove a collective bargaining agreement within 30 days constitutes approval. Upon interim approval by the SER, the collective bargaining agreement is implemented. (If the legislature is in session when the SER approves a contract, the contract is not implemented until it is ratified by the full legislature.)

A legislative subcommittee can reject a proposed agreement

If the SER rejects a collective bargaining agreement when the legislature is not in session, the collective bargaining agreement is not implemented. New negotiations between the Commissioner of Employee Relations and the exclusive representative could occur. Also, if SER rejection occurs during a legislative interim, state employees have the right to strike.

Agreements must be ratified by the full legislature

The SER submits approved collective bargaining agreements to the entire legislature for ratification. Approval or disapproval by the SER is not binding on the legislature.

When the legislature has approved agreements, it has done so by reference (e.g., "The collective bargaining agreement between the Commissioner of Employee Relations and the exclusive representative of state employees, approved by the Legislative Coordinating Commission Subcommittee on Employee Relations is ratified."). Legislative ratification of the agreement is the final step in approval of the contract.

There is no statutory authority for the legislature to modify a collective bargaining agreement. If the legislature enacted a law that had the effect of changing the terms of a proposed collective bargaining agreement, it would be difficult to characterize the result as a contract, as it would no longer represent a document voluntarily entered into by the parties.

The legislature can reject an agreement, either explicitly or by failing to approve it before adjournment

If the legislature rejects the collective bargaining agreement or adjourns without acting on it, wages or benefit increases provided in the contract must cease to be paid effective upon the rejection of the agreement or adjournment. However, wage or benefit increases previously paid under SER interim approval need not be re-paid.

The statute does not specifically state that the entire contract is void upon legislative rejection or adjournment without action. However, this seems implicit. If the legislature rejects or fails to ratify a collective bargaining agreement, affected state employees and the state could resume negotiations. Also, state employees have the right to strike upon legislative rejection of an agreement or legislative failure to ratify an agreement.

There is a similar review process for other compensation plans

The process for legislative review of arbitration awards, compensation plans for nonunionized employees, and specified salaries (e.g., state agency heads) is similar to that for collective bargaining agreements, but some of the details are different. For example, failure of the SER to ratify a compensation plan does not constitute approval. Also, SER does not have authority to modify a collective bargaining agreement before approving it, while it does have authority to modify a compensation plan for nonunionized employees and specified salary proposals.

For more information: Contact legislative analyst Mark Shepard at 651-296-5051.

Danyell LeMire

Revised: July 2005

General Assistance

General Assistance (GA) is a state program that provides cash assistance to individuals or childless couples who are not eligible for federally funded assistance programs, but who are unable to provide for themselves (Minn. Stat. § 256D.01).

Eligibility

An applicant qualifies for GA if he or she meets the eligibility requirements and has income and assets below the limits established by the state legislature and the Department of Human Services (DHS). Assistance is available as long as the individual continues to meet eligibility requirements; there is no set time limit.

In addition to having financial need, a GA applicant must also meet the following conditions:

- Be a resident of Minnesota
- Be ineligible for aid from any cash assistance program that uses federal funds (i.e., Minnesota Family Investment Program or Supplemental Security Income)
- Be a citizen of the United States
- Be unable to work because the person:
  1. Has a professionally certified illness, injury, or incapacity expected to continue for more than 30 days and that prevents the person from getting or keeping a job
  2. Has been diagnosed as having mental retardation or mental illness
  3. Is age 55 or older
  4. Is needed in the home to care for a person whose age or medical condition requires continuous care
  5. Is placed in a licensed or certified facility for care or treatment under a plan approved by the local human services agency
  6. Resides in a shelter for battered women
  7. Has an application pending for or is appealing a termination of Social Security disability payments, so long as the person has a professionally certified illness or disability
  8. Is assessed as not employable
  9. Is under age 18 in specified circumstances and with consent of the local agency
  10. Is eligible for displaced homemaker services and is enrolled as a full-time student
  11. Lives more than four hours round-trip traveling time from any potential suitable employment

12. Is involved with protective or court-ordered services that prevent working at least four hours per day
13. Is over age 18 and whose primary language is not English and is attending high school at least part-time
14. Is learning disabled

GA is not provided to:

- Fugitive felons and parole and probation violators; or
- Persons who have fraudulently misrepresented residency to obtain assistance in two or more states; these people are not eligible to receive GA for ten years.

Benefits

GA recipients receive a monthly cash assistance payment, called a grant. The amount of a recipient's grant is determined by subtracting the recipient's net income from the applicable monthly GA assistance standard.

Monthly GA Standards for Single Persons and Childless Couples

Eligible Units	Monthly Standard
One adult	$203
Emancipated minor	203
One adult, living with parent(s) who have no minor children	203
Minor not living with parent, stepparent, or legal custodian (with approved social services plan)	250
Married couple with no children	260
One adult, living in a medical facility or in group residential housing	72

Unlike MFIP, the GA program does not include an employment and training component. GA recipients are not required to participate in any employment and training services as a condition of receiving benefits.

Funding and Expenditures

The state pays for the costs of GA benefits. In state fiscal year 2005 the state estimated paying $32,249,027 in benefits to GA recipients.

Recipient Profile

Most GA recipients are single persons. Childless couples may also be eligible for GA. In state fiscal year 2005 the average monthly number of GA cases was projected to be 13,575. (Most GA cases consist of one person. However, GA data is available from DHS by cases only, not by the number of individual GA recipients.)

For more information: Contact legislative analyst Danyell LeMire at 651-296-5058. Also see the House Research publication *Minnesota Family Assistance*, January 2004.

HOUSE RESEARCH | **Short Subjects**

Karen Baker and Deborah A. Dyson

Revised: August 2005

Housing Improvement Areas

What are housing improvement areas?

A housing improvement area (HIA) is a defined area in a city in which housing improvements in condominium or townhome complexes may be financed with the assistance of the city, or the city's economic development authority (EDA) or housing and redevelopment authority (HRA).

Prior to 1996, cities needed special legislation to establish an HIA. In 1996, cities were granted the authority under general law. The general law, codified in Minnesota Statutes, sections 428A.11 to 428A.21, sunsets June 30, 2009.

What kind of improvements can be made in an HIA?

The improvements that may be made under this law include improvements to the common elements in a condominium complex or townhome development. Examples include roofing, siding, landscaping, roadways, and walkways.

How is an HIA established?

At property owner's request. An HIA can only be established at the request (petition) of at least 25 percent of the owners of the housing units in the proposed area. If the petition is filed, then the city prepares an ordinance that:

- describes the area specifically,
- states the basis for imposing fees and the number of years the fees will be imposed, and
- makes a finding that without the HIA, the proposed improvements could not be made.

The ordinance must also specify if the city, the EDA, or HRA will implement the ordinance.

Notice, public hearing, ordinance. Before adopting the ordinance, the city must hold a public hearing at which the proposed improvements, affected housing units, and the exempt units are listed. Fees can be imposed on the basis of the tax capacity (value) of the housing unit, total square footage of the housing unit, or a method determined by the city and specified in the resolution. Potentially affected property owners may testify at the hearing. Those property owners may object in writing, and if the city agrees, may be excluded from the area or fee imposed.

The ordinance may be adopted within six months after the conclusion of the public hearing.

How are the improvements financed?

The city may finance the housing improvements by:

(1) advancing funds available to the city to pay up front and then recover the costs by charging fees; or

(2) issuing bonds to pay the costs and then imposing fees or assessments to repay the bonds. Obligations are not included in the city's net debt and no election is required for their issuance.

Before imposing fees, the notice must be issued and a public hearing held. Within six months of the conclusion of the public hearing, the city may adopt a resolution to impose the fees.

What plans or reports are required?

Before the city imposes and collects a fee provided for in the resolution, the condominium or townhome association must develop a long-term plan to maintain the complex. The plan must address operations, maintenance, and necessary capital improvements of the common elements. It must identify financing for the projects. The association must also submit its audited financial report to the city annually.

Although each city with an HIA is required to submit the HIA ordinance to the Commissioner of Revenue, this reporting has not been done. The fees imposed are reported as special assessments by the cities to the county auditor and collected through the property tax statements. Since these amounts are not identified separately, and with no effective statewide reporting, it is impossible to know how much money is collected for HIA purposes statewide.

How many cities have established HIAs?

As indicated above, there is no way to know how many HIAs have been established, but as of 2004, at least six cities are known to have adopted HIA ordinances.

City	# of Districts Established	Year Authority Granted
Coon Rapids	4	2002
Hopkins	4	1989
New Hope	3	1997
Plymouth	1	N/A
St. Louis Park	1	2002
Victoria	1	2003

The scope and length of projects vary within each HIA. The ordinances establishing HIAs are for three to 20 years, with fees assessed annually. However, the HIA ordinance may allow prepayment of fees.

For more information: Contact legislative analyst Karen Baker at 651-296-8959 and Deborah Dyson at 651-296-8291.

John Helland

August 2005

Off-Highway Vehicles: Changes in 2005 Law

For the fifth consecutive year, the Minnesota Legislature enacted changes in the law regulating off-road vehicles (including all-terrain vehicles, motorcycles, and trucks). This short subject highlights those changes, which are contained in Laws 2005, first special session, chapter 1, article 2 (the section numbers for specific provisions are in parentheses after the description of the provision).

Drivers who disturb wetlands will have penalties increased

The law allows peace officers to issue civil citations to any off-highway vehicle operator who carelessly disturbs wetlands; the law also requires restitution for that wetland damage. Restitution penalties are $100 for the first offense; $500 for the second offense; and $1,000 for third and subsequent offenses.

These penalties are doubled if the violator has a snorkel device on an all-terrain or off-road vehicle. (Sec. 19) Another section of the law prohibits all-terrain vehicles (ATVs) from using snorkel devices with a raised air intake six inches or more above the vehicle manufacturer's original air intake, except within public off-highway vehicle recreation areas. (Sec. 47)

Damage account sunset extended

The off-highway vehicle damage account, which was established to repair or restore property damaged by unpermitted use of off-highway vehicles, was extended until 2008. It had been set to expire in 2005. (Sec. 20)

Vehicles must be registered

Off-highway vehicles must be properly registered in order to operate on designated trails, land administered by the DNR commissioner, or grant-in-aid trails. On the third Saturday of each May, however, unregistered off-highway vehicles can operate within the Iron Range Off-Highway Vehicle Recreation Area. (Sec. 27)

Off-highway vehicles can operate north of Highway 2

The law allows off-highway vehicles to operate north of Highway 2 on any trails and roads in state forests, unless the areas are closed and posted for safety and environmental reasons. (Highway 2 runs east-west from Grand Forks, N.D., to Duluth.)

The law extends until the end of 2008, the commissioner's designation process for permanent trail and road classification on forest lands. This allows forests to be classified as "limited," "closed," or "managed." (Sec. 152)

Off-highway motorcycles must have registration decals and silencers

An off-highway motorcycle operated on public land must have a Department of Natural Resources (DNR) registration decal affixed to it. (Sec. 22) Additionally, off-highway motorcycles operated on public land must be equipped with silencers that limit sound emissions according to the year the motorcycles were manufactured. (Sec. 24) A person who violates any off-highway vehicle law must complete the state off-highway motorcycle safety program before continuing to operate an off-highway motorcycle. (Sec. 25)

Off-highway vehicle operators must complete a safety training course

The law creates a new DNR safety training program for off-road vehicle operators; the fee for the course is $15. Safety certificates will be issued to those between 16 and 18 years who successfully complete the program. (Sec. 28)

Additionally, any ATV operator born after July 1, 1987, and who is at least 16 years old, must successfully complete a state safety training course to operate an ATV on public land. If a person is convicted for violating an off-highway vehicle law, he or she must retake and successfully complete the course before continuing to operate an ATV. (Sec. 42)

Children between 10 and 12 years old must be accompanied by a parent or legal guardian while operating an ATV with an engine capacity up to 90cc on public property. (Sec. 43)

An ATV operator may carry only one passenger, and passengers younger than 18 must wear helmets. (Sec. 44)

ATVs can operate off-trail in certain circumstances

When using an ATV for hunting or retrieving big game, tending traps, or trapping minnows under license, the operator may go off forest trails and roads, other than Dorer Memorial Hardwood Forest and on managed and limited classified lands. The law gives the commissioner some further flexibility to allow this ATV use in closed forests. (Sec. 45)

Money was appropriated for off-highway vehicle programs

The law appropriated funding for three areas of the state's off-highway vehicle program:

- $1,750,000 over the biennium from the various vehicle accounts for off-highway vehicle grants-in-aid to develop and maintain trails
- $75,000 for a gas tax study by the commissioners of natural resources, revenue, and transportation to determine the amount of gas used by ATV riders on public land
- $50,000 for a DNR feasibility study on the use of ATVs on the North Shore Trail, which may be used in any master trail plan revision

(Sec. 3, subd. 6)

For more information: Contact legislative analyst John Helland at 651-296-5039. Also see the House Research publications *All-Terrain Vehicle Laws Passed by the 2002 Legislature*, May 2002, *The All-Terrain Vehicle Law of 2003*, June 2003, and *ATV/Off-Highway Vehicles and Wetlands: 2004 Changes*, June 2004.

Nina Manzi and Joel Michael July 2005

Minnesota Individual Alternative Minimum Tax

What is the alternative minimum tax?

The theory underlying the federal and state alternative minimum taxes (AMT) is to require taxpayers who benefit heavily from some tax preferences to pay a minimum amount of tax relative to their incomes. The first version of the federal tax was enacted in 1969 in response to the revelation that a number of "millionaires" were paying no federal income tax.

What is the history of the AMT?

The federal AMT was first enacted in 1969, the state AMT in 1977. For some time during the 1970s and 1980s, both the federal and state taxes were levied as "add-on minimum" taxes, rather than alternative minimum taxes, and required certain taxpayers to pay a fraction of some preferences as an add-on minimum tax. The basic structure of the two taxes has been in place since the 1986 federal reform and 1987 state reform. Both Congress and the legislature have made many changes, both in defining the base of the taxes and their rates.

How is Minnesota's AMT structured?

The Minnesota AMT roughly follows the federal AMT. Both taxes follow the model of requiring taxpayers to compute a tentative tax liability under a second tax structure. This second tax structure, the AMT, has a broader tax base (due to fewer deductions, exemptions, and credits) and lower rates than the regular tax. If this tentative tax is higher than the taxpayer's regular tax liability, the taxpayer pays the difference. In effect, the AMT takes away part of the benefit of tax preferences that lowered the regular tax. The Minnesota AMT has one flat rate; the federal tax, by contrast, has two rates.

Who pays the AMT?

AMT filers fall into two main groups:

- Those who have significant amounts of deductions that are allowed under the regular tax but not under the AMT
- Taxpayers with large families whose personal exemptions and standard deduction (or typical itemized deductions) under the regular tax exceed the flat exemption amount allowed under the AMT

How are the federal and state AMTs different?

The federal and state AMTs have some important differences. The federal AMT allows the deduction of home mortgage interest and all charitable contributions. The Minnesota AMT does not allow the mortgage interest deduction and, through tax year 2005, only allows charitable contributions to the extent they exceed 1 percent of adjusted gross income. Beginning in tax year 2006, the Minnesota AMT will allow deduction of all charitable contributions. The federal AMT also allows a larger exemption amount. The Jobs Growth and Tax Relief Reconciliation Act of 2003 (JGTRRA) increased the exemption to $58,000 for married joint filers and $40,250 for single filers for tax years 2003 and 2004. Absent new federal legislation, the exemption will revert to the previous levels of $45,000 for married joint filers and $33,750 for single filers in tax year 2005. In comparison, the state exemption amounts are $40,000 for married joint filers and $30,000 for single filers.

How are the Minnesota regular tax and AMT different?

The Minnesota AMT uses a broader tax base than does the regular tax and applies a single 6.4 percent rate against that base. The following table outlines the parameters of the Minnesota regular and alternative minimum tax.

Comparison of the Regular Income Tax and Minnesota AMT
($ amounts are for the 2006 tax year)

Feature	Regular Tax	AMT
Tax base	Federal adjusted gross income	Federal adjusted gross income
Rules carried over from federal AMT		Less generous depreciation rules Incentive stock options Depletion Intangible drilling costs Tax exempt interest from private activity bonds
Standard deduction	$9,350 (married joint)	$40,000 for married joint
Personal exemptions	$3,250 per taxpayer, spouse, and dependents	None
Itemized deductions	Home mortgage interest	Not allowed (federal allows, with limits)
	Charitable contributions	Allowed
	Property taxes	Not allowed (same as federal)
	Medical expenses	Allowed
	Miscellaneous deductions (e.g., employee business expenses)	Not allowed
	Casualty losses	Allowed
Tax rates	5.35%; 7.05%; 7.85%	6.4% (federal is 26%; 28%)
Tax credits	Transit passes	Not allowed
	Long-term care insurance	Allowed
	Marriage credit	Allowed
	Credit for taxes paid to other states	Allowed
	Refundable credits (working family, dependent care, and K-12 education)	Allowed, but the K-12 credit is reduced by AMT liability

How much revenue does the AMT raise?

The Minnesota AMT raises about $20 million to $40 million per year. (The estimates are always in doubt, and there is some question as to how much is actually collected, relative to what is projected.) The amount of revenue and the number of taxpayers paying the AMT are expected to increase in future years.

Note: Research assistant Matt Burress provided assistance with this publication.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at 651-296-5057.

Elisabeth Long **Updated: September 2005**

The Dislocated Worker Program

What is the Dislocated Worker Program?

The Dislocated Worker Program provides assistance to some individuals who are displaced from their employment or source of support and require assistance in returning to or entering the workforce.

Who is eligible for assistance?

Several kinds of workers are eligible for assistance under the program. They include those who:

- are terminated from their employment, exhaust their unemployment benefits, and are unlikely to return to their previous industry or occupation;
- are terminated as part of a plant closing or other large layoff;
- have been long-term unemployed, which generally means they have been unemployed for at least 15 weeks, and have limited opportunities for similar reemployment in the area where they live;
- have been self-employed (including as farmers or ranchers) and are unemployed (or, for farmers and ranchers, are earning substantially less income) as a result of economic conditions or natural disasters; or
- are displaced homemakers, meaning they have spent a number of years providing homemaking service while dependent on another person, and that person is no longer providing support as a result of the other person's disability or death, or because of a divorce. "Displaced homemaker" can also include a person who previously was supported by public assistance because of the presence of a dependent in the household who is no longer present.

What kind of assistance is available?

The program provides basic employment services such as job counseling, testing, skills assessment, and placement assistance. It provides money for training, including classroom training, on-the-job training, skills training, and basic education. Finally, to a limited degree, it offers support services, including temporary help with expenses such as rent, health insurance, transportation, and similar costs that may need to be covered while a person is in training.

How is the money distributed?

Funds are appropriated to the Job Skills Partnership Board, and are in turn given as grants to workforce service areas (there are 18 such areas in Minnesota, established by federal law) or other eligible organizations, which may include labor organizations, business organizations, state or local government agencies, or nonprofit agencies. These areas and organizations often in turn contract with individual service providers to deliver services to individuals.

The Dislocated Worker Program is probably best known for its projects responding to large layoffs, but the board is required to grant between 35 percent and 50 percent of its funds to assist individuals and those affected by smaller layoffs.

Where does the money come from?

Employers pay a special tax along with their unemployment insurance taxes that goes into a separate fund called the Workforce Development Fund. In 2005, this tax is 0.12 percent of taxable wages, and the taxable wage base is $23,000, meaning that the maximum any employer pays into the Workforce Development Fund is $27.60 per employee per year. Of this amount, $4.60 is devoted to technology initiatives and $23.00 is deposited in the Workforce Development Fund. The tax will drop to a rate of 0.10 percent of taxable wages in calendar years 2006 and 2007, and then drop to a rate of 0.085 beginning in calendar year 2008.

Not all the money in the Workforce Development Fund goes to fund the Dislocated Worker Program. The legislature appropriates some of the money in the fund to support other employment and training programs. Whatever money remains after these appropriations are made is available for the Dislocated Worker Program. Under certain circumstances, if there is more money in the fund than is necessary to meet the needs of dislocated workers, the Job Skills Partnership Board can use the extra money for other workforce training programs.

In addition to the state money, there are federal funds appropriated for the federal Dislocated Worker Program, which is similar to the state program.

For more information: Contact legislative analyst Elisabeth Long by e-mail at: elisabeth.long@house.mn.

Elisabeth Long

Updated: September 2005

Minimum Wage

What is the state minimum wage?

According to state law, the state minimum wage is $6.15 per hour for employers who do at least $625,000 of business per year, and $5.25 per hour for employers who do less than $625,000 of business per year. There is an exception for employees under age 20 during their first 90 days of work, who can be paid $4.90 per hour.

What is the federal minimum wage?

The federal minimum wage is $5.15 per hour, with a provision for a "training wage" of $4.25 per hour for employees under age 20 for their first 90 days of work.

Are employees covered by state law, federal law, or both?

As a general matter, the federal law covers all employees of establishments that have at least $500,000 in gross receipts per year. Further, any employee of an establishment that does not meet the $500,000 minimum is covered if that employee's individual work involves transactions that in some way touch interstate commerce. The way these provisions are interpreted, most employees are covered by the federal law.

The state law covers most employees in Minnesota, unless they are specifically exempt. Therefore, unless they fit into one of the specific exceptions, most people who work in Minnesota are covered by both state and federal law.

What are the state and federal exemptions?

Many of the specific exemptions from minimum wage requirements are the same in federal and state law. Some exemptions are broad, such as the one that applies to executive, administrative, and professional employees, which appear in both state and federal law, and some are narrow, such as the federal exemption of employees who work at home making evergreen wreaths. State and federal regulations provide the boundaries of many of these categories.

Some of the important exemptions are for executive, professional, and managerial employees who work on a salary basis, and certain skilled computer workers.

If an employee is covered by both state and federal law, which prevails?

The short answer is that the higher wage prevails. If one law mandates a minimum of $5.15 and one mandates a minimum of $6.15, for instance, the employer can comply with both only by paying more than $6.15. Because the state minimum wage is currently higher than the federal minimum wage, employees covered by both state and federal law must be paid the state minimum wage.

What about employees who receive tips?

Minnesota does not allow a "tip credit," so tipped employees in Minnesota who are subject to the state minimum wage provisions must be paid the regular state minimum hourly wage by the employer, regardless of whether or not they also receive tips. Further, the employer may not require employees to share tips with the employer or with other employees, because the tips are the exclusive property of the person who receives them.

This differs from federal law, which allows a partial tip credit as long as the employer can prove that the employee actually receives enough tips to make up the difference between the lower hourly wage the employer pays and the statutory minimum wage. If a Minnesota employee is covered by state law, however, the employer cannot take the tip credit against the state minimum wage. This means that a tipped employee of a covered employer in Minnesota still must be paid a direct wage of either $5.25 or $6.15 per hour (depending on employer size), whether or not the employee also receives tips.

When was the minimum wage last increased?

The most recent increase in the federal minimum wage became effective in September 1997. The most recent increase in the state minimum wage became effective in August 2005.

How does Minnesota's minimum wage compare to the minimum wage in other states?

According to information published by the U.S. Department of Labor in January 2005, six states have no minimum wage laws, 16 states and the District of Columbia have minimum wages higher than the federal minimum (including Minnesota), 26 states have minimum wages the same as the federal minimum, and two states have minimum wages lower than the federal minimum.

States have different approaches to setting and applying their minimum wage laws. Some states automatically make certain adjustments to their state rates when the federal rate changes. Many states also exclude from state coverage any employment that is covered by the federal law so that there is no overlap. In Alaska, Florida, Oregon, and Washington, the state minimum wage is automatically adjusted for inflation.

Who enforces minimum wage laws?

Minimum wage laws are enforced in Minnesota by the Minnesota Department of Labor and Industry and the U.S. Department of Labor.

For more information: Contact legislative analyst Elisabeth Long by e-mail at: elisabeth.long@house.mn.

HOUSE RESEARCH | Short Subjects

John Williams

September 2005

Cell Phones and Highway Safety

The growth and popularity of cellular telephones has raised questions about whether this technology is compatible with highway safety. Minnesota's first attempt to regulate cell phone use while driving applies only to drivers under age 18, but other states have gone further.

Cell phone use is growing, including cell phone use in vehicles

Mobile phones, once primarily the province of business and the wealthy, have now reached almost every level of society. Cell phone service providers now have over 158 million subscribers nationally, an increase of over 125 percent in just five years.

Some surveys show that up to two-thirds of cell phone use is in motor vehicles, much of it done while the user is driving. With each innovation in cell phone technology (taking and receiving pictures, surfing the Internet, etc.) the potential for driver distraction grows. Department of Public Safety statistics show that "driver inattention or distraction" is the number one contributing factor in motor vehicle crashes, inevitably raising questions about whether cell phone use while driving poses a safety hazard.

Cell phone use as a contributing factor to crashes has also grown

In 2002 (the most recent year for which complete statistics are available), "driver on cell phone/CB" was cited as a contributing factor in one fatal crash, 85 injury crashes, and 137 property-damage crashes. These represent only a small percentage of all crashes, generally 0.2 percent or less, but when the statistic first began to be recorded, the percentages were 0.1 percent or less. From 1995, when the statistic was first kept, to 2002 the number of people killed or injured in crashes with cell phone/CB use cited as a contributing factor rose from 48 to 104.

Research has indicated a connection between cell phone use and higher crash risk

Nationally, there is considerable research to suggest that cell phone use is "associated with" an increased crash risk. A frequently cited article in *The New England Journal of Medicine* from 1997 found that use of a cell phone quadrupled the risk of a collision. A 2005 study published in the *British Medical Journal* found the same fourfold increase in injury crash risk when using cell phones while driving.

Although legislation in this area appears to assume that hands-free cell phones are safer to use in vehicles than hand-held models, research suggests that the potential safety hazards posed by each are about equal. To some extent this is due to the fact that "hands-free" models still require some manipulation to operate, but mostly it seems to be due to the fact that it is the distraction from the call itself, rather than from the device, that is the real hazard. Other research done for the National Safety Council has suggested that because of the active involvement of drivers in phone conversations, cell phones represent a greater threat of distractions than other activities such as listening to the radio.

States have dealt with phone use in vehicles in various ways

States have begun to attempt to deal with cell phone use in vehicles. New York was the first state to ban use of hand-held (but no hands-free) phones in vehicles, followed by New Jersey. A similar prohibition takes effect in Connecticut in October 2005. Among major cities, Washington, D.C., and Chicago have similar bans. Some states specifically have laws that allow local governments to ban or restrict cell phone use while some other states have laws that do the opposite.

Other state laws take a more narrow approach, prohibiting cell phone use by school bus drivers or by all bus drivers. A growing trend is to prohibit persons with learner's permits or provisional or intermediate licenses (issued to drivers under age 18) from using cell phones while driving.

Minnesota made its first efforts to control cell phone use in 2005

The 2005 omnibus transportation bill contained Minnesota's first foray into regulating cell phone use in vehicles when the state joined several others in sharply restricting cell phone use by drivers under age 18. Under the new law, scheduled to take effect January 1, 2006, persons with provisional driver's licenses (which are valid until the licensee turns 18) and persons under 18 who have learner's permits may not use cell phones while driving if the vehicle is in motion. There is an exception for calls made to obtain emergency assistance to prevent a crime, or with the reasonable belief that a person's life or safety was in danger.

The debate continues over the value of cell phone laws

The value of laws prohibiting or restricting cell phone use in vehicles continues to be debated. As noted, the application of broadly worded laws only to hand-held models means that they fail to address comparable safety hazards from hands-free models. Research from the Insurance Institute for Highway Safety indicates that these laws can be expected to produce an immediate reduction in cell phone use in vehicles, but that this effect tends to wear off over time in the absence of continuous enforcement.

More generally, studies have differed over the effect that restrictions on cell phone use would have on crash rates, with some studies criticizing other studies for overstating the risk. Other researchers have pointed out that cell phones in vehicles have benefits: as reported in a study by the Harvard Center for Risk Analysis, these include expanded productive time, peace of mind, reduction in number and length of trips, faster emergency response time, and better apprehension of traffic violators and drunk drivers. These studies conclude that more quantitative information is needed about both costs and benefits before governments impose further regulations.

Cell phone use is likely to grow even further in the near future before stabilizing at a point of saturation. This suggests that the issue of cell phone use in vehicles will continue to be the focus of a significant highway safety debate.

For more information: Contact legislative analyst John Williams at 651-296-5045.

HOUSE RESEARCH | Short Subjects

John Williams

Updated: September 2005

Metropolitan Transit Financing

In the Twin Cities metropolitan area, public transit is operated or assisted by the Metropolitan Council, relying heavily on funding from the state.

The Metropolitan Council is the region's primary transit agency

Transit services provided or assisted by the Metropolitan Council include:

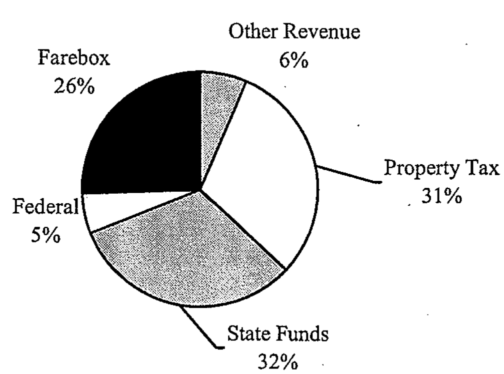
- **Metro Transit.** The Twin Cities' regional regular-route bus system. The council took over operation of the system when the Metropolitan Transit Commission was abolished in 1994.
- **Metro Mobility.** The demand-activated system that provides door-to-door transportation for eligible disabled persons.
- **"Opt-out" Systems.** Systems operated by one or more suburban communities to replace Metro Transit service.
- **Community-based Transit.** Rural and small-urban systems that receive operating assistance from the council.

The state is the largest funding source for metropolitan transit

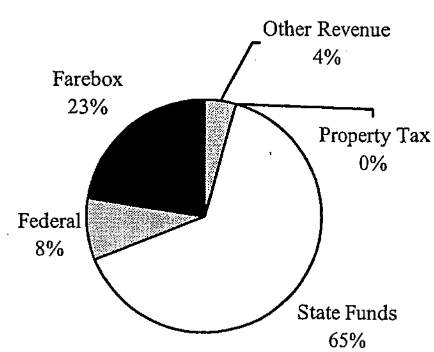
For many years the operating costs of Metro Transit and its predecessor systems came mainly from a combination of farebox revenue, state assistance, and a property tax in the metropolitan transit taxing area. The property tax also was the source for the council's assistance to community-based systems. The opt-out communities retained most of the transit property taxes collected in their jurisdictions and used these funds to subsidize their systems' operating costs.

This system was drastically changed by the 2001 Legislature, which abolished the property tax for transit operations and replaced it with a dedicated 20.5 percent of revenues from the state motor vehicle sales tax. The dramatic changes between 2000 and 2003 reflect the magnitude of the 2001 funding shift.

Metropolitan Transit Operations CY 2000



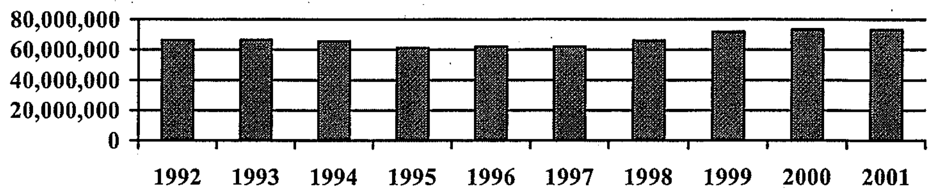
Metropolitan Transit Operations CY 2003



Metro Transit is the region's main regular-route system

Metro Transit has a fleet of some 950 buses, and in 2001 provided about 73 million rides.

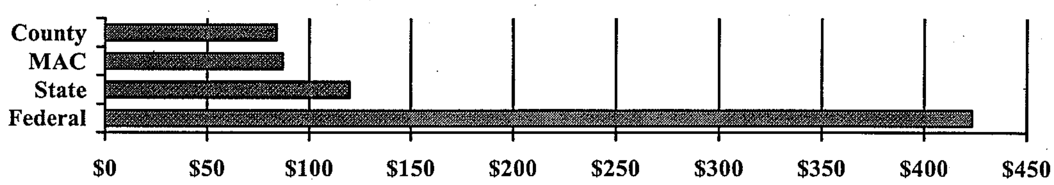
Metro Transit Ridership



The council operates light rail transit in the Hiawatha corridor

In addition to its bus service, the Metropolitan Council also operates the Hiawatha light rail transit line between downtown Minneapolis and Bloomington. The line was built with a combination of federal assistance, state bonding money, and contributions from Hennepin County and the Metropolitan Airports Commission (for the segment at Minneapolis-St. Paul airport).

Hiawatha LRT -- Capital Funding Sources (total $715 million)

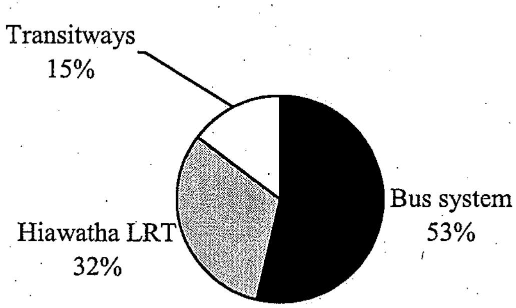


Operating funds for the Hiawatha line come from a combination of farebox revenue, federal funds, Metropolitan Council funds, state general funds, and money from the Hennepin County regional rail authority.

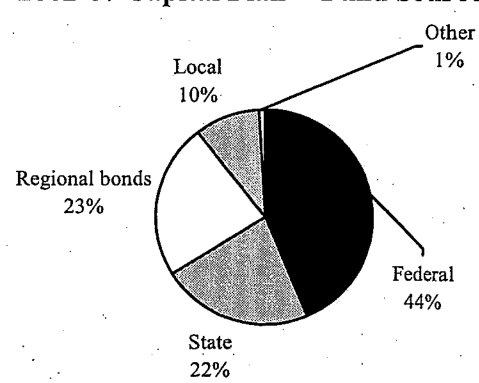
The council has an ambitious capital plan for transit

Based on its 2020 transit master plan, the council has proposed a six-year capital plan for 2002-07 that contemplates spending almost $1.4 billion on transit capital improvements, including new buses, bus garages and facilities, the Hiawatha LRT line, and transitways (which could eventually be exclusive busways or light rail or commuter rail corridors).

2002-07 Capital Plan -- Facilities



2002-07 Capital Plan -- Fund Sources



For more information: Contact legislative analyst John Williams at 651-296-5045. Also see the House Research Short Subject *Greater Minnesota Transit Financing*, September 2005.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

John Williams

Updated: September 2005

Greater Minnesota Transit Financing

Minnesota gives operating assistance to numerous transit systems outside the metropolitan area, including systems as large as Duluth and as small as circulating vans in rural counties.

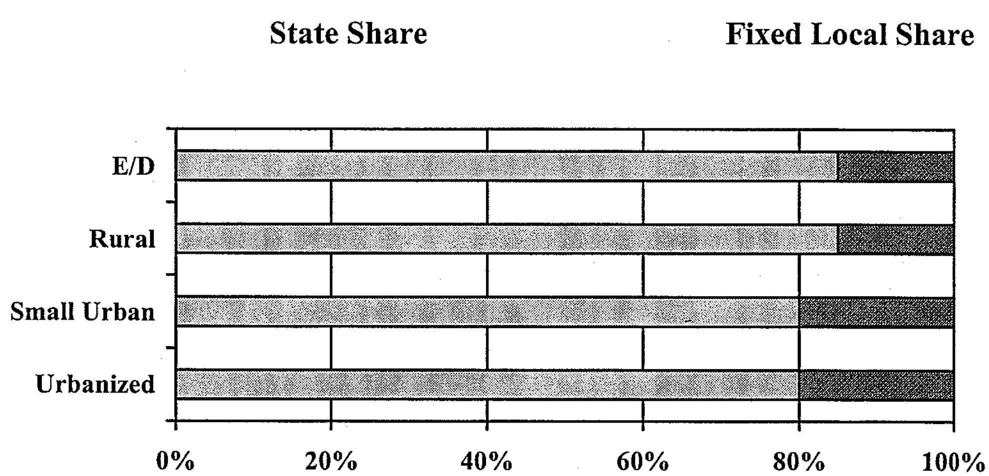
Greater Minnesota transit assistance

The Department of Transportation (MnDOT), through its Office of Transit, provides operating assistance to some 75 transit systems around the state. Systems are put into one of four categories:

Category	Examples
Urbanized	Duluth, Rochester, St. Cloud regular route systems
Small urban	Brainerd, Mankato, Winona, Faribault, Cloquet systems
Rural	Counties, smaller towns, Indian tribes, social service agencies
Elderly/disabled	Demand-responsive services primarily for elderly and disabled in Duluth, Rochester, Moorhead, St. Cloud

Funding formula

Each local system pays a fixed local share of its total operating costs, and the remainder not covered by federal assistance is paid by the state. The fixed local share is either 15 percent or 20 percent depending on the classification of the system.

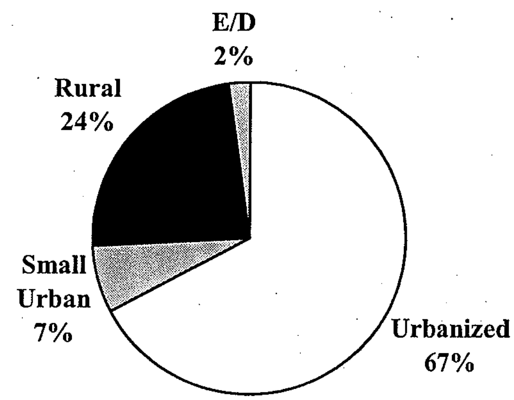


Greater Minnesota ridership is about 9.2 million

Total ridership of Greater Minnesota transit systems in 2003 was about 9.2 million, most of which were in a few urbanized systems. This number has grown only slowly over the past five years, increasing by an average of about 1.5 percent per year.

The MnDOT's Greater Minnesota Transit Plan projects a need for 16.7 million annual trips per year. Current services are projected to meet only about 57 percent of that need, while the plan sets out a goal of meeting 80 percent of the need. The plan recommends that the remaining need be met by greater efficiency in existing systems, coordination with special transportation service such as that provided specifically for the elderly and handicapped, and expanded service from existing and new providers.

Greater MN Transit Ridership 2003



State assistance State general fund appropriations for Greater Minnesota transit total about $19.6 million in each year of the 2006-07 biennium. In addition, Greater Minnesota transit will receive about $8 million each year of the biennium in dedicated revenues from the state motor vehicle sales tax.

For more information: Contact legislative analyst John Williams at 651-296-5045.

John Williams

Updated: September 2005

Minnesota Highway User Taxes

Minnesota's highway user taxes consist of a motor fuel tax, a vehicle license tax, and a motor vehicle sales tax.

Motor fuel tax

What it is. Minnesota imposes a tax of 20 cents per gallon on both gasoline and "special fuel" that is used on the highways. About 80 percent of the revenue comes from the tax on gasoline, with the remainder coming primarily from diesel fuel and small amounts coming from propane, LNG, and other highway fuels. These last three fuels are taxed at rates proportionate to the gas tax, based on their energy content. The gas tax rate was last increased in 1988, but it had been raised regularly in the two decades before that last increase.

Minnesota Fuel Tax Rates

1949	5¢	1975	9¢	1983	16¢
1963	6¢	1980	11¢	1984	17¢
1967	7¢	1981	13¢	1988	20¢

What it applies to. The tax applies only to motor fuel that is used in vehicles on the highways. Tax paid on fuel that is used in nonhighway commercial operations, principally farming, is refunded to the taxpayer. Tax paid on recreational use, such as in motorboats, snowmobiles, ATVs, and off-road vehicles, goes into dedicated funds for these activities.

Truckers who buy and use motor fuel in several states pay fuel tax to the states in proportion to the miles they travel in those states.

Where it comes from. The House Research Department's annual Major State Aids and Taxes report shows the geographic breakdown of the revenue from each major state tax. The most recent report, using figures for 2002, indicates that about 47 percent of total fuel tax revenue came from the metropolitan area and 53 percent from Greater Minnesota.

Vehicle license tax

What it is. The state collects an annual license tax for all motor vehicles and trailers for the privilege of using the public highways. Automobiles are taxed at $10 annually plus 1.25 percent of base value, meaning the manufacturer's base price (without options) for a particular make and model. The tax is imposed on 100 percent of the base value in the first two years of life, with this percent going down to 10 percent in the tenth year. The auto license tax is capped at $189 in the second year of life and $99 in the third and subsequent years. Cars over ten years old pay the minimum tax of $35.

Trucks are taxed on the basis of weight and age. The tax on trucks and truck-tractors ranges from a minimum of $120 to $1,760 for a power unit hauling up to 81,000 pounds, with a 25 percent reduction after eight years of life. Farm trucks pay a reduced weight-based tax. Buses pay a tax of from $125 to $550 depending on weight, with depreciation beginning in the third year of life. Motorcycles pay a flat tax of $10 annually.

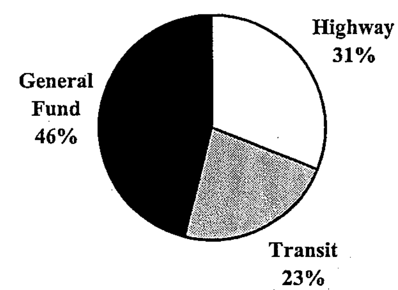
What it applies to. All vehicles domiciled in Minnesota pay the tax for the privilege of using the state's highways. The major exception is vehicles owned by government agencies (including school buses owned by school districts).

Where it comes from. Figures from 2002 show that about 55 percent of vehicle licenses taxes come from the metropolitan area and about 45 percent from Greater Minnesota.

Motor vehicle sales tax (MVST)

What it is. The state collects a 6.5 percent tax on the sale of each new and used motor vehicle. A portion of this revenue is dedicated to transportation, with the remainder going to the state general fund. The highway share goes to state and local highways, while the transit share goes 94 percent to Metropolitan Transit and 6 percent to Greater Minnesota transit.

Motor Vehicle Sales Tax Allocation FY 2004-2007

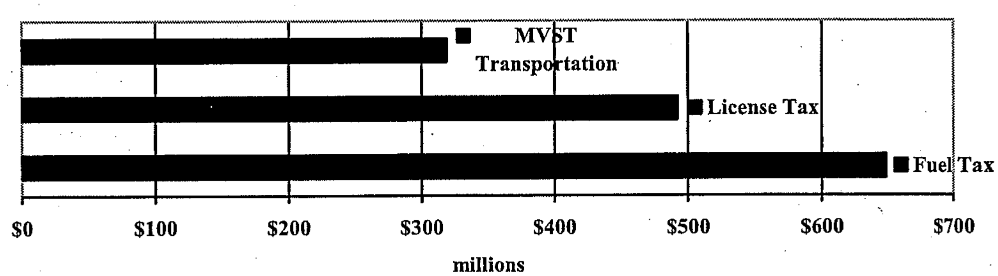


What it applies to. The tax is applied to the sale price after trade-in is applied.

Where it comes from. About 53 percent of MVST revenues come from the metropolitan area and 47 percent from Greater Minnesota.

Revenues from highway user taxes

Highway User Tax Revenues FY 2004

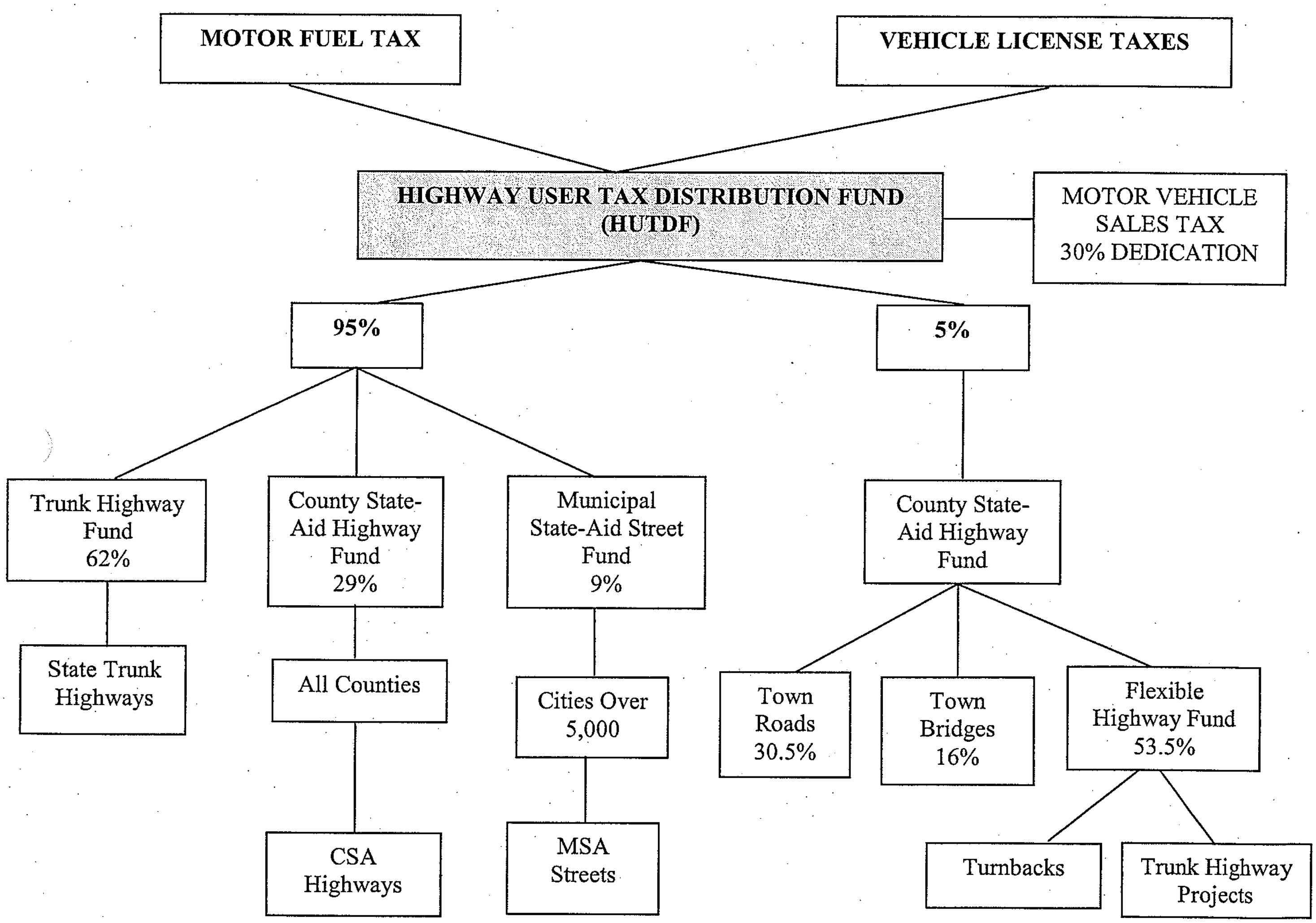


For more information: Contact legislative analyst John Williams at 651-296-5045. Also see the House Research publication *The Motor Vehicle Sales Tax*, June 2004.

John Williams

Updated: September 2005

Highway Funds
Where They Come From, Where They Go



Where the money comes from

The Minnesota Constitution dedicates two types of **highway user taxes** exclusively to highway purposes.

The first is the **state tax on motor fuel**, currently 20 cents per gallon on both gasoline and diesel fuel. Tax revenue from nonhighway use of these fuels is not dedicated to highways, and this revenue is refunded or placed in special funds for motorboat safety, snowmobile trails, etc.

The other is **state license taxes on motor vehicles**. Taxes on cars, light pickup trucks, and vans are based on value, while taxes on trucks and buses are based on weight and age.

State law (not the constitution) dedicates 30 percent of the revenue from the **motor vehicle sales tax** to the HUTDF, to replace revenue lost when auto license taxes were capped beginning in 2001. An additional 0.82 percent of MVST revenues goes directly to the county and municipal state-aid funds

Where the money goes

By constitutional requirement, highway user tax revenue goes into the **highway user tax distribution fund**. Of the money in the HUTDF, **95 percent** is allocated to these three funds:

- **62 percent** to the **trunk highway fund** for the construction, maintenance, and administration of the 11,900-mile state trunk highway system

- **29 percent** to the **county state-aid highway fund** allocated among all 87 counties for construction and maintenance of 30,000 miles of county state-aid highways

- **9 percent** to the **municipal state-aid street fund**, limited by constitutional provision to cities with populations over 5,000

The remaining **5 percent** is not divided according to a constitutional formula, but is allocated by law to the county state-aid fund. From there it is further allocated:

- 30.5 percent to a fund for construction and repair of **town roads**

- 16 percent to a fund to replace and repair **town bridges**

- 53.5 percent to a **flexible highway account** that can be used for trunk highway projects or for former trunk highways that have been turned back to city or county jurisdiction

The constitution allows the legislature to revise the allocation no more than once every six years. The last change was made effective in 1998, so it can be revised at any time.

For more information: Contact legislative analyst John Williams at 651-296-5045. Also see the transportation area of the House Research web site: www.house.mn/hrd/issinfo/trans.htm.

HOUSE RESEARCH | **Short Subjects**

John Williams

Updated: September 2005

The Municipal State-Aid Street System

The municipal state-aid street system is a mechanism for distributing a portion of state highway user taxes to cities with over 5,000 in population to pay for construction and maintenance of their key city streets.

Municipal state-aid system

What it is. The municipal state-aid highway system is a network of about 3,000 miles of streets owned by cities with over 5,000 in population. There are now 135 cities that meet this qualification, plus one city (Chisholm) that fell below 5,000 in the 2000 census but which has been grandfathered into the system. These cities receive money from the **municipal state-aid street fund** for the construction, improvement, and maintenance of these streets.

How it's put together. Cities propose streets to the Department of Transportation (MnDOT) for inclusion in the system. The department makes the final decision based on criteria in state rules. The criteria focus mainly on traffic levels, functional classification, and a street's role in connecting major points within the city. Each city is limited to putting no more than 20 percent of its total street miles onto the state-aid system.

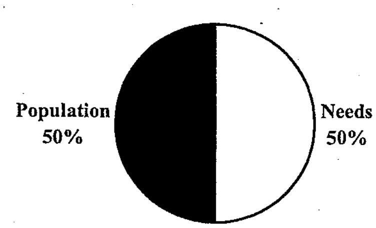
Municipal state-aid fund

What it is. The fund was established by the Minnesota Constitution to provide money to cities with over 5,000 in population for their municipal state-aid streets. The municipal state-aid fund receives a constitutionally guaranteed 9 percent of 95 percent of the highway user tax distribution fund. Money in the highway user tax distribution fund comes from constitutionally dedicated taxes on motor fuel and motor vehicles, and a statutorily dedicated portion of revenue from the state motor vehicle sales tax.

What it's for. Money in the fund is used for construction, improvement, and repair of municipal state-aid streets.

Who gets it. All cities with populations of more than 5,000 receive money from the fund, plus the grandfathered city of Chisholm.

Municipal State-Aid Formula



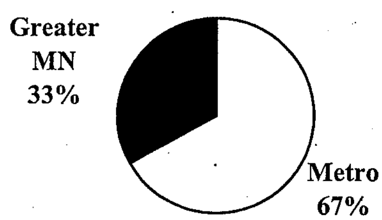
How it's allocated. Money in the municipal state-aid fund is allocated to cities with over 5,000 people by a formula provided in statute:

- **50 percent** is divided among all cities over 5,000 based on their **population**

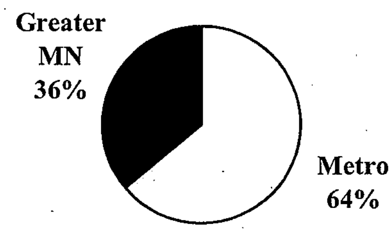
- **50 percent** is divided among all cities over 5,000 based on their **monetary needs.** This is the amount each city needs to bring all its municipal state-aid streets up to state standards.

The formula results in about 69 percent of municipal state-aid street dollars going to cities in the seven-county metropolitan area. This is approximately in line with the metropolitan area's share of total municipal state-aid street mileage and vehicle-miles traveled on the system.

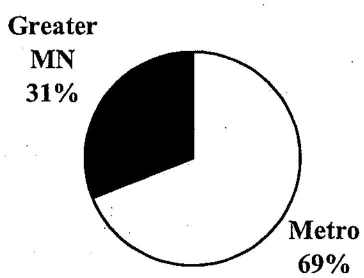
Average Daily Traffic on MSA Streets 2004



Total MSA Mileage 2004



Distribution of MSA Dollars 2005



For more information: Contact legislative analyst John Williams at 651-296-5045.

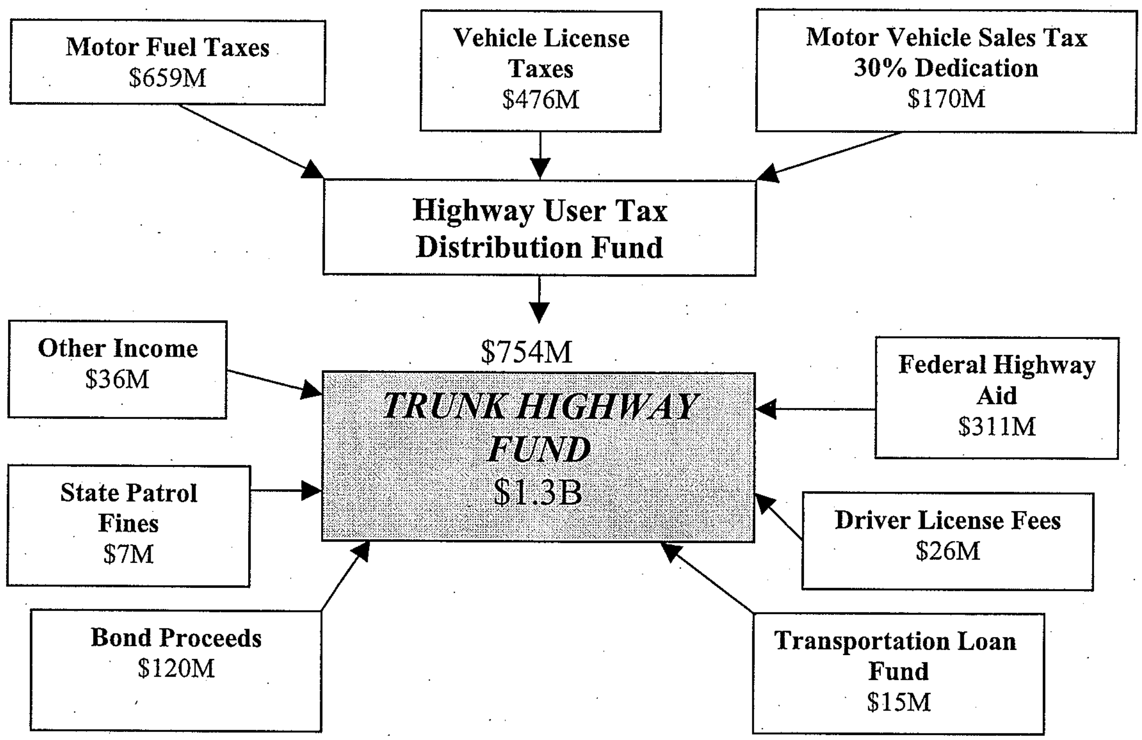
HOUSE RESEARCH | **Short Subjects**

John Williams

Updated: September 2005

Trunk Highway Fund

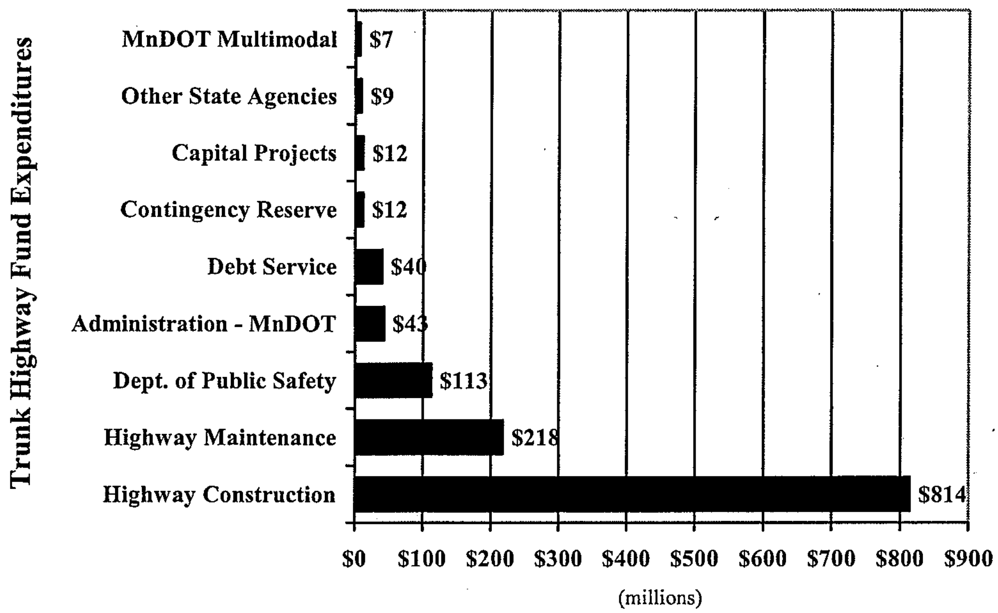
Where the Money Comes From – FY 2005



Sources of revenue to the trunk highway fund include:

- A constitutionally prescribed share of highway user taxes (motor fuel taxes, vehicle license taxes, and a portion of motor vehicle sales tax revenues to replace revenue lost when auto license taxes were capped beginning in 2001)
- Federal highway funds which normally pay 80 percent of the cost of federally aided projects
- Driver license fees
- Transfers from the flexible account that receives part of the 5 percent "set-aside" in the highway user tax distribution fund
- A portion of fines from tickets issued by the State Patrol
- Other income such as investment earnings, advances from local government to accelerate highway projects, and other miscellaneous income
- Proceeds from sale of trunk highway bonds
- Loans to Minnesota Department of Transportation (MnDOT) from the transportation revolving loan fund for trunk highway projects

Where the Money Goes – FY 2005



Money in the trunk highway fund is constitutionally dedicated solely to trunk highway purposes, but the money must be appropriated by the legislature.

Highway construction is the single biggest category of expenditure, including construction contracts, contract administration, engineering, research, and purchase of right-of-way. **Maintenance** of the trunk highway system is the next-highest category.

The **Department of Public Safety** (DPS) portion mainly goes to the **State Patrol** for law enforcement on the trunk highway system.

Debt service includes repayment of trunk highway bonds and repayment of advances made by local units of government to accelerate trunk highway projects.

Capital projects primarily means MnDOT buildings, covering everything from the central office in St. Paul to district office buildings to maintenance buildings and storage sheds around the state. These are paid by direct appropriations from the trunk highway fund rather than through the sale of bonds as with other state buildings.

For more information: Contact legislative analyst John Williams at 651-296-5054. Also see the transportation area of the House Research web site: www.house.mn/hrd/issinfo/trans.htm.

HOUSE RESEARCH | **Short Subjects**

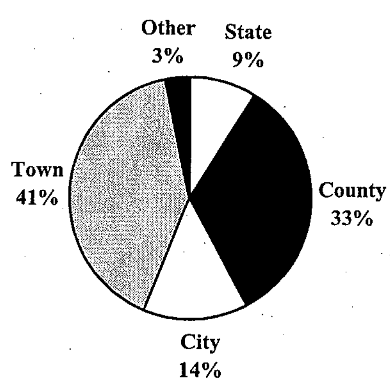
John Williams **Updated: September 2005**

Minnesota Highway Mileage

Minnesota has about 135,000 miles of streets and highways, one of the largest such totals in the country. The table below shows highway mileage as of June 2005.

State trunk highways	Interstate highways	914
	Other trunk highways	10,983
	Total state trunk highways	11,897
County highways	County state-aid highways	30,459
	Other county highways	14,752
	Total county highways	45,211
City streets	Municipal state-aid streets	2,970
	Other city streets	16,005
	Total city streets	18,975
Town roads	Town roads	54,785
Other roads	Roads in unorganized townships	1,300
	State & U. S. forest roads	2,379
	Indian reservations	383
	Other	361
	Total other roads	4,423

Minnesota Highway Mileage 2005



For more information: Contact legislative analyst John Williams at 651-296-5045. Also see the House Research Short Subjects *Trunk Highway Fund*, *County State-Aid Highway Fund*, and *Municipal State-Aid Street Fund.*

Mark Shepard

September 2005

State Elected Officials' Compensation

Salaries for the governor, lieutenant governor, attorney general, state auditor, secretary of state, judges, and legislators are established by state law and by the legislature, depending on the position.

Salaries for constitutional officers

As required by the Minnesota Constitution, salaries for constitutional officers are prescribed by law. Art. V, § 4. Current annual salaries are as follows:

Officer	Salary	% of Governor's Salary
Governor	$120,303	---
Attorney General	$114,288	95%
State Auditor	$102,258	85%
Secretary of State	$90,227	75%
Lieutenant Governor	$78,197	65%

The most recent salary increases were in 2001, when the legislature established salaries for constitutional officers as a percentage of the governor's salary. Laws 2001, 1st spec. sess., ch. 10, art. 1, § 2. The most recent salary increase for the governor was 2.5 percent in January 1998.

The governor can veto legislation establishing compensation for constitutional officers because, according to the constitution, the compensation is set "by law."

Salaries for judges

The Minnesota Constitution stipulates that the legislature should establish compensation for judges and that judges' salaries cannot be reduced while they are in office. Art. VI, § 5. The 2005 Legislature increased judges' salaries by 1.5 percent effective July 1, 2005, and by another 1.5 percent effective July 1, 2006. Laws 2005, ch. 136, art. 1, § 2. Annual salaries for various judges are as follows:

Official	July 1, 2005	July 1, 2006
Supreme Court, chief	$149,124	$151,361
Supreme Court, justice	$135,567	$137,601
Court of Appeals, chief	$134,126	$136,138
Court of Appeals, justice	$127,740	$129,656
District Court, chief	$125,908	$127,797
District Court, judge	$119,913	$121,712

The constitutional provisions governing judges have been interpreted to mean that the governor may not veto provisions setting judges' compensation because their compensation is prescribed "by the legislature." *Gardner v. Holm*, 241 Minn. 125, 62 N.W. 2d 52 (1954).

Salaries for legislators

The Minnesota Constitution provides that legislators' compensation is set by law. The annual salary for representatives and senators is $31,140. The House and the Senate each can designate three leadership positions to receive up to 140 percent of the compensation of other members of the legislature (this is an additional $12,456 per year).

The most recent salary increase for legislators was 5 percent in January 1999. The constitution also says that "no increase of compensation shall take effect during the period for which the members of the existing House of Representatives may have been elected." Art. IV, § 9. Because the constitution says that legislators' salaries are set "by law," the governor can veto legislation setting legislators' compensation.

Legislative per diem

In addition to salary, legislators are eligible to receive a per diem payment when engaged in official business. The House and Senate each has established a rate of $66 per day.

The compensation council's role in establishing salaries

The legislature has established a 16-member compensation council to assist it in establishing the compensation of constitutional officers, judges, and legislators. Minn. Stat. § 15A.082. A new compensation council is created in the fall of each even-numbered year; the new council must make its recommendations to the legislature by May 1 of the odd-numbered year.

By law, the council's recommendations take effect if an appropriation to pay the recommended salaries is enacted after the recommendations are submitted and before their effective date. As a practical matter, when the legislature has increased salaries, it generally has done so either by expressly adopting or modifying compensation council recommendations or by establishing percentages in law without reference to compensation council recommendations.

Insurance benefits and pension plans

Constitutional officers, legislators, and judges all are members of the state employee group insurance plan, and receive the same insurance benefits as state employees.

Most legislators (all who were first elected after July 1, 1997, and some elected before then) and all constitutional officers are members of a defined contribution pension plan. Under this plan, the member contributes 4 percent of his or her salary and the state contributes 6 percent. This money is invested, and upon leaving state service, the elected official is eligible to receive whatever money is in the account.

Judges belong to a defined benefit pension plan, in which the benefit is determined by multiplying years of service times a service-credit percentage and applying this percentage to the judge's average high-five years of salary.

For more information: Contact legislative analyst Mark Shepard at 651-296-5051. For historical information on elected officials' salaries, see the Legislative Coordinating Commission's web site: www.commissions.leg.state.mn.us/lcer/officialssalaries.htm

Jim Cleary

Updated: October 2005

DWI and the B-Card: A Type of Restricted Driver's License for Repeat Offenders

A "restricted driver's license" with a no-alcohol/drug restriction—a B-Card—provides the repeat DWI offender with an opportunity to become validly relicensed to drive, following chemical dependency treatment and rehabilitation. However, any violation of that no-alcohol/drug restriction, irrespective of whether the violation involved driving, carries very stiff consequences for the violator, including both administrative sanctions and criminal penalties. Thus with the B-Card, Minnesota gives the repeat DWI offender another chance to legally drive, but only if he or she vows to remain chemical-free.

What is a restricted driver's license?

Minnesota Statutes, section 171.09, authorizes the Department of Public Safety (DPS) to issue a driver's license to certain drivers, contingent upon the applicant's written agreement to certain restrictions deemed appropriate for public safety. Such a license is referred to as a "restricted driver's license."

When a restricted driver's license is issued to a rehabilitated repeat DWI offender, that person must absolutely abstain from alcohol and illicit drugs indefinitely—this license is commonly referred to as a "B-Card."

What are the restrictions of a B-Card?

Following a repeat DWI violation, a person must successfully complete chemical dependency treatment, as well as rehabilitation (following a third or subsequent violation), before he or she can be validly relicensed to drive—that is, get a B-Card. However, that B-Card license is contingent upon the person maintaining complete abstinence from alcohol and illegal drugs. The revoked driver must agree in writing to that restriction before being issued the B-Card.

The "no alcohol/drugs" restriction of a B-Card applies continuously for the remainder of the person's life, and even prohibits small amounts of alcohol as would be consumed with wine in a religious ceremony, in certain cough medicine, in low-alcohol "near-beer," and so on. Furthermore, that restriction applies whether or not the person is or has been driving a motor vehicle. The restriction is quite absolute and exact: when a person agrees to the condition of a B-Card license, he or she is informed that the license is immediately canceled at the moment he or she consumes any alcohol or any amount of an illicit drug.

Can a B-Card be cancelled if a person does not get another DWI?

DPS will cancel a person's B-Card if any police report or other authoritative information indicates that the person has consumed any amount of alcohol. Sometimes that information arises from a DWI arrest. More often, it stems from a traffic stop that involves alcohol but does not constitute impaired driving. Other times, the drinking is discovered by officers called to a domestic altercation or is reported by a spouse, neighbor, or other source. There does not need to be an arrest or conviction for any crime for a person's drinking to trigger cancellation of the B-Card. In fact, in *Ascher v. the Commissioner of Public Safety* (1994), the

Minnesota Appeals Court ruled that even when the consumption information is obtained through an unconstitutional police stop, DPS may use it to cancel a person's B-Card.

What are the consequences for cancellation of a B-Card?

The consequences of a B-Card cancellation are quite severe, since before the person can again become validly licensed with a B-Card, he or she must again successfully complete chemical dependency treatment and rehabilitation. According to DPS rules, the rehabilitation process requires documented proof of alcohol/drug abstinence for a minimum period of:

- one year, for a person's first rehabilitation;
- three years, for the person's second rehabilitation; and
- six years, for the person's third or subsequent rehabilitation.

The law also provides for gross misdemeanor criminal penalties for a violation of the no-alcohol/drug restriction of the B-Card license (Minn. Stat. § 171.09(b)(1)).

How long does the "no alcohol" restriction stay on record?

Since the "no alcohol" restriction of a B-Card lasts for the person's lifetime, it must remain permanently on the person's driving record, as maintained by DPS. However, a new law allows a person who has not had a repeat impaired driving violation within the past ten years to request that the restriction be blanked from the person's plastic driver's license. From that point on, the restriction is treated as private data on an individual and is available only to authorized officials.

For more information: Contact legislative analyst Jim Cleary at 651-296-5053. Also see the House Research publication *Minnesota DWI Laws and Practices*, January 2001.

Danyell LeMire

Revised: October 2005

Minnesota Family Investment Program

The Minnesota Family Investment Program (MFIP) is a jointly funded, federal-state program that provides income assistance to eligible low-income families. MFIP is the state's response to the 1996 federal welfare reform law, which replaced the Aid to Families with Dependent Children (AFDC) program with Temporary Assistance for Needy Families (TANF), a block grant program to states.

Who is eligible for MFIP?

A family must have income and assets below the program's limits. The income limit increases with family size. Families do not exit MFIP until their income reaches 115 percent of the federal poverty guidelines (FPG). The 2005 FPG for a family of three is $16,090 (115 percent of FPG for a family of three equals $18,504). Assets are limited to $2,000 for MFIP applicants and $5,000 for ongoing recipients, excluding certain items. In addition, families must meet the following eligibility requirements:

- have a minor child in the home (or be pregnant)
- be residents of Minnesota
- be U.S. citizens, qualified noncitizens, or noncitizens otherwise lawfully residing in the United States
- assign rights to child support
- have received fewer than 60 months assistance
- satisfy any other eligibility requirements of the program

Families are subject to a *lifetime limit of 60 months of assistance*. Some families may be eligible for assistance extensions past the 60-month limit if they meet specific criteria for one of the following extension categories: ill or incapacitated, hard-to-employ, and employed participants.

How much are monthly benefits?

The MFIP grant is based on a transitional standard that increases with family size. For example, a family of three's monthly benefit is currently $884; a family of four's benefit is $1,046. For families without earnings, the monthly grant equals the transitional standard. For families with earnings, the monthly grant equals the "family wage level" (110 percent of the transitional standard minus the family's net earned income). The MFIP grant is composed of a cash portion and a food portion, both of which are issued by counties in electronic debit card form.

What are the work requirements?

MFIP caregivers (i.e., persons who live with and provide care and support to minor children) are required to spend a specified number of hours every week engaged in work or work activities. Examples of acceptable activities include job search activities, unsubsidized employment, and on-the-job training.

Exemptions from the work requirement may be available to MFIP participants who meet certain criteria, such as being over age 60, being ill or incapacitated, caring for a disabled child, experiencing a personal crisis, or being the victim of family violence.

Postsecondary education is not routinely available to MFIP caregivers. Job counselors may approve postsecondary education only when the education program meets specific MFIP criteria.

Special requirements exist for *caregivers under age 20*. In most cases, education is the first priority for teen MFIP participants.

How do sanctions work?

MFIP participants who do not meet the program requirements may be sanctioned through reduction of their monthly grant. Sanctions last until one month after a participant comes into compliance. An MFIP case must be closed after the seventh occurrence of noncompliance.

What are MFIP's funding streams and expenditures?

MFIP is funded with a combination of federal funds and state appropriations. Minnesota received approximately $268 million annually in TANF block grant funding in federal fiscal years 1998-2005 (this amount is subject to federal reauthorization). In addition, federal law includes a maintenance of effort (MOE) provision that requires a state to spend 75 percent to 80 percent of the amount it spent in 1994 under its old AFDC and related programs to assist needy families. In fiscal year 2005, the state's required MOE amount was $179 million per year.

According to the Department of Human Services, for state fiscal year 2005, total expenditures were $161.7 million for the cash portion and $126.6 million for the food portion of the MFIP grants. Expenditures for support services were $67.9 million. In terms of funding, $83.1 million was financed with federal TANF funds, $126.6 million was from federal Food Stamp funds, and $78.6 million was from state appropriations. In addition, $40.0 million was spent on state and county administration costs.

How many families receive MFIP?

In fiscal year 2005, 40,900 families and a total of 115,854 participants were receiving MFIP assistance on an average per-month basis.

For more information: See the House Research publication *Minnesota Family Assistance*, January 2004, and the following Short Subjects: *Minnesota Family Investment Program Time Limit Exemptions and Extensions,* July 2004, and *MFIP Cases Reaching the 60-Month Time Limit,* September 2003.

HOUSE RESEARCH | Short Subjects
The Constitution and the Legislature

Lisa Larson October 2005

Government Displays of Religious Symbols

Whether a government may display religious symbols depends on the setting, divisiveness, and consequences of the display.

The 2005 U.S. Supreme Court issued two different decisions on whether a government may display religious symbols and sacred text on public property under the First Amendment Establishment Clause, which prohibits government from creating a state religion. In *Van Orden v. Perry*, the Court allowed a six-foot-high Ten Commandments monument to be located on Texas' capitol grounds (545 U.S. __ (2005)). In *McCreary County v. ACLU of Kentuc*ky, the Court forbade hanging copies of the Ten Commandments on the walls of two county courthouses (545 U.S. __ (2005)).

Both cases were decided by a 5-to-4 vote in which Justice Breyer provided the fifth vote, and both depended on the context of the case for the outcome. The context includes the physical setting, the historical divisiveness, and the consequences of the displays. The decisions underscore the Court's case-by-case approach to deciding church-state controversies, which resists drawing clear lines.

The First Amendment Establishment Clause boundary between church and state remains unchanged and unclear.

These two cases leave largely unchanged the First Amendment boundary between church and state as it affects the permissibility of government displays of religious symbols or government endorsement of religious content. While some constitutional experts argue that the Establishment Clause requires a strict separation between church and state that is best achieved by avoiding government entanglements with religion, others argue that such strict separation leads to government hostility to religion.

The U.S. Supreme Court tried to find a middle ground between separation and endorsement.

The outcomes of these cases reflect the sharp divide within the Court and illustrate the importance the Court places on the purpose of the government's action and the context and history of that action. The cases appear to leave in place the balancing test in *Lemon v. Kurtzman* that the Court uses to evaluate constitutional questions about government's religious statements and its ability to sponsor public displays of popular religious symbols. (The U.S. Supreme Court's three-part test in *Lemon v. Kurtzman* (403 U.S. 602 (1971)) asks whether the government's action has a secular purpose, advances or inhibits religion, or fosters an excessive entanglement with religion.)

In the Court's last case on the public display of the Ten Commandments, *Stone v. Graham* (449 U.S. 39 (1980)), the justices struck down by five to four, a Kentucky law requiring public schools to post the Ten Commandments in every classroom. The same issue was raised again in 2003 when then-Alabama Supreme Court Justice Roy Moore refused to obey a federal court order to remove a Ten Commandments monument in the state supreme court building.

In *Van Orden v. Perry*, the Court allowed a Ten Commandments monument to be located on Texas' capitol grounds.

In 1961 the Fraternal Order of Eagles, a national patriotic organization, donated the Ten Commandments monument to the state. The Texas organization that maintained the 22 acres of capitol grounds recommended the site where the monument was to be placed, among many other monuments and markers. (In oral argument before that Court, Mr. Chemerinsky, the attorney representing Mr. Van Orden, said that the Eagles donated many similar monuments throughout the country to promote Cecil B. DeMille's movie, "The Ten Commandments." It is only recently that people have sued to have the monuments removed from public property.)

In 2001, a homeless lawyer sued to have the monument removed, asserting it violated the Establishment Clause. (The lawyer sued under 42 U.S.C. section 1983, under which a person asserts that his or her constitutionally protected rights, privileges, or immunities have been violated.) The federal district court let the monument remain because the state had a valid secular purpose in acknowledging the Eagles' efforts to reduce juvenile delinquency and because a reasonable person, given the history, purpose, and context of the monument, would not conclude that it represented government endorsement of religion. The Fifth Circuit and the Supreme Court affirmed the district court's ruling.

The Supreme Court based its decision upon the nature of the monument and the historical significance of religion in American life. The Court wrote that having religious content or promoting a message consistent with religious doctrine does not, by itself, violate the Establishment Clause. In examining the context in which the religious text was used, the Court found that the monument conveyed a secular moral message about proper standards of social conduct and the historical relationship between those standards and the law.

The Court distinguished the monument from the classroom context in *Stone* where the Court relied on previous school prayer cases to find that the Kentucky statute had an improper and plainly religious purpose.

In *McCreary County v. ACLU of Kentucky*, the Court forbade framed copies of the Ten Commandments hung in two Kentucky county courthouses.

The American Civil Liberties Union (ACLU) sued under 42 U.S.C. section 1983, to prohibit McCreary and Pulaski counties from hanging copies of the Ten Commandments in the county courthouses in 1999. County officials responded by passing resolutions calling the Ten Commandments the "precedent legal code" and surrounding the displays with historical documents containing religious references; later they again revised and renamed the display, adding secular documents.

Using the *Lemon* test, the district court issued an injunction, finding that all three displays lacked a secular purpose. The Supreme Court held that determining the counties' purpose provided a sound basis for ruling on the Establishment Clause complaint. The Court said that government acted improperly in posting the Ten Commandments in the courthouses. The Court looked to readily discoverable facts in the statute's text, its legislative history, and its implementation to determine the government purpose. Although the Court defers to a legislature's stated reasons for its action, the *Lemon* test requires government's secular purpose to be genuine, not a sham and not secondary to a religious purpose. The Court rejected the counties' argument that it should infer purpose only from the latest series of actions. The Court found that the entire sequence of county actions, including the context and history, made clear that advancing religion was the paramount purpose of the courthouse displays.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036.

Deborah K. McKnight November 2005

Minor and Major Political Parties

How does a party become a minor political party statewide?

A party becomes a minor political party statewide by having a state constitution and party chair, holding a state convention within the past two years, and certifying these facts to the secretary of state. It also must do one of the following:

- Present at least one candidate for (1) governor-lieutenant governor, secretary of state, state auditor, or attorney general at the last general election for these offices, or (2) presidential elector or U.S. senator at the last presidential election. This candidate must get votes in each county that in the aggregate equal at least 1 percent of the total number of individuals who voted.
- File with the secretary by the close of state primary filings a nominating petition containing signatures of party members in a number equal to at least 1 percent of the total vote at the last state general election. Minn. Stat. § 200.02, subd. 23.

A party may also become a minor political party in a legislative district by satisfying the requirements of Minnesota Statutes, section 200.02, subdivision 23, paragraph (e).

When does minor party status take effect?

This status starts on January 1 after the election in which the requirements above are met. A party remains a minor party for at least two state general elections. At that time if it has not moved up to major party status, it must satisfy the above requirements again in order to stay a minor party. Minn. Stat. § 200.02, subd. 23.

What's the significance of being a minor party?

A minor party qualifies for campaign subsidies under the state income tax checkoff and can issue political contribution refund receipts. Minn. Stat. §§ 10A.31, subds. 3 and 3a; 290.06, subd. 23. A minor party does not have any of the other rights and privileges of major parties.

How does a party lose minor party status?

A party stops being a minor party if it gains major party status at a general election. Alternatively, a party can lose minor party status and be merely a political party if:

- at the second general election after it initially gains minor party status, none of its statewide candidates get 1 percent of the vote cast at that election; or
- by the close of filings for the second general election after it gains major party status, it fails to file a petition with the secretary containing signatures in a number equal to 1 percent of the total vote at the last state general election. Minn. Stat. § 200.02, subd. 23.

How does a party become a major party?

A party can achieve major party status by maintaining a party organization in the state, political subdivision, or precinct in question, and satisfying one of these additional requirements:

- Present at least one candidate for (1) governor-lieutenant governor, secretary of state, state auditor, or attorney general at the last state general election, or

(2) presidential elector or U.S. senator at the last presidential election. At least one such candidate must get votes in each county in that election and get votes from not less than 5 percent of the total number of individuals who voted in that election.

- Present at least 45 candidates for state representative, 23 for state senator, four for representative in Congress, and one each for the constitutional offices, with no minimum vote requirement for any of these candidates.
- File with the secretary by the close of state primary filings a nominating petition containing the signatures of party members in a number equal to at least 5 percent of the total vote at the last state general election. Minn. Stat. § 200.02, subd. 7.

When does major party status take effect?

This status starts on January 1 after the election in which the requirements above are met. A party remains a major party for at least two state general elections; at that time it again would need to satisfy the requirements above in order to stay a major party. Minn. Stat. § 200.02, subd. 7.

What's the significance of being a major party?

A major party's name is protected by law from being used by another party. Minn. Stat. § 202A.11, subd. 2. Its candidates are chosen at the state partisan primary. Minn. Stat. § 204B.03. It gets to have election judges appointed from its members. Minn. Stat. § 204B.21, subd. 1. It may place challengers in the polling place. Minn. Stat. § 204C.07, subd. 1. A major party qualifies to receive campaign subsidies under the state income tax checkoff and may issue political contribution refund receipts. Minn. Stats. §§ 10A.31, subds. 3 and 3a; 290.06, subd. 23.

How does a party lose major status?

A party loses major party status if all the following happen:

- At the second general election after it gains major party status, it fails either to (a) get 5 percent of the vote cast at that election, or (b) present the slate of candidates described above; and
- Before filings close for the second general election after it gains major party status, it fails to file a petition with the secretary containing signatures of party members in a number equal to at least 5 percent of the total vote at the last state general election. Minn. Stat. § 200.02, subd. 7.

Does a party's major or minor status affect candidate signature requirements?

The option for a party to establish itself as major or minor by filing a petition is separate from the requirement that some candidates file nominating petitions in order to get on the general election ballot. Major party candidates do not file nominating petitions. Minor party candidates always must gather signatures and file nominating petitions as their alternative to the state partisan primary. This is true even if their party chooses to submit petitions to establish the party's status.

For more information: Contact legislative analyst Deborah K. McKnight at 651-296-5056.

Deborah A. Dyson **November 2005**

Eminent Domain: "Public Use" and the *Kelo* Decision

The Takings Clause of the Fifth Amendment of the U.S. Constitution provides that private property must not be taken for public use without just compensation. There are two requirements for a valid taking:

(1) the property taken must be taken for a public use
(2) the property owner must receive just compensation

The public use requirement was the issue in *Kelo v. City of New London,* 545 U.S. …., 125 S. Ct. 2655 (2005). Specifically, the U.S. Supreme Court had to decide if the taking by the city of New London, Connecticut, to further redevelopment and increase tax revenues for an economically distressed area that was not blighted met the "public use" requirement.

Facts of the case. In 1990, after years of decline, the state designated New London as a distressed city. In 1996, the federal government closed the Naval Undersea Warfare Center at Fort Trumbull, eliminating many jobs. In 1998, the state helped fund city redevelopment planning and a state park on the fort site. Also in 1998, the international pharmaceutical company, Pfizer, announced it would build a new research facility adjacent to Fort Trumbull. (The Pfizer facility opened in 2001.) The city adopted a redevelopment plan in 2000 for the rest of the Fort Trumbull area that is supposed to create jobs, increase tax and other revenues, and help revitalize the economically distressed area. The development plan included a waterfront conference center and hotel, marinas, a pedestrian riverwalk, about 80 new residences, and a new U.S. Coast Guard Museum. In addition to the land formerly occupied by the naval facility, the area had about 115 privately owned properties. Of these, nine property owners would not sell and challenged the city's taking. Their parcels were in an area planned for research and development offices and in another area for parking and retail services for the adjacent state park or nearby marina. The city acknowledged that none of these properties was blighted or otherwise in poor condition. The property taken would ultimately end up in private ownership again, but the specific future owners were not known. The taking was upheld by the Connecticut Supreme Court, and the property owners sought review by the U.S. Supreme Court.

Supreme Court decision. In June 2005, the U.S. Supreme Court affirmed the Connecticut decision and held that a public use for purposes of the federal Takings Clause includes economic development. Relying on its earlier decisions, the Court re-affirmed its interpretation of the public use requirement. *See Hawaii Housing Auth. v. Midkiff,* 467 U.S. 229 (1984) (it is a public use to take residential property from lessor and transfer ownership to the lessees under the Hawaii Land Reform Act in order to reduce the extreme concentration of land ownership in the state); *Berman v. Parker*, 348 U.S. 26 (1954) (department store that was not itself run-down or blighted could be acquired by eminent domain as part of overall Washington, D.C., slum clearance and redevelopment). The Court stated, "without exception, our cases have defined that concept broadly, reflecting our longstanding policy of deference to legislative judgments in this field." *Kelo*, 125 S. Ct. at 2663.

Concurrence. Justice Kennedy agreed with the majority's conclusion on the facts of this case and with the majority's decision to reject adoption of a bright-line rule that all takings for economic development alone are unconstitutional. However, Kennedy wrote a concurring opinion, arguing that there may be cases in which a heightened level of scrutiny would be warranted. In particular, he stated that when there is an acute "risk of undetected impermissible favoritism of private parties," a presumption of invalidity is warranted. *Id.* at 2670. ***Dissents.*** Justice O'Connor dissented and identified three categories of takings that meet the public use requirement: (1) where the public owns the property taken; (2) where even though a private entity owns the property taken, the public has the use of it as it does with utilities, railroads, and stadiums; and (3) where the property taken ends up in private ownership but the existing use is one that must be eliminated to eliminate an evil, as area blight in *Berman*, or concentrated land ownership in Hawaii in *Midkiff*. *Id.* at 2673. O'Connor did not see the New London taking as fitting the *Berman* and *Midkiff* line of decisions. O'Connor concluded by asserting that the Court's decision means any property may be taken for the benefit of another private person and that the powerful would benefit and the powerless would be the victims of future takings.

Justice Thomas stated in his dissent that the Court should strictly interpret the public use requirement and return "to the original meaning of the public use clause." *Id.* at 2686. He argued that the line of cases relied upon by the majority are in error and should be overturned.

Minnesota. The Minnesota Supreme Court has similarly upheld the use of eminent domain for economic development. *City of Duluth v. State*, 390 N.W.2d 757 (Minn. 1986) (holding that under the federal and state constitutions, taking the unused food processing facility owned by Paulucci for transfer to another private entity for a paper mill, increasing jobs in the area, as part of a plan for revitalization, is a public purpose and therefore a public use).

More recently, the Minnesota Supreme Court affirmed (on a tie vote) the use of eminent domain for economic development by upholding the Richfield Housing and Redevelopment Authority's taking of the property of one business, Walser Auto Sales, for ultimate transfer to another identified business, Best Buy, for its corporate headquarters. *Housing & Redevel. Auth., city of Richfield v. Walser Auto Sales, Inc.*, 630 N.W.2d 662 (Minn. App. 2001), *aff'd* 641 N.W.2d 885 (Minn. 2002), *cert. denied* 537 U.S. 974 (2002). Citing *City of Duluth*, the court stated that its scope of review in a condemnation case is very narrow. The court would not substitute its judgment for that of the public body as to what may be necessary and proper to carry out the purpose of the redevelopment plan. 630 N.W.2d at 666.

Other states. The degree to which property may be taken for economic development varies among the states. In contrast to Minnesota and Connecticut, for example, Washington appears to require a higher level of public use before allowing the use of eminent domain. *See In re Seattle*, 638 P.2d 549, 556-59 (Wash. 1981) (en banc) (holding that the city's plan to use eminent domain to acquire land to rebuild the downtown area into a public space, shopping center, art museum, and parking lot was unconstitutional under the Washington Constitution because when only a portion of the project would be put to truly public use, the public use requirement was not satisfied). The Michigan Supreme Court recently overruled its prior position in which a broad definition of public use was followed. *See County of Wayne v. Hathcock*, 471 Mich. 4445, 483, 684 N.W.2d 765, 787 (2004) (cited by the Supreme Court in *Kelo*, 125 S. Ct. at 2668, *Hathcock* overruled *Poletown Neighborhood Council v. Detroit*, 410 Mich. 616, 304 N.W.2d 455 (1981)).

Now in legislatures' hands. The U.S. Supreme Court upheld the New London taking, but concluded by reminding states that they may place greater restrictions on takings within their jurisdictions. "We emphasize that nothing in our opinion precludes any State from placing further restrictions on its exercise of the takings power." *Kelo,* 125 S. Ct. at 2668. Since June 2005, legislation to limit the use of eminent domain for economic development has been enacted in a few states and is being considered in other states and in Congress.

For more information: Contact legislative analyst Deborah Dyson at 651-296-8291.

Janelle Taylor

Updated: October 2005

Minnesota Clean Indoor Air Act

The Minnesota Clean Indoor Air Act (MCIAA) prohibits smoking in many indoor public places (Minn. Stat. §§ 144.411 to 144.417). The legislation was enacted in 1975 in an effort to protect public health, comfort, and the environment. Several municipalities have enacted smoking bans that further restrict smoking in public places; those are described on the following page.

Where is smoking prohibited?

The MCIAA prohibits smoking in public places and public meetings, except in designated smoking areas. Public places include the following:

- restaurants
- retail stores
- offices and other commercial establishments
- public conveyances
- educational facilities other than public schools
- auditoriums
- arenas
- meeting rooms
- common areas of rental apartment buildings
- any indoor area used by the general public
- any indoor area that serves as a place of work

Smoking is completely prohibited in all nonresidential health care facilities, day care premises, and public schools.

Where is smoking permitted?

Smoking is permitted in:

- designated areas of public places;
- private, enclosed offices;
- private residences or cars;
- public places when being used for a private social function;
- places of work not usually frequented by the general public, except in those places where employees work close together or ventilation is poor;
- designated areas of licensed residential health care facilities; and
- specified areas for use in peer-reviewed scientific studies of smoking.

Except for bars, no public place may be entirely designated as smoking permitted (unless the bar is located in a municipality that has banned smoking in public places).

How must smoking areas be designated?

Smoking areas in public places must be designated by spatial separation, a physical barrier, or specified ventilation. Signs must be posted indicating that smoking is prohibited except in designated areas. In addition, smoking-permitted areas of private offices, warehouses, factories, and similar places of work must comply with additional ventilation requirements. *See* Minn. Rules part 4620.0400 to part 4620.1450.

What are the responsibilities of proprietors?

The proprietors or others in charge of a public place must make reasonable efforts to prevent smoking in the public place they manage. Proprietors or other people in charge must:

- post signs;
- designate areas as smoking or nonsmoking;
- ask smokers to refrain from smoking in designated nonsmoking areas; or
- employ other reasonable means to prevent smoking in nonsmoking areas.

Who enforces the Minnesota Clean Indoor Air Act?

The Department of Health (MDH) enforces the MCIAA. MDH can issue fines for up to $10,000 against the facility in which the violation occurred. Also, peace officers can cite individual smokers with violating the MCIAA, which is a petty misdemeanor.

Can local governments enact ordinances that are stricter than the MCIAA?

The MCIAA authorizes local units of government to enact stricter ordinances to completely ban smoking in bars, restaurants, or other public places where smoking would otherwise be permitted in designated areas. The Minnesota Attorney General published an opinion in 2000 stating, "a city may completely prohibit smoking in restaurants under its general police powers. The Minnesota Clean Indoor Air Act expressly preserves the authority of cities to ban smoking where the Act, and Health Department rules promulgated thereunder, would otherwise allow designation of smoking areas by the proprietor" (Op. Atty. Gen. 62b, May 4, 2000).

Have any local governments banned smoking in all public places?

As of October 2005, only two cities (Bloomington and Minneapolis) have banned smoking from all public places, including bars and restaurants. Other local governments have enacted ordinances that limit smoking in various ways, but have stopped short of a complete ban.

The cities of Duluth, Golden Valley, Moose Lake, Moorhead and Cloquet, and the counties of Beltrami, Hennepin, Meeker, Olmsted and Ramsey have all enacted smoking restrictions that limit smoking in restaurants, and in some cases, bars, depending upon characteristics such as: the amount of alcohol sales as a percent of total sales; ventilation or the existence of a separate smoking area; and accessibility to minors.

For more information: Contact legislative analyst Janelle Taylor at 651-296-5808.

HOUSE RESEARCH | **Short Subjects**

Jim Cleary

October 2005

Hunting and Fishing by Military Personnel and Veterans

Firearms Safety Certificate Required

As required by law, anyone born during or after 1980 must have a firearms safety certificate in order to get an annual license to take wild animals with a firearm. Or instead of the firearms safety certificate, a hunter can have an equivalent certificate issued by Minnesota or another state. An advanced hunter education certificate suffices as an equivalent certificate. (Minn. Stat. §§ 97B.015 and 97B.020)

Other states' laws generally specify an earlier starting date than 1980. Colorado's safety certificate requirement, for example, applies to anyone born during or after 1949.

As defined in statute, wild animals include any type of wild mammal, bird, or waterfowl for which hunting is regulated under Minnesota law and/or Department of Natural Resources (DNR) rules. The terms "taking" and "firearms" are also broadly defined. (Minn. Stat. § 97A.015)

Active Military Service Exemption for Safety Certificate

A person is exempt from having to have a firearms safety certificate if the person has completed military basic training and is serving in active military service in any branch or unit of the U.S. Armed Forces, including while on regular leave or terminal leave.

Thus, active duty military personnel may purchase any Minnesota hunting license regardless of whether the person has a firearms safety certificate. Nevertheless, a person who is no longer in active military service is once again subject to the requirement to have a firearms safety certificate in order to obtain a license to hunt with firearms. (Minn. Stat. § 97B.020)

"Active duty" is defined broadly to include federal active service (U.S.C. Title 10), federally funded state active service (U.S.C. Title 32), or state active service (Minn. Stat. § 190.05, subd. 5).

License Not Needed During Military Leave

While on any type of military leave, a Minnesota resident serving in the U.S. Armed Forces stationed outside Minnesota may hunt and fish in Minnesota without a hunting or fishing license. The person must keep official military leave papers on his or her person while hunting. However, the resident must obtain any seals, tags, and coupons required of a licensee, which must be furnished by the license agent without charge. This subdivision does not apply to the taking of moose or elk. (Minn. Stat. § 97A.465, subd. 1.)

Discharged Service Members Can Get Deer Licenses During the Season

A Minnesota resident who is discharged from active military service during, or within ten days before the firearms deer season begins, can purchase a firearms deer license during the season. The license is valid immediately upon issuance. (Minn. Stat. § 97A.465, subd. 4.) Normally, a deer hunting license issued during the season is not valid until the second day following issuance. (Minn. Stat. § 97A.411, subd. 3) In order to get the license, the hunter must show his or her official discharge papers.

Disabled Veterans Don't Have to Pay for Licenses

A disabled veteran can get a permanent fishing license and annual licenses to hunt deer and small game free of charge. The veteran must be a Minnesota resident who is a military veteran with a 100 percent service-connected disability rating from the U.S. Department of Veterans Affairs. (Minn. Stat. §§ 97A.441 and 197.447)

In addition, a disabled veteran doesn't need to get a pheasant stamp or Minnesota waterfowl stamp to hunt pheasants or waterfowl, but must have a turkey stamp to hunt turkeys and a federal duck stamp to hunt waterfowl. (Minn. Stat. §§ 97B.715, 97B.721, and 97B.801)

Certain other special hunting and fishing privileges apply to all disabled Minnesota residents, irrespective of whether the person is a military veteran. (Minn. Stat. § 97A)

License Lottery Preference for Soldiers and Veterans

Minnesota residents who are currently serving in active military service, or who have served actively at any time during the past 24 months, may receive first preference in drawings for antlerless deer permits and turkey permits. (Minn. Stat. § 97A.465, subd. 5)

Nonresident Military Privileges

Nonresident military personnel training at Camp Ripley may purchase a resident fishing license. (Minn. Stat § 97A.465, subd. 2.) Nonresident military personnel stationed anywhere in Minnesota may purchase resident hunting and fishing licenses (but not for moose or elk). (Minn. Stat. § 97A.465, subd. 3.)

Coding on Driver's License

When renewing a Minnesota driver's license, a veteran or other person with a firearms safety certificate or an equivalent certificate may request that the driver's licensing agency code that fact onto the person's new driver's license, for convenience. To do so, the person must show proof of certification to the licensing agency upon application. (Minn. Stat. § 171.07, subd. 13)

Getting a License

To learn more about these special privileges, active military personnel and veterans should contact the DNR via its web site, www.dnr.state.mn.us, or by phone, 651-296-6753. Information and licenses can also be obtained through DNR's local field licensing agents (e.g., sporting goods stores).

For more information: Contact legislative analyst Jim Cleary at 651-296-5053.

HOUSE RESEARCH | **Short Subjects**

Randall Chun **Revised: November 2005**

MinnesotaCare

MinnesotaCare is a state program that provides subsidized health care coverage to low- and moderate-income families and individuals. The program is administered by the Department of Human Services (DHS); counties have the option of processing applications and determining eligibility. The program is governed by Minnesota Statutes, chapter 256L.

Eligibility

To be eligible for MinnesotaCare, an individual must meet the following criteria:

- Have gross income that does not exceed 275 percent of the federal poverty guidelines (FPG) for families and children ($53,256 for a household of four), and 175 percent of FPG for single adults and households without children ($16,752 for a household of one and $22,464 for a household of two). Parents with annual gross incomes over $50,000 are ineligible, whether or not they otherwise meet the 275 percent of FPG standard; this income cap does not apply to pregnant women and minor parents.
- Have assets that do not exceed $10,000 for a household of one and $20,000 for a household of two or more, after certain exclusions. This asset standard does not apply to pregnant women and children.
- Not have access to employer-subsidized health care coverage, and not have had access to this coverage through the current employer for 18 months prior to application or renewal. This requirement does not apply to children with incomes that do not exceed 150 percent of FPG and certain other children.
- Have no health care coverage at the time of application and for four months prior to application or renewal. Children with incomes that do not exceed 150 percent of FPG and certain other children considered to be "underinsured" are exempt from this requirement.
- Be a resident of Minnesota. Pregnant women, families, and children must meet the residency requirements of the Medical Assistance (MA) program; adults without children must satisfy a 180-day residency requirement.
- Beginning September 1, 2006, certain General Assistance Medical Care applicants and recipients will be enrolled in MinnesotaCare as adults without children and will be exempt from premiums and certain eligibility criteria until six-month renewal.

Covered services

Pregnant women and children have access to a broader range of covered services than adults who are not pregnant. Pregnant women and children receive coverage for all health care services provided under MA. MA covers physician care, hospitalization, prescription drugs, nursing home care, and a wide range of other health care and long-term care services.

Parents, and single adults and households without children with incomes not exceeding 75 percent of FPG, are covered for most, but not all MA services. Services not covered include personal care attendant services, private duty nursing, nursing home care, ICF/MR (intermediate care facility for persons with mental retardation and related conditions), and special transportation services. Adults who are not pregnant are also subject to certain benefit limitations that do not apply to pregnant women or children.

Single adults and households without children, with incomes greater than 75 percent but not exceeding 175 percent of FPG, are covered under a limited benefit set that includes inpatient hospitalization, physician care, and other specified services, subject to a $5,000 annual cap on outpatient services (this cap is eliminated January 1, 2006).

Premiums and cost-sharing

Enrollees must pay premiums based on a sliding scale. Children with incomes that do not exceed 150 percent of FPG pay a reduced annual premium of $48. Adult enrollees who are not pregnant are subject to coinsurance and copayments for specified services.

Provider reimbursement

All enrollees receive health care services through prepaid health plans. The MinnesotaCare program pays prepaid health plans a monthly capitation payment for each MinnesotaCare enrollee. MinnesotaCare does not set provider reimbursement rates; these rates are instead the result of negotiation between health care providers and the prepaid health plan.

Funding and expenditures

In fiscal year 2005, the MinnesotaCare program paid $409 million for medical services provided to enrollees. Fifty-five percent of this cost was paid for by the state, 35 percent by the federal government, and 10 percent by enrollees through premium payments (this last category also includes copayments and prescription drug rebates).

State funding for MinnesotaCare and other health care access initiatives is provided by a tax of 2.0 percent on the gross revenues of health care providers and a tax of 1.0 percent on the premiums of nonprofit health plan companies.

The state receives federal funding at the MA match rate for health care services provided to enrollees who are children, parents, or pregnant women. The state receives federal funding at an enhanced match rate (under the State Children's Health Insurance Program) for parents and relative caretakers with incomes between 100 percent and 200 percent of FPG.

Recipients

As of September 2, 2005, 135,586 individuals were enrolled in the MinnesotaCare program. Just over three-quarters of these enrollees are parents or children.

Application procedure

MinnesotaCare applications can be obtained by calling 1-800-657-3672. Applications are also available at county human services agencies.

For more information: Contact legislative analyst Randall Chun at 651-296-8639. Also see the House Research information brief *MinnesotaCare*.

Randall Chun

Revised: November 2005

General Assistance Medical Care

General Assistance Medical Care (GAMC) is a state-funded program that pays for certain health care services for low-income Minnesota residents who are not eligible for other health care programs. Most GAMC enrollees are low-income adults between the ages of 21 and 64 who do not have dependent children. The program is administered locally by the counties, under the supervision of the Department of Human Services (DHS), and is governed by Minnesota Statutes, section 256D.03.

Eligibility

To be eligible for GAMC, an individual must meet the following criteria:

- Receive General Assistance (GA) or Group Residential Housing (GRH), or meet the GAMC income and asset limits (see table below)
- Not be eligible for Medical Assistance (MA)
- Be a Minnesota resident; GAMC has a 30-day durational residency requirement
- Meet other program eligibility requirements

Eligibility Group	Income Limit	Asset Limit*	Covered Services	Cost-Sharing
1. GA and GRH recipients	GA limit ($203/ month for one person; $260 for married couple) or GRH assistance standard	GA limit ($1,000 per assistance unit) or GRH limit ($2,000 aged, blind, or disabled; $1,000 all others)	All covered services	Copayments
2. GAMC full coverage	75 percent of federal poverty guidelines (FPG)	$1,000 per household	All covered services	Copayments
3. GAMC hospital-only coverage	Greater than 75 percent but not exceeding 175 percent of FPG	$10,000 per household of one/$20,000 per household of two or more	Inpatient hospital services and physician services provided during inpatient stay	$1,000 deductible for each hospitalization

* The homestead, household goods, a vehicle, and other specified items are not counted as assets.

Beginning September 1, 2006, certain GAMC applicants and recipients will be enrolled in MinnesotaCare as adults without children, immediately following approval of GAMC coverage. GAMC applicants and enrollees who are eligible due to receipt of GA or GRH, are awaiting a determination of disability, or who do not meet the MinnesotaCare residence requirement will be exempt from this enrollment requirement.

Covered services

GAMC covers a range of medical services for individuals with incomes not exceeding 75 percent of federal poverty guidelines (FPG). These include, but are not limited to, physician care, hospitalization, rehabilitation, dental, medical equipment and supplies, mental health, prescription drugs, and medical transportation.

Services not covered include: home health care services, nursing home services, therapy services provided by independently enrolled providers, pregnancy and related services (GAMC enrollees who are pregnant qualify for coverage of these services under MA and/or Emergency MA), and services in an intermediate care facility for persons with mental retardation and related conditions (ICF/MR).

Covered services for enrollees with incomes greater than 75 percent but not exceeding 175 percent of FPG are limited to inpatient hospital services and physician services provided during an inpatient stay.

Cost-sharing

Enrollees with incomes at or below 75 percent of FPG are subject to the following copayments:

- $3 per nonpreventive visit (this copayment is eliminated January 1, 2006)
- $25 for eyeglasses
- $25 for nonemergency visits to an emergency room
- $3 per brand-name prescription and $1 per generic, subject to a $20 per month limit (the monthly limit is reduced to $12 effective January 1, 2006). Antipsychotic drugs are exempt from copayments.
- 50 percent coinsurance for basic restorative dental services

Enrollees with incomes greater than 75 percent but not exceeding 175 percent of FPG are subject to a $1,000 deductible for each inpatient hospitalization.

Provider reimbursement

The GAMC program reimburses providers under both a fee-for-service system and a managed care system (composed of prepaid GAMC and county-based purchasing initiatives). Under the fee-for-service system, health care providers bill DHS and are reimbursed at rates specified by state law. Under managed care, prepaid health plans (or counties in the case of county-based purchasing) receive a monthly capitation payment for each enrollee. The state does not set provider reimbursement rates; these rates are instead the result of negotiation between the health care providers and the prepaid health plan or county.

Funding and expenditures

GAMC is completely state-funded; there is no federal funding. During fiscal year 2005, the state spent $241.7 million in payments to medical providers for GAMC services.

Recipients

In fiscal year 2005, an average of 37,267 persons were eligible for GAMC services each month. As of September 2005, 27,402 GAMC recipients were enrolled in prepaid GAMC or a county-based purchasing initiative.

Application procedure

Individuals interested in applying for GAMC should contact their county human services agency.

For more information: Contact legislative analyst Randall Chun at 651-296-8639. Also see the House Research information brief *General Assistance Medical Care.*

HOUSE RESEARCH | **Short Subjects**

Randall Chun

Revised: November 2005

Medical Assistance

Medical Assistance (MA), the state's Medicaid program, is a jointly funded, federal-state program that pays for health care services for low-income individuals. The program is administered locally by counties, under the supervision of the state Department of Human Services (DHS). The program is governed by Minnesota Statutes, chapter 256B, and by federal Medicaid law, which allows states considerable flexibility in designing their Medicaid programs.

Eligibility

To be eligible for MA, an individual must meet the following criteria:

- Be a member of a group for which MA coverage is mandatory under federal law or a member of an optional group that the state has chosen to cover. Covered groups include families, children, pregnant women, the elderly, and persons with disabilities.

- Meet program income and asset limits. Different limits apply to different categories of individuals. Certain types of income and specified assets are excluded when determining eligibility. Income and asset limits for selected groups are described below.

Eligibility group	Net income limit, as % of federal poverty guidelines (FPG)	Asset limit*
Children < age 2	280	None
Children 2 through 18	150	None
Children 19 through 20	100	None
Pregnant women	275	None
Parents	100	$10,000 for one/$20,000 for two or more persons
Aged, blind, or disabled	100	$3,000 for one/$6,000 for two/$200 each additional

* The homestead, household goods, a vehicle, a burial plot and certain assets for burial expenses, and other specified items are not counted as assets.

Individuals with incomes over these limits can also qualify for MA through a spenddown. Under a spenddown, an individual must incur medical bills in an amount that is equal to or greater than the amount by which the individual's income exceeds the spenddown limit of 100 percent of FPG for families and children and 75 percent of FPG for individuals who are aged, blind, or disabled.

Eligibility (cont.)

- Be a U.S. citizen or a noncitizen who meets specified immigration criteria.
- Be a resident of Minnesota.
- Meet other program eligibility requirements.

Covered services

Minnesota provides all federally mandated services and most services designated by the federal Medicaid program as optional. These services include, but are not limited to: physician care, hospitalization, therapy and rehabilitation, dental, medical equipment and supplies, home health care, health clinic services, mental health, prescription drugs, medical transportation, nursing home, and intermediate care facility for persons with mental retardation and related conditions (ICF/MR) services. Adult enrollees who are not pregnant are subject to copayments for certain services.

The state has also received federal approval to provide services not normally covered by Medicaid. These home and community-based "waivered services" are intended to make it possible for individuals to remain in the community, rather than reside in a hospital, nursing home, or ICF/MR.

Provider reimbursement

The MA program reimburses providers under both a fee-for-service system and a managed care system (composed of the Prepaid Medical Assistance Program or PMAP and county-based purchasing initiatives). Under the fee-for-service system, health care providers bill DHS and are reimbursed at rates specified by state law. Under managed care, prepaid health plans (or counties in the case of county-based purchasing) receive a monthly capitation payment for each enrollee. The state does not set provider reimbursement rates; these rates are instead the product of negotiation between the health care providers and the prepaid health plan or county.

Funding and expenditures

The federal share of MA costs is determined by a formula that is based on state per capita income. In fiscal year 2006, the federal government pays 50 percent of the cost of MA services, and the state is responsible for the remaining 50 percent. In fiscal year 2005, total state and federal MA expenditures for services were $5.193 billion.

Recipients

During fiscal year 2005, an average of 480,738 individuals were eligible for MA services each month. As of September 2005, 284,207 MA recipients in 83 counties received services under PMAP or a county-based purchasing initiative.

Application procedure

Individuals interested in applying for MA should contact their county human services agency.

For more information: Contact legislative analyst Randall Chun at 651-296-8639. Also see the House Research information brief *Medical Assistance*.

HOUSE RESEARCH | **Short Subjects**

Lisa Larson

November 2005

The Operation of Homeschools in Minnesota

Minnesota law allows children to attend homeschools and parents to provide instruction

Minnesota's compulsory attendance law requires children between 7 and 16 to attend school, statutorily defined as a public school, nonpublic school, church or religious organization, or homeschool. Under state law, school instructors must: hold a valid Minnesota teaching license in the field and for the grade level taught; be directly supervised by a licensed teacher; successfully complete a teacher competency exam; provide instruction in an accredited or recognized school; hold a baccalaureate degree; or be the parent of a child who annually is assessed using a nationally norm-referenced standardized achievement exam approved by the district superintendent.

State education department data show that 16,934 students, or about 1.8 percent of the total elementary and secondary student population, were enrolled in a homeschool in the 2004-2005 school year.

Parent educators must provide instruction in required subject areas and must report on student achievement

Homeschool parents must provide instruction in reading, writing, literature, fine arts, math, science, history, geography, government, health, and physical education. There is no minimum number of required days of instruction. Every year, by October 1, parent instructors must report the following information to the district superintendent: the name, birth date, and address of each child receiving instruction at home; the name of the child's instructor and evidence that the instructor satisfies one of the state's criteria for instructors; and an annual instructional calendar.

Parent instructors who assess a child using a nationally norm-referenced standardized achievement exam must submit a quarterly report card on the child's achievement in each required subject area. (Homeschool advocates assert that parent instructors are not required to submit a child's test scores as part of the quarterly report card.) A parent instructor must document that the child is receiving instruction in the required subject areas. The documents must include class schedules and copies of instructional materials, and describe the methods used to assess student achievement. Parent instructors also must submit a statement indicating that their children have been immunized or a notarized statement indicating that their children have not been immunized due to the parents' conscientiously held beliefs.

Parent instructors must assess home school students using a standardized achievement exam

Children attending a homeschool that is not accredited must be assessed using a nationally norm-referenced standardized achievement exam. A parent instructor who is not a licensed teacher or has not successfully completed a teacher competency exam must assess children in those required subject areas for which no standardized achievement exam is available.

A parent instructor must obtain an evaluation of a child who scores below the 30th percentile or one grade level below children of the same age on a standardized achievement exam to determine whether the child has learning problems.

Homeschool students may receive health and guidance services

School districts must provide homeschool students with the same health services offered to public school students as long as the cost does not exceed the amount the state education department allocates for such services. School districts also must provide homeschool students in grades 7 to 12 with the same guidance and counseling services offered to public school students as long as the cost does not exceed the amount the state education department allocates for such services and the services are provided at a public school or neutral site.

Homeschool students may participate in the postsecondary enrollment options and on-line learning programs

High school juniors and seniors, including homeschool students, may take courses for credit at public and private Minnesota postsecondary institutions under the Postsecondary Enrollment Options Program (PSEO). Homeschool students interested in enrolling in a PSEO course must contact the institution offering the course. PSEO students do not pay tuition, fees, or the cost of required textbooks.

K-12 homeschool students may enroll in an on-line learning course or program. Participation is limited by available revenue and order of application.

Homeschool students may participate in extracurricular activities

Homeschool students may participate in the extracurricular activities of the resident district on the same basis as public school students. A school board may charge students fees to participate in extracurricular activities. Homeschools also may participate in Minnesota state high school league activities and sometimes form cooperative sponsorships with other schools to participate in such activities.

Parent instructors may be eligible for reimbursement of expenses and the state's K-12 education credit and deduction

Homeschool parent instructors are eligible to be reimbursed by the resident school district for instructional materials; reimbursed items are considered district property.

Parent instructors whose household income is less than $37,500 and who have paid qualifying expenses for their children's K-12 education may be eligible for the state's K-12 education credit and deduction; those parent instructors whose household income is $37,500 or higher may qualify for the deduction only. The credit and deduction apply to homeschool education expenses that would be expenses for subjects normally taught in public elementary and secondary schools. Such expenses may include required instructional materials, required books, class trips taken during the school day, purchase or rental of required equipment, after school enrichment programs, required testing fees, computer hardware, and educational software and tuition and fees.

Homeschool student information is private data

Under the state's data practices law, student information that a parent instructor submits to the district superintendent is private data and cannot be designated as directory information or disclosed without the parent's prior written consent unless a limited exception applies. School districts that receive federal funds under the Elementary and Secondary Education Act must provide military recruiters, when requested, with directory information that includes students' names, addresses and telephone numbers. The district cannot release any information about a homeschool student to a military recruiter, particularly if the student's parent requests that the district not release the information.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036.

Karen Baker and Steve Hinze

Updated: December 2005

Limited Market Value

What is limited market value?

Limited market value (LMV) is a limitation on the amount that a property's market value may grow from one year to the next for purposes of property taxation. It was enacted to help mitigate rising property taxes resulting from rapidly inflating property values.

What property does LMV apply to?

The following classes of property qualify for LMV:

- agricultural homestead and nonhomestead
- residential homestead and nonhomestead
- seasonal recreational residential property (i.e., cabins)
- timberland (beginning with the 2001 assessment)

Is it permanent?

LMV provisions were in effect from 1973 to 1979, and again from 1993 to the present. The 2001 Legislature enacted a law to phase out LMV over a six-year period—from assessment years 2002-2007. The 2005 Legislature extended the phaseout an additional two years. Beginning in assessment year 2009 (for taxes payable in 2010), all property will be valued at its estimated full market value for property tax purposes.

Does the assessor continue valuing the property?

The assessor continues to determine the property's fair market value. This value is called the "estimated market value" (EMV). However, property that qualifies for treatment under LMV may not be taxed at the full value of the property if its growth exceeds the limits.

How does it work?

For qualifying property in assessment year 2005 (taxes payable in 2006), the increase in market value shall not exceed the **greater** of:

- 15 percent of the LMV in the preceding assessment year, or
- 25 percent of the difference between the current year's EMV and the previous year's LMV.

How does the phaseout work?

For each year, the maximum valuation increase is determined by calculating the increase allowed under columns (1) and (2), and choosing whichever is higher.

Assessment Year/ Payable Year	(1) Percentage of previous year's LMV	(2) Percentage of difference between previous year's LMV and current year's EMV
2002/2003	10%	15%
2003/2004	12	20
2004/2005	15	25
2005/2006	15	25
2006/2007	15	25
2007/2008	15	33
2008/2009	15	50

Example calculations

Assessment year 2005/payable year 2006
The LMV of a home is $100,000 for assessment year 2004. For assessment year 2005, the assessor determines that the EMV of the home is $130,000. The maximum market value increase for tax purposes is the greater of:

- 15 percent increase over the previous year, which is $15,000, or
- 25 percent of the $30,000 difference in value, which is $7,500.

Therefore, the home's LMV is $100,000 plus $15,000, or $115,000 for assessment year 2005 (for taxes payable in 2006).

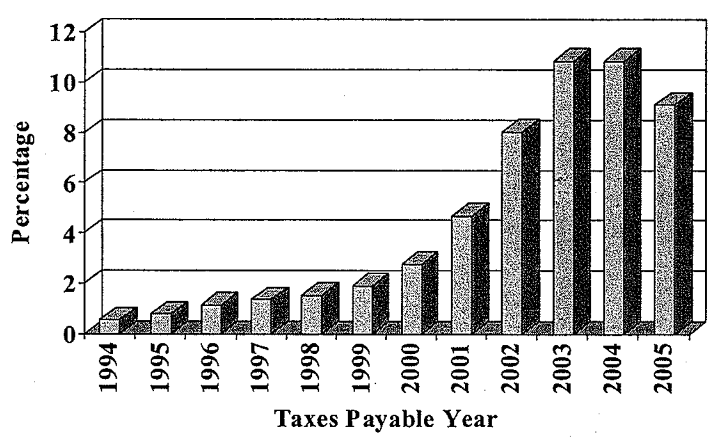
How much has LMV grown?

For taxes payable in 2005, $33.1 billion of market value was excluded from the tax rolls due to LMV. The table shows the amounts for 1994-2005.

Taxes Payable Year	EMV*	LMV*	Excluded Value* Amount	Excluded Value* Percentage
1994	$124.1	$123.5	$0.7	0.5%
1995	132.0	131.0	1.0	0.8
1996	142.1	140.4	1.6	1.1
1997	152.1	150.0	2.0	1.3
1998	163.6	161.1	2.5	1.5
1999	176.6	173.3	3.4	1.9
2000	202.6	197.0	5.6	2.8
2001	226.4	215.8	10.6	4.7
2002	260.4	239.4	21.0	8.1
2003	284.8	253.9	30.9	10.8
2004	322.9	288.0	34.9	10.8
2005	364.6	331.5	33.1	9.1

* Affected property classes only. All amounts in billions.

Statewide Percentage of Tax Base Excluded due to LMV (affected classes only)



For more information: Contact legislative analyst Karen Baker at 651-296-8959 or Steve Hinze at 651-296-8956.

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HOUSE RESEARCH | **Short Subjects**

John Williams **Updated: November 2005**

The Motor Vehicle Sales Tax Transfer: Current Law

After a nearly ten-year hiatus, the legislature in 2000 again began dedicating revenues from the motor vehicle sales tax (MVST) to transportation-related purposes. A constitutional amendment proposed by the legislature in 2005 would, if adopted, eventually result in 100 percent of MVST revenues going to transportation.

What is MVST?

The motor vehicle sales tax, or MVST, is the 6.5 percent sales tax applied to the sale of new and used motor vehicles.

How MVST revenue used to be dedicated

During the 1980s, the legislature dedicated MVST revenue to highways and transit, intending that the money supplement other spending for those purposes. This dedication was periodically changed or suspended, and it was abolished entirely beginning in fiscal year 1992.

How MVST revenue is now dedicated

Beginning in fiscal year 2000, the legislature restored the MVST transfer to dedicated transportation funds, not to augment spending but provide tax relief. In 2000, the legislature put limits on license taxes for passenger cars. Since those taxes go to the highway user tax distribution fund (HUTDF) and are dedicated exclusively to highways, some means had to be found to make up the loss to highway revenue. The legislature made up the losses to dedicated highway funds from reduction of automobile license taxes, and for losses to transit systems of revenue formerly coming from property taxes.

In the 2003 session, the legislature made another significant change in the MVST distribution by increasing the percentage to dedicated transit funds at the expense of the share for dedicated highway funds. The transit funds' shares were intended not just to replace property tax revenue but also to make up for budget cuts in general fund appropriations for transit assistance. This allocation is intended to be in effect through fiscal year 2007.

The distribution of MVST revenue is now as follows:

- 30 percent to HUTDF, the fund dedicated exclusively to state and local highways. By constitutional dedication this money is further divided among the state trunk highway fund, the county state-aid highway fund, and the municipal state-aid street fund.
- 0.65 percent directly to the county state-aid highway fund, in addition to its share of the 30 percent above
- 0.17 percent directly to the municipal state-aid street fund, in addition to its share of the 30 percent above
- 21.5 percent to the Metropolitan Council to replace revenue lost when the

legislature abolished the council's property tax levy for transit

- 1.43 percent to the Department of Transportation for greater Minnesota transit assistance to replace revenue lost when the legislature prohibited using property taxes to subsidize greater Minnesota transit operating costs
- Beginning in fiscal year 2004, 2 percent additional to be appropriated by law for transit in the metropolitan area
- The remainder to the state general fund

The additional revenue for transit was spent for the 2004-05 biennium to partially make up for reductions in appropriations for metropolitan and greater Minnesota bus service and partly to reduce the local responsibility for Hiawatha light rail transit operating costs. This revenue was made available by effectively reducing the state trunk highway fund's share of MVST revenue from 18.8 percent to 17.7 percent, while leaving the share of MVST revenue going to local state-aid funds unchanged.

MVST Dedication

	2002	2003	2004-07	2008 and after
Highway user tax distribution fund (HUTDF)	30.86%	32%	30%	32%
County state-aid highway fund	0%	0%	.65%	0%
Municipal state-aid highway fund	0%	0%	.17%	0%
Metropolitan transit fund	0%	20.5%	21.5%	20.5%
Greater Minnesota transit fund	0%	1.25%	1.43%	1.25%
General fund	69.14%	46.25%	46.25%	46.25%

How MVST dedication may change

The 2005 Legislature passed a transportation appropriations bill that contained numerous funding initiatives, including a proposed constitutional amendment that would gradually dedicate all MVST revenue to transportation by 2012. Governor Pawlenty vetoed the bill but the constitutional amendment will still go before the people in the 2006 election, since constitutional amendments do not require the governor's approval. However, the 2006 Legislature could modify or withdraw the amendment.

The proposed amendment provides that beginning in fiscal year 2008, 63.75 percent of MVST revenues would be dedicated to transportation, with the remainder going to the general fund. The transportation percentage would rise 10 percent each year until reaching 100 percent in 2012. These percentages would override the allocation of MVST revenues in current law.

Of the transportation share, not more than 60 percent would go to the HUTDF and not less than 40 percent to public transit assistance. The actual percentages within these limits would be determined by the legislature.

For more information: Contact legislative analyst John Williams at 651-296-5045.

HOUSE RESEARCH | **Short Subjects**
The Constitution and the Legislature

Deborah A. Dyson **December 2005**

Eminent Domain: Regulatory Takings

The Takings Clause of the Fifth Amendment of the U.S. Constitution provides that private property must not be taken for public use without payment of just compensation. (The clause is made applicable to the states through the Fourteenth Amendment.) Under the Minnesota Constitution, article 1, section 13, private property must not be taken, destroyed, or damaged for public use without payment of just compensation.

What constitutes a "taking?" The classic taking is a direct appropriation or physical invasion of private property. Since 1922, however, the courts have recognized that a state statute or local ordinance may impose restrictions or demands on the use of private property that are so onerous that it amounts to a taking and the government must compensate the owner. *Lingle v. Chevron, U.S.A., Inc.*, 125 S. Ct. 2074, 2081 (2005) (citing *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393 (1922)). In these instances, called regulatory takings, the property owner brings an inverse condemnation action to compel the government to begin eminent domain proceedings and compensate the owner. A compensable regulatory taking may be temporary or permanent. *First English Evangelical Lutheran Church v. County of Los Angeles*, 482 U.S. 304 (1987).

Categorical or per se regulatory takings. There are two situations in which a court could find that a regulation is clearly a taking—a categorical or "per se" taking. First, if the regulation requires an owner to allow a physical invasion of the property, however minor, the owner must be compensated. *Lingle*, 125 S. Ct. at 2081 (citing *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419 (1982) (state law requiring landlords to permit cable TV companies to install cable facilities in apartment buildings held to be a taking)).

The second situation is when the regulation denies the owner of all economically viable use of the property and the regulation is not merely an explicit statement of common law limitations already present in the title. *Lingle*, 125 S. Ct. at 2081 (citing *Lucas v. South Carolina Coastal Council*, 505 U.S. 1003 (1992)).

Penn Central test. Apart from the two situations in which the Court would find a categorical taking or taking *per se*, there is little guidance on what constitutes a regulatory taking, and courts have relied on ad hoc factual inquiries. *Penn Central Transp. Co. v. New York City*, 438 U.S. 104, 124 (1978) (historical preservation designation limited development options for railroad station not a taking). In these cases, a court will analyze a regulatory takings claim under a three-part test in which the court, considering the parcel as a whole, looks at:

(1) the economic impact of the regulation on the owner;
(2) the extent to which the regulation interferes with distinct legitimate, investment-backed expectations; and
(3) the character of the government action—does it result in the equivalent of a physical invasion of the property or is it more a "public program adjusting the benefits and burdens of economic life to promote the common good."

Id.; Johnson v. City of Minneapolis, 667 N.W.2d 109, 114-115 (Minn. 2003) (following *Penn Central* analysis, court held that the "cloud of condemnation" over Nicollet Mall property in Minneapolis due to drawn out conflict over proposed LSGI development was a taking).

The Court does not look at whether the regulation is an effective way to achieve the stated purpose; the focus is not on the government's purpose (once public use or purpose is established), but on the impact on the property owner's rights. *Lingle,* 125 S. Ct. 2074. Each of the tests for regulatory takings looks for the functional equivalent to an appropriation or physical invasion of private property. *Id.* at 2084.

Development moratorium. Local governments have authority to impose a moratorium on development in order to protect the planning process. Minn. Stat. §§ 394.34, 462.355, subd. 4. During the moratorium, a property owner may have limited or no economically viable use of the property. The U.S. Supreme Court has held that under the federal constitution, a temporary regulation that denies all economically viable use of property is not a per se taking. The Court applies the *Penn Central* factors to determine if the regulation amounts to a compensable taking. *Tahoe-Sierra Preservation Council, Inc. v. Tahoe Reg. Planning Agency*, 535 U.S. 302 (2002); *Woodbury Place Partners v. City of Woodbury*, 492 N.W.2d 258 (Minn. App. 1992) (remanded for determination of whether moratorium constituted a taking under case-specific analysis of *Penn Central*).

Exactions. An exaction is a government requirement that a landowner dedicate land or a property interest, such as an easement, as a condition for granting a development permit. An exaction may be found to be a taking unless the government shows that there is an essential nexus between a legitimate government interest and the condition exacted. Assuming the nexus exists, there must also be a "rough proportionality" between the planned development and the required dedication. "No precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development." *Dolan v. City of Tigard*, 512 U.S. 374, 391 (1994) (permit to expand a store and parking lot conditioned on the dedication of a portion of the property for a greenway pedestrian/bicycle path held a taking); *Nollan v. California Coastal Comm'n*, 483 U.S. 825, 831-832 (1987) (permit to build a larger residence on beachfront property conditioned on dedication of an easement for public to cross a strip of property between owner's seawall and the mean hide tide mark held a taking); *see also Collis v. City of Bloomington*, 310 Minn. 5, 246 N.W.2d 19 (1976) (cited in *Dolan*); *Kottshade v. City of Rochester*, 357 N.W.2d 301, 307-308 (Minn. App. 1995) (citing *Dolan* analysis); Minn. Stat. § 462.358, subds. 2b and 2c (amended in 2004 to incorporate terms used in *Dolan*).

Minnesota's government enterprise or arbitration test. In general, a regulation that diminishes property value alone does not constitute a taking. In Minnesota, however, a regulation that is designed to benefit a government enterprise such as an airport and results in a substantial diminution in value may be a taking. *McShane v. City of Faribault*, 292 N.W.2d 253 (Minn. 1980) (airport safety zoning ordinance that limited development and caused a substantial and measurable decline in market value was a taking).

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HOUSE RESEARCH | Short Subjects

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Jury Service

The Minnesota Constitution guarantees citizens the right to a jury trial in all criminal prosecutions and in all cases at law. This right extends to criminal actions in which an offender may be sentenced to imprisonment. It also extends to civil actions in which legal relief (such as money damages) rather than equitable relief (such as performing a specific act) is sought. A jury trial is not guaranteed in situations in which the only penalty is a fine (i.e., traffic tickets). A person may waive his or her right to a jury trial. The right to a jury trial depends upon an impartial jury system.

How many people serve on a jury?

In felony cases, a jury is composed of 12 members. For all other criminal and civil cases, there are six members on a jury.

How are people selected for jury service?

All people selected for jury service must be drawn at random from the broadest feasible cross section of the population of the area served by the court. All "qualified citizens" can be considered for jury service and must serve when summoned. No one may be excluded from jury service on the basis of race, color, religion, sex, national origin, economic status, or a physical or sensory disability. Voter registration and drivers' license lists are used as jury source lists.

Who is a "qualified citizen"?

To be qualified to serve as a juror, the prospective juror must be:

- a United States citizen;
- at least 18 years of age;
- a resident of the county;
- able to communicate in English;
- physically and mentally capable of serving;
- a person who is not under a sentence for a felony conviction;
- a person who has not served as a state or federal grand or petit juror in the past two years; and
- a person who is not a judge serving in the judicial branch.

When may a person be excused from jury service?

People who are 70 years old or older are automatically excused from jury service upon request. A member, officer, or employee of the legislature is excused from jury service while the legislature is in session. If authorized by a jury commissioner, people may be excused if their ability to receive and evaluate information is so impaired that they cannot perform juror duties or if their service would be a continuing hardship to them or to members of the public.

May a person defer jury service to a later date?

Each county may establish conditions for deferral of jury service. The deferral shall be for a reasonable time, after which the prospective juror must be available for service. Examples of deferral conditions include: temporary health problems, vacation plans, employment conflicts, prescheduled medical appointments, and time needed to arrange for child care. Candidates for elected office may also request deferral during a campaign. To verify deferral conditions, consult the court or jury administration office in your county of residence.

What happens if a prospective juror fails to appear when summoned to jury service?

If a person fails to appear when summoned, the person shall be ordered by the court to appear and show cause for failure to comply with the summons. Absent a showing of good cause, the person is guilty of a misdemeanor and may be held in contempt. Failure to complete a jury qualification questionnaire results in the same sanctions. It is also a misdemeanor to willfully misrepresent a material fact on a jury qualification questionnaire for purposes of securing or avoiding jury service.

Are jurors compensated for time spent on jury duty?

Jurors are compensated for round-trip travel between their residence and the place of court. They are also compensated for their required attendance. Jurors may request child care and parking expenses. The Minnesota Supreme Court determines these compensation rates.

Are employers required to give employees time off for jury service?

Employers cannot fire or otherwise coerce an employee because the employee receives a jury summons, attends court as a prospective juror, or serves as a juror. A violation of this provision subjects an employer to criminal contempt, as well as a fine of $700 and/or six months' imprisonment. A discharged employee may also bring a civil action against the former employer for the recovery of lost wages and for an order requiring reinstatement. The employee has 30 days to bring a civil action. Damages may not exceed lost wages for six weeks. The court must award reasonable attorney's fees to a prevailing employee. Employers are not required by law to pay an employee while on jury leave.

How long is the term of jury service?

The time that a person is called upon to perform or be available for jury service varies by county. In counties with a population of 100,000 or more, a term of service must not exceed two weeks or the completion of one trial, whichever is longer. In counties with a population of less than 100,000 but more than 50,000, a term of service must not exceed two months. In counties with a population of less than 50,001, a term of service is limited to four months. With respect to persons serving up to two or four months, no person is required to continue to serve after the person has reported to the courthouse for ten days or after the completion of a trial, whichever is longer.

What is the difference between a petit jury and a grand jury?

A petit jury is a body of six to 12 people chosen and sworn in a court to try and determine by verdict any question or issue of fact in a civil or criminal action.

A grand jury is summoned when required by public interest or when requested by a county attorney. It consists of 16 to 23 people. The grand jury is sworn in to inquire as to public offenses committed or triable in the county, and report them by indictment. An indictment is an accusation in writing charging a person with a public offense. The grand jury may find an indictment only upon the concurrence of 12 or more jurors. Offenses that may be punished by life imprisonment must be prosecuted by indictment.

A grand jury is drawn to serve for a specified period of time, not to exceed 12 months. It cannot be discharged until the specified period of service is completed, its successor is drawn, or it has completed an investigation of a particular offense, whichever is the later.

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HOUSE RESEARCH | Short Subjects

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Federal Taxable Income, the starting point for calculating Minnesota income tax

What is federal taxable income (FTI)?

Federal taxable income is the tax base used to calculate federal income tax liability. It is also the starting point for calculating Minnesota taxable income, which is the tax base used to calculate Minnesota income tax liability. Federal taxable income equals federal adjusted gross income after deductions and exemptions.

Federal adjusted gross income (FAGI)	–	Standard *or* Itemized deductions	–	Personal and Dependent exemptions	=	Federal taxable Income (FTI)

What kinds of income are included in FTI?

Federal adjusted gross income includes most kinds of income: wages, salaries, and tips; taxable interest; dividends; alimony received by the taxpayer; business income or loss; capital gains or losses; other gains or losses; taxable IRA distributions; taxable pension and annuity distributions (*the taxable portion is typically determined by whether or not the contributions to the pension or annuity were included in federal adjusted gross income when they were made*); income from rental real estate, royalties, partnerships, S corporations, and trusts; farm income or loss; unemployment compensation; and taxable Social Security benefits (*the amount taxable depends on the individual's income level; at most, 85 percent of benefits are included in federal adjusted gross income*).

What kinds of income are excluded from FTI?

Federal adjusted gross income excludes: deductible IRA, SEP, and SIMPLE contributions; nontaxable employee fringe benefits; student loan interest payments; Health Savings Account contributions and investment income; moving expenses; one-half of self-employment tax; health insurance premiums (for self-employed taxpayers only); penalty on early withdrawal of savings; and alimony paid by the taxpayer.

What deductions are allowed from FTI?

Taxpayers may claim either the standard deduction or itemized deductions. In tax year 2003, the most recent year for which data is available, 58 percent of Minnesotans claimed the standard deduction and 42 percent itemized.

How much is the standard deduction?

In tax year 2006, the standard deduction is as follows:

- $10,300 for married couples filing joint returns
- $5,150 for married couples filing separate returns
- $7,550 for head of household filers
- $5,150 for single filers

What itemized deductions are allowed?

Itemized deductions are allowed for the following:

- State and local property and payments of income taxes
- Mortgage and interest
- Charitable contributions
- Medical expenses in excess of 7.5 percent of income
- Casualty and theft losses in excess of 10 percent of income
- Job expenses and miscellaneous expenses (most only allowed in excess of 2 percent of income)

What personal and dependent exemptions are allowed?

Taxpayers may claim one personal exemption each and one dependent exemption for each dependent claimed. For tax year 2006, the personal and dependent exemptions are $3,300 each. A family of four qualifies for four exemptions, totaling $13,200.

Are there limits on deductions and exemptions?

Itemized deductions are limited for taxpayers with incomes over a threshold. Taxpayers subject to the limitation must subtract from total itemized deductions the lesser of:

- 3 percent of income in excess of the threshold; or
- 80 percent of total itemized deductions, excluding deductions for medical expenses, investment interest, casualty and theft losses, and gambling losses to the extent offset by gambling gains.

Personal and dependent exemptions are phased out for taxpayers with incomes over a threshold. Taxpayers subject to the phaseout lose 2 percent of their total exemption amount for each $2,500 of income over the threshold.

Tax year 2006	Itemized deduction limit begins at	Exemption phaseout begins at
Married joint filers	$150,500	$225,750
Married separate filers	$75,250	$112,875
Single filers	$150,500	$150,500
Head of household filers	$150,500	$188,150

The income thresholds for the itemized deduction limit and the personal exemption phaseout are adjusted annually for inflation.

The federal Economic Growth and Tax Relief Reconciliation Act (EGTRRA) of 2001 gradually phases out the limitation on itemized deductions and the phaseout of personal and dependent exemptions from 2006 to 2010. In tax year 2006, the limitation and the phaseout will be reduced by one-third. The general sunset of EGTRRA provisions would reinstate the full amount of the limitation of itemized deductions and the phaseout of exemptions beginning in tax year 2011.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at 651-296-5057. Also see the House Research publication *Income Tax Terms: Deductions and Credits*, July 2005.