Short Subjects

Minnesota House of Representatives, House Research

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HOUSE RESEARCH | Short Subjects

Nina Manzi

Updated: January 2016

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, the tax base used to calculate Minnesota income tax liability. Federal taxable income equals federal adjusted gross income (FAGI) 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 FAGI?

FAGI includes most kinds of cash 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 excludes recovery of amounts that were included in FAGI when the contributions 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 FAGI). FAGI does not include child support received by the taxpayer.

What kinds of income are excluded from FAGI?

FAGI excludes: deductible IRA, SEP, SIMPLE, and other retirement contributions; nontaxable employee fringe benefits; deductible 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; alimony paid by the taxpayer; $250 of teacher classroom expenses, and, through tax year 2016, up to $4,000 of tuition expenses for higher education. FAGI does not exclude child support paid by the taxpayer.

What deductions are allowed from FTI?

Taxpayers may claim either the standard deduction or itemized deductions. In tax year 2013, the most recent year for which data is available, 62 percent of Minnesotans claimed the standard deduction and 38 percent itemized.

How much is the standard deduction?

In tax year 2016, the standard deduction is as follows:

- $12,600 for married couples filing joint returns
- $6,300 for married couples filing separate returns
- $9,300 for head of household filers
- $6,300 for single filers

What itemized deductions are allowed?

In tax year 2016 itemized deductions are allowed for the following:

- Payments of state and local property taxes and either income or sales taxes
- Mortgage interest and mortgage insurance premiums
- Charitable contributions
- Medical expenses and health insurance premiums in excess of a percentage of FAGI (7.5 percent for filers age 65 and older, 10 percent for all others)
- 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 2016, the personal and dependent exemptions are $4,050 each. A family of four qualifies for four exemptions, totaling $16,200.

Are there limits on deductions and exemptions?

The federal American Taxpayer Relief Act of 2012 (ATRA) revived and made permanent the limitation on itemized deductions and phaseout of personal and dependent exemptions for taxpayers with incomes over a threshold.

The limit takes away some of the benefit of the deduction for higher income taxpayers. Taxpayers subject to the limit have their deductions reduced by 3 percent of their FAGI over the applicable thresholds. But they are always guaranteed 20 percent of the deductions, no matter how high their FAGIs are.

ATRA also provides for personal and dependent exemptions to be phased out for taxpayers with incomes over a threshold. Affected taxpayers lose 2 percent of their total exemption amount for each $2,500 of income over the threshold.

The table shows the income thresholds for the itemized deduction limitation and the personal and dependent exemption phaseout in effect in tax year 2016. The income thresholds are adjusted annually for inflation.

Tax year 2016	**Itemized deduction limit and personal and dependent exemption phaseout begins at**
Married joint filers	$311,300
Married separate filers	$155,650
Single filers	$259,400
Head of household filers	$285,350

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 2015.

Nina Manzi

Updated: January 2016

The Federal Earned Income Tax Credit and Minnesota Working Family Credit: An Overview

What are the credits?

The federal earned income tax credit (EITC) and Minnesota working family credit (WFC) equal a percentage of the earnings of low-income individuals. The credits are refundable; if the credit exceeds a filer's tax liability, the rest is paid as a refund. Since these credits increase their recipients' earnings, they act as wage supplements and are thought to provide a work incentive.

Who is eligible for the credits?

Anyone with wages or self-employment income may be eligible to claim the EITC and the WFC. In tax year 2016, individuals with more than $3,400 in interest income, dividends, rental and royalty income, and capital gain income do not qualify.

How are the credits calculated?

The credits equal a percentage of earned income, up to a maximum credit amount, and are phased out when the claimant's total income exceeds a threshold. The maximum credit amounts and income levels at which the credits are phased out vary depending on the number of children in the household and whether the claimants are married. Both the maximum credit and the phaseout threshold are adjusted annually for inflation. In tax year 2016, the maximum credits, phaseout threshold, and income level at which the credits are no longer allowed are as follows:

	Maximum credit		**Phaseout threshold**		**Income at which credit fully phased out**	
	EITC	WFC	EITC	WFC	EITC	WFC
Unmarried claimants						
No children	$506	$133	$8,270	$8,300	$14,880	$14,893
1 child	$3,373	$1,061	$18,190	$21,620	$39,296	$39,248
2 children	$5,572	$2,047	$18,190	$25,640	$44,648	$44,560
3 or more children	$6,269	$2,047	$18,190	$25,640	$47,955	$44,560
Married claimants						
No children	$506	$133	$13,820	$13,850	$20,430	$20,443
1 child	$3,373	$1,061	$23,740	$27,170	$44,846	$44,798
2 children	$5,572	$2,047	$23,740	$31,190	$50,198	$50,110
3 or more children	$6,269	$2,047	$23,740	$31,190	$53,505	$50,110

How do filers claim the credits?

Filers claim the credits when they file their federal and state income tax returns, by completing a schedule or worksheet.

How many Minnesotans claim the credits?

In tax year 2013, 361,120 Minnesota returns claimed the EITC and 339,901 claimed the WFC. These claims represent 13.6 percent of all federal returns filed by Minnesotans and 12.3 percent of all state returns filed by Minnesota residents. The number of EITC claims exceeds the number of WFC claims mostly because in 2013, the higher EITC rate for families with three or more children resulted in the

EITC for large families extending to higher incomes than did the WFC, which did not have a higher rate for families with three or more children.

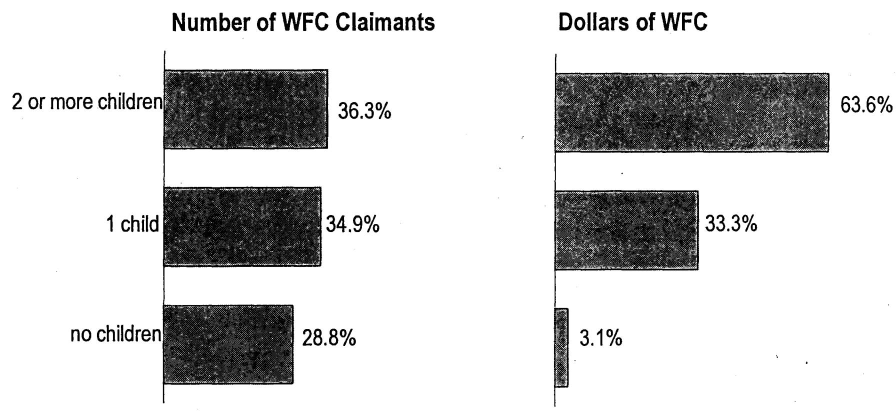
How much is paid out in credits?

In tax year 2013, Minnesotans claimed $753 million in EITC, of which $92 million offset tax liability, and the remaining $661 million was paid as a refund. The average EITC claimed by Minnesotans was $2,085.

Minnesota returns claimed an additional $212 million in WFC, of which $38.5 million offset tax liability, and the remaining $173.5 million was paid as a refund. The average WFC was $623.

How are the credits distributed among different types of families?

Seventy-one percent of all working family credits went to families with one or more children. These families received about 97 percent of the total amount of credits paid in 2013. Individuals without children filed 28.8 percent of returns claiming credits, but received only 3.1 percent of the total amount of credits. Claimants with children received most of the total amount of credits because these families qualify for a higher maximum credit than do claimants without children. The distribution of earned income tax credits is similar.



How are the credits distributed geographically?

In 2013 about half of the returns claiming credits were in the Twin Cities metropolitan area and half in Greater Minnesota; 19 percent of returns in Wadena County claimed credits, compared with only 7 percent in Carver County. The highest average credit went to Watonwan County claimants, at $709, and the lowest to Lake of the Woods County claimants, at $535.

How does Minnesota compare with other states?

Nationwide, 19.4 percent of all income tax returns claimed the EITC, compared to 13.6 percent in Minnesota. The average EITC nationwide in 2013 was $2,362; it was $2,085 in Minnesota. Minnesota's number of recipients and credit amounts are lower than the national averages because state residents have above-average incomes.

In tax year 2015, 25 other states and the District of Columbia provide a state version of the EITC. In most cases the state credit equals a percentage of the federal EITC.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research information brief *The Federal Earned Income Tax Credit and the Minnesota Working Family Credit*, March 2013.

Nina Manzi

Updated: January 2016

The Minnesota and Federal Dependent Care Tax Credits: An Overview

What are the credits?

The Minnesota and federal dependent care credits partially offset the cost of child care for certain workers. The maximum Minnesota credit is $720 for one child and $1,440 for two or more children. The maximum federal credit is $1,050 for one child and $2,100 for two or more children.

Are the credits refundable?

The Minnesota credit 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. The federal credit is not refundable and may only be used to offset federal income tax liability.

Who is eligible for the credits?

Anyone who incurs expenses related to the care of a dependent and related household expenses may be eligible to claim the credits. The claimant must:

- maintain a household that includes the dependent;
- pay for care for a dependent under age 13, or a disabled spouse or adult dependent; and
- pay for care in order to work or look for work.

What are qualifying expenses?

Qualifying expenses are amounts paid for the care of a dependent under age 13, or a disabled spouse or adult dependent, but do not include amounts paid to the claimant's spouse or another dependent.

Qualifying expenses may not exceed the claimant's earned income (for married couples filing joint returns, expenses may not exceed the earned income of the lesser earning spouse). Maximum allowable qualifying expenses are reduced by amounts paid through dependent care pre-tax accounts.

How are the credits calculated?

The *federal credit* equals 35 percent of up to $3,000 of qualifying expenses for one child ($6,000 of qualifying expenses for two or more children). The maximum federal credit is $1,050 for one child and $2,100 for two or more children. The federal credit percentage rate begins to phase down when income exceeds $15,000, with the credit percentage decreasing as income increases. Claimants with incomes over $43,000 qualify for the minimum federal credit rate of 20 percent of qualifying expenses, or up to $600 for one child and $1,200 for two or more children. For example, a claimant with $50,000 of income and $1,000 of expenses will qualify for a credit of $200 (20 percent of $1,000).

The *state credit* equals the lesser of the federal credit, or $720 for one child ($1,440 for two or more children). The state credit is calculated by reference to the federal credit for which the claimant is eligible, not the amount the claimant could have used to offset federal liability.

The state credit is subject to an income phaseout. (By contrast, the federal credit rate phases down to a minimum percentage but is never totally phased out.) In tax year 2016, the state phaseout begins when income exceeds $25,860, and the state credit is fully phased out when income exceeds $39,510. The income threshold for the phaseout is adjusted each year for inflation.

How do filers claim the credits?

Filers claim the credits when they file their federal and state income tax returns, by completing a separate schedule—Form 2441 for the federal credit and schedule M1CD for the state credit.

How many Minnesotans claim the credits?

In tax year 2013, 150,170 Minnesotans claimed the federal dependent care credit and 34,049 claimed the state credit. These claims represent 5.7 percent of all federal returns filed by Minnesotans and 1.3 percent of all state returns filed.

Because the federal credit is nonrefundable and can only be used to offset tax liability, most of the federal credits are claimed by middle- and upper-income filers who have income over $43,000 and qualify for the minimum credit amount.

Because the state credit is refundable and subject to an income-based phaseout (from $24,920 to $38,570 in tax year 2013, the year of the data), most of the state credits are claimed by low-income filers.

How much is paid out in credits?

In tax year 2013, Minnesotans claimed $71.6 million of federal dependent care credits. The average federal dependent care credit was $477.

In tax year 2013, Minnesotans claimed $12.1 million of state dependent care credits. The average state dependent care credit was $356.

How does Minnesota compare with other states?

Nationwide, 4.3 percent of all income tax returns claimed the federal dependent care credit, compared to 5.7 percent in Minnesota. Nebraska had the highest percentage of returns claiming the federal credit at 6.3 percent, and West Virginia had the lowest at 2.3 percent.

The average federal dependent care credit in 2013 was $542 nationwide and $477 in Minnesota. New York had the highest average credit at $594, and Wisconsin had the lowest at $466. Minnesota's average credit amount may be lower than the national averages because state residents have above-average incomes, or because Minnesotans are more likely to receive child care assistance or use pre-tax dependent care accounts, reducing the amount of qualifying expenses.

How is Minnesota affected by the ATRA changes to the federal credit?

In the 2014 session, Minnesota enacted legislation to conform the state credit calculation phaseout to the larger federal credit allowed under the American Taxpayers Relief Act of 2012 (ATRA), beginning in tax year 2014. For tax year 2013, Minnesota claimants were required to determine their state credit by reference to the smaller federal credit that would have been in effect had ATRA not been enacted. Beginning in tax year 2014, Minnesota claimants will determine their state credit by reference to the current federal credit.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research information brief *The Minnesota and Federal Dependent Care Tax Credits*, February 2014.

Nina Manzi and Joel Michael January 2016

Historic Structure Rehabilitation Credit

To encourage preservation of historic buildings, Minnesota allows tax credits (or grants in lieu of the credit) to individuals and entities that spend substantial amounts rehabilitating qualifying buildings. This credit and grant program ("Historic Structure Rehabilitation Credit" or "Historic Credit") mirrors the similar federal income tax credit and is administered in much the same way. The program was enacted in 2010 and is scheduled to expire after fiscal year 2021.

What projects qualify for credits or grants?

To qualify for a credit or grant, the project must also qualify for the federal tax credit. That requires projects to:

- rehabilitate a building that is certified as a historic structure by the National Park Service (NPS)—that is, the building either must be on the national register or be certified as contributing to a registered historic district;
- be an income-producing property (e.g., rental housing qualifies but owner-occupied residences do not); and
- spend "substantial" amounts on rehabilitation work that meets NPS standards.

What is the credit rate?

The credit rate is 20 percent. (The federal credit rate is also 20 percent, so the combined state and federal credit can equal up to 40 percent of qualifying expenses.) The grant in lieu of the credit equals 90 percent of the credit, so its effective rate is 18 percent (20% x 90% = 18%). No maximum or "cap" applies.

What expenses qualify for the credit?

The credit applies to expenditures to rehabilitate a qualifying building. The amount spent must be substantial, which federal law defines as the greater of (1) $5,000 or (2) the tax basis of the property. The credit cannot be used to pay for:

- acquiring the property;
- personal property (e.g., equipment that doesn't become part of the building);
- enlargement or expansion of the building; or
- site work.

Who administers the credit and what actions must taxpayers take to qualify?

The federal and state credits are jointly administered by the tax administrators (the federal Internal Revenue Service and Minnesota Department of Revenue) and the agencies responsible for historic preservation (NPS and Minnesota State Historic Preservation Office or SHPO). To receive the tax credits or grants, projects must go through a multi-part certification process administered by SHPO and NPS. This process generally must begin before work starts on the project. Credits are paid only after completion of work and when the project is "placed in service." Detail on these processes (for both the federal and Minnesota credits) is available on the websites of the NPS and Minnesota Historical Society.

Which taxes are the credits allowed against?

The Minnesota credit is allowed against any of the following taxes: the individual income, corporate franchise, or insurance premiums taxes. The credit is refundable and the taxpayer may assign or sell the credit (once) to another individual or entity.

How do the federal and state credits affect calculation of federal and state taxes?

The federal and state credits are direct subtractions from tax liability, so they provide a dollar-for-dollar reduction in tax liability under the respective federal and state taxes. (Because the Minnesota credit is refundable, the full amount is paid regardless of the amount of the tax liability.) Allowance of the credit also has other effects on calculation of tax. Federal law provides that the federal credit reduces tax basis and that straight-line (rather than accelerated) depreciation must be used for the project. These rules flow through to calculation of Minnesota individual or corporate tax and result in some of the apparent benefit of the credit being offset by a reduction in tax benefits available to similar real estate investments that are not allowed the credit.

In addition, because state income taxes are deductible (e.g., as business expenses) by real estate investors, federal income tax will rise as a result of allowance of the state credit—in effect, the state credit increases federal tax.

What is the purpose of the grant option?

The Minnesota program allows projects to claim a grant (equal to 90 percent of the credit amount) instead of a credit. The grant is paid by the Minnesota Historical Society and no differences in qualifying rules apply to a grant versus a tax credit. The grant may be paid to an entity other than a taxpayer. The grant option allows projects involving tax-exempt entities an option for avoiding the indirect federal income tax on state tax credits, as described above. How successful it is in achieving that goal is unclear, since the federal tax treatment of the grants is somewhat uncertain.

What is the fiscal impact of the program?

The table shows Minnesota Management Budget's forecast of the tax credit and the grant-in-lieu-of-credit amounts for fiscal year 2014 though fiscal year 2019 for the November 2015 revenue forecast. Fiscal years 2014-15 are actual amounts. Amounts are in thousands. The forecast is based on SHPO application and certification data.

Fiscal year	Tax Credit	Grant
2014	$12,244	$344
2015	56,704	-
2016	50,753	3,066
2017	68,055	2,162
2018	35,336	1,710
2019	28,879	1,350

Where are most projects located?

To date, most projects have been located in Minneapolis and St. Paul, which have recently experienced robust real estate development and where many historic buildings are located. Through fiscal year 2015 (the most recent year with actual data), 75 percent of the projects and 96 percent of the credit/grant amounts were in Minneapolis and St. Paul.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn.

Colbey Sullivan and Nina Manzi **Updated: January 2016**

Economic Forecasts, Budget Surpluses, and Budget Shortfalls

When are economic forecasts prepared?

The commissioner of Minnesota Management and Budget (MMB) must prepare a forecast of state revenues and expenditures twice each year—in February and November.

What are the forecasts used for?

The November forecast in even-numbered years becomes the basis for the governor's budget recommendations to the legislature. The November 2014 forecast provided the revenue and expenditure projections that the governor used to develop the budget proposal for the fiscal year 2016-2017 biennium, which runs from July 1, 2015, to June 30, 2017. The November 2014 forecast also showed that the state was on track to finish the fiscal year 2014-2015 biennium with a positive balance.

The February forecast modifies the preceding November's forecast with any new data that's available. The February 2015 forecast provided the revenue and expenditure projections that the legislature used in adopting a budget for the fiscal year 2016-2017 biennium. Following the February forecast, the governor submitted modifications to the budget proposal developed from the November forecast, which are called "supplemental budget recommendations." The February 2015 forecast also provided an update on the status of revenues and expenditures in the current biennium.

The November forecast in odd-numbered years and the February forecast in even-numbered years also provide updates on revenues and expenditures in the current biennium. Using the projections of the November 2015 and February 2016 forecasts, the governor may make additional "supplemental budget recommendations" proposing changes to the fiscal year 2016-2017 budget during the 2016 legislative session. The legislature will use the projections in the February 2016 forecast to ensure that the fiscal year 2016-2017 biennium closes with a balanced budget.

What if a forecast shows a budget shortfall?

If a forecast projects a shortfall for the *general fund in the current biennium*, the commissioner of MMB may reduce the budget reserve account as needed to balance revenues with expenditures. If there isn't enough money in the budget reserve to balance the general fund in the current biennium, and if a balanced budget has been enacted for the biennium, then the commissioner may also reduce outstanding appropriations, commonly referred to as "unalloting." Before reducing the budget reserve or unalloting appropriations, the commissioner must obtain the approval of the governor and must consult with the Legislative Advisory Commission. When the legislature is in session, the governor typically makes recommendations to the legislature on how to resolve the shortfall before approving use of the budget reserve or unalloting.

What if the forecast shows a budget surplus?

If a forecast shows a surplus for the *general fund in the current biennium*, the commissioner of MMB must allocate the surplus in priority order as follows:

1. to the cash flow account, until it reaches $350 million (currently satisfied)
2. to the budget reserve account, until it reaches $810.992 million (currently surpassed)
3. to increase the school aid payment schedule to 90 percent, in increments of one-tenth of 1 percent with any residual amount deposited in the budget reserve (currently satisfied)
4. to restore previous school aid reductions and reduce the property tax recognition shift accordingly (currently satisfied)
5. to the closed landfill investment fund, until $63.215 million has been transferred to the fund (satisfied as of Nov. 2015 forecast)
6. to the metropolitan landfill contingency action trust account, until $8.1 million has been transferred to the account (satisfied as of the Nov. 2015 forecast).

If a November forecast projects a surplus and priorities (1) to (6) have been satisfied, 33 percent of the surplus is transferred to the budget reserve, until the reserve reaches the percentage of the current biennium's revenues recommended as a reserve. The commissioner must update the percentage each September based on a review of the adequacy of the reserve and the volatility of Minnesota's tax structure. Under this requirement, the commissioner transferred $594 million to the budget reserve after the November 2015 forecast, bringing the amount in the reserve to $1.597 billion.

Any surplus remaining after meeting the six priorities and making the 33 percent transfer is reported in the forecast as a "positive unrestricted budgetary general fund balance." For the fiscal year 2016-2017 biennium, this balance is $1.206 billion.

What are recent changes to treatment of budget surpluses?

Laws 2014, chapter 150, required the commissioner to recommend a budget reserve level specified as a percentage of current biennium revenues, to update the percentage each January, and to transfer 33 percent of a November forecast surplus to the reserve. Laws 2015, chapter 77, pushed the commissioner's annual update back to September.

Laws 2015, first special session, chapter 4, transferred money from two landfill cleanup accounts to the general fund. The law required the commissioner to transfer the funds back once sufficient surplus general fund dollars became available. With the November 2015 forecast, a sufficient surplus exists and this requirement will expire after the commissioner makes the required transfers.

For more information: Contact legislative analyst Colbey Sullivan at 651-296-5047 or Nina Manzi at 651-296-5204. Also see the House Research publication *Unallotment: Executive Branch Power to Reduce Spending to Avoid a Deficit,* December 2010.

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

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Lisa Larson

February 2016

The Every Student Succeeds Act (ESSA)

Congress recently passed a new federal education law, the Every Student Succeeds Act (ESSA), that changes requirements governing states' academic standards, student testing, school accountability, and teacher effectiveness. ESSA replaces the No Child Left Behind Act, which had been in effect since 2001.

The ESSA is a reauthorization of a federal law designed to serve educationally disadvantaged students

The Every Student Succeeds Act (ESSA) reauthorizes the Elementary and Secondary Education Act (ESEA), which was signed into law by President Lyndon B. Johnson in 1965 to improve the quality of elementary and secondary education. The ESEA required state and local education agencies and other entities receiving federal financial assistance through Title I and other programs to help schools better serve educationally disadvantaged students.

The ESSA has some of the same requirements as its predecessor, the 2001 No Child Left Behind Act (NCLB), affecting student testing and reporting, among other things. The ESSA also has different requirements affecting state academic standards, state accountability measures, teacher effectiveness, school improvement, a well-rounded education, and federal education funding. State NCLB waivers expire on August 1, 2016, but states must continue to support low-performing "priority" schools and "focus" schools with large achievement gaps until state ESSA plans become effective in the 2017-2018 school year.

The ESSA aligns content standards, student achievement, and postsecondary requirements

The ESSA requires states to adopt challenging content standards in reading, math, and science, and three academic achievement levels aligned with state requirements for credit-bearing postsecondary courses and career and technical education. States may develop alternative academic achievement standards for 1 percent of students with the most significant cognitive disabilities. States must align English language proficiency standards with state content standards so English learners can master academic coursework.

The ESSA requires annual student testing in specific subjects

Like NCLB, the ESSA requires states to administer reading and math tests annually in grades 3 through 8 and one time in high school. In addition, science tests are required in each of three grades spans (3-5, 6-9, and 10-12). The tests must be aligned with state academic standards. States must report student performance data at the school level and by separate student subgroups, including English proficiency, disability, race, and poverty.

The ESSA allows states some flexibility in testing. States can either administer a single cumulative test at the end of year or combine the results of multiple tests over the course of the year. In addition, the law requires at least 95 percent of students to take the tests required for accountability, but allows states to determine the consequences for opting out of the tests.

The ESSA requires states to develop an accountability system

The ESSA eliminates adequate yearly progress (AYP) and the requirement for 100 percent proficiency in reading and math under NCLB. The ESSA requires states to develop an accountability system that includes: reading and math proficiency for all public schools and students and each student subgroup; academic growth or another statewide indicator allowing for "meaningful differentiation" for all elementary and middle schools; high school graduation rates; and the progress of English learners in achieving English proficiency. States must include at least one indicator of school quality or student success and assign weight to each indicator, giving more weight to academic factors, in order to identify underperforming schools and students.

NCLB and the ESSA identify the same student subgroups for accountability and reporting purposes. However, the ESSA also requires reports on homeless students, students with military parents, and students in foster care and, for annual state and district report cards, it requires civil rights data, data on teacher qualifications and postsecondary enrollment rates, and other data.

The ESSA requires states to identify schools for support and improvement

The ESSA requires states to use accountability data to identify schools for "comprehensive support and improvement" once every three years. These schools must include at least the lowest-performing 5 percent of all Title I schools (high-poverty schools receiving federal Title I funds to help at-risk students), public high schools where less than two-thirds of students graduate, and schools where one or more student subgroups consistently underperform. Districts must collaboratively develop a plan to improve school outcomes and may offer intra-district transfers. Schools unable to meet state improvement criteria within four years receive additional targeted support and intervention.

The ESSA requires states to distribute effective teachers

The ESSA eliminates the definition of "highly qualified teacher" under NCLB, continues to require that teachers and paraprofessionals working in Title I-funded programs meet state certification and licensure criteria, and allows parents of students attending a Title I school to request information about their child's educators. States and districts must ensure that poor and minority students enrolled in Title I schools are not served by ineffective teachers and must report the methods and criteria used to measure teacher and principal effectiveness.

The ESSA redefines professional development, expands educators' access to it, and creates leadership academies and teacher residency programs. It does not require teacher evaluations premised on student outcomes, but instead provides competitive state and local grants for performance-based teacher and principal compensation systems in high-need schools that must improve student achievement.

The ESSA creates a new block grant program to improve student learning

The ESSA includes a new block grant to improve conditions for student learning and students' use of technology. The program uses a formula to distribute state grants and requires states to allocate at least 95 percent of grants to districts. Other ESSA funding is available for early childhood education and after-school and other activities to support safe and healthy schools and a well-rounded education.

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

HOUSE RESEARCH | Short Subjects

Nina Manzi

Updated: February 2016

Minnesota's Individual Income Tax

How much are income tax revenues?

Minnesota's income tax revenues equaled $10.4 billion in fiscal year 2015, about 46 percent of state tax collections and 40 percent of all state revenues.

What is the tax base used to calculate Minnesota's income tax?

Minnesota's income tax applies to a base of Minnesota taxable income (MTI). The starting point for calculating MTI is federal taxable income (FTI), which is the income measure used in determining federal income tax liability. In calculating MTI, taxpayers are required to add certain types of income to FTI and allowed to subtract other kinds of income. Some of the subtractions are required under federal law. For more detail on these adjustments, see the House Research publication *Minnesota Taxable Income,* June 2015.

What are the income tax rates and brackets?

Minnesota's income tax is a graduated tax, with four rates: 5.35 percent, 7.05 percent, 7.85 percent, and 9.85 percent. The rates are applied to income brackets that vary by filing status. Married couples filing joint returns are allowed the most generous (widest) brackets, followed by head of household filers (single parents maintaining a household), unmarried single filers, and married separate filers.

The table shows the income tax brackets in effect for each rate in tax year 2016 (brackets for married taxpayers, filing separately, are half the width of the married joint brackets):

	Married Joint	**Single**	**Head of Household**
5.35%	$0 to $36,820	$0 to $25,180	$0 to $31,010
7.05%	$36,821 to $146,270	$25,181 to $82,740	$31,011 to $124,600
7.85%	$146,271 to $259,420	$82,741 to $155,650	$124,601 to $207,540
9.85%	Over $259,420	Over $155,650	Over $207,540

A married couple filing a joint return owes income tax equal to 5.35 percent of their first $36,820 of taxable income, 7.05 percent of income from $36,821 to $146,270, 7.85 percent of taxable income from $146,271 to $259,420, and 9.85 percent of taxable income over $259,420. The income tax brackets are adjusted each year for inflation.

What income tax credits does Minnesota allow?

Minnesota allows taxpayers to claim several credits against tax liability. Credits that may be used only to reduce liability, called nonrefundable credits, include the following (and the amount claimed most recently):

- Credit for taxes paid to other states ($233 million in tax year 2014)
- Marriage credit ($83.3 million in fiscal year 2016)
- Credit for past military service ($400,000 in fiscal year 2016)
- Long-term care insurance credit ($8.8 million in fiscal year 2016)

- Research and development credit ($17.4 million in fiscal year 2016)
- Employer transit pass credit (less than $50,000 in fiscal year 2016)

In addition, in tax year 2016 Minnesota allows nine refundable credits, which are paid as refunds to taxpayers even if the credit amount is greater than their income tax liability (and the amount refunded most recently):

- Working family (earned income) credit ($260.3 million in fiscal year 2016)
- Dependent care credit ($14.2 million in fiscal year 2016)
- K-12 education credit ($13.3 million in fiscal year 2016)
- Military combat zone credit ($0.8 million in fiscal year 2016)
- Job opportunity building zone (JOBZ) credit ($2.0 million in fiscal year 2016)
- Bovine tuberculosis testing credit (none allowed in fiscal year 2016; no testing required)
- Enterprise zone credit ($400,000 in fiscal year 2016)
- Angel investment credit ($15.0 million in fiscal year 2016)
- Historic structure rehabilitation credit ($53.5 million in fiscal year 2016)
    - the historic credit is available to both corporate and individual taxpayers; to date most claims have come from corporate taxpayers.

Credit amounts are from the Minnesota Department of Revenue's *Tax Expenditure Budget, Fiscal Years 2016-2019,* and income tax return processing data.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn. Also see the House Research publications, *Minnesota Taxable Income*, June 2015; *The Minnesota Income Tax Marriage Credit*, November 2013; *The Minnesota and Federal Dependent Care Tax Credits*, February 2014; *The Federal Earned Income Credit and the Minnesota Working Family Credit,* March 2013; *Income Tax Deductions and Credits for Public and Nonpublic Education in Minnesota*, September 2011; and *Income Tax Terms: Deductions and Credits*, July 2015.

HOUSE RESEARCH | Short Subjects

Mary Mullen

February 2016

The Tribal Law and Order Act and Minnesota

The Tribal Law and Order Act of 2010 allows reservations in Public Law 280 states, where criminal jurisdiction is handled by the state and county prosecutors, to apply for concurrent federal jurisdiction. The purpose of the law is to increase the resources available to tribes for the investigation and prosecution of crimes in Indian country.

How does the Tribal Law and Order Act (TLOA) affect Minnesota?

The United State Department of Justice has recently accepted requests from two Minnesota tribes providing concurrent federal jurisdiction over crimes on those reservations.

- The White Earth Band was granted concurrent jurisdiction, which took effect on June 1, 2013.
- The Mille Lacs Band of Ojibwe was granted concurrent jurisdiction, and the jurisdiction will become effective January 1, 2017.

How does the law work?

The TLOA allows tribes to request concurrent federal jurisdiction over crimes on reservations, and once that request has been approved, the federal prosecutor can investigate and prosecute crimes on the reservation in the same way those crimes are prosecuted on reservations where Public Law 280 does not apply. (See more about Public Law 280 below.)

On the White Earth Reservation and the Mille Lacs Band Reservation, the Major Crimes Act and the General Crimes Act will apply. The Major Crimes Act allows for federal prosecution of the following crimes: murder, manslaughter, rape, assault with intent to kill, arson, burglary, larceny, kidnapping, incest, assault with a dangerous weapon, assault resulting in serious bodily injury, assault with intent to commit rape, robbery, and felonious sexual molestation of a minor (18 U.S.C. § 1153). The General Crimes Act includes the general federal criminal laws, including many of the same crimes included in the Major Crimes Act (18. U.S.C § 1152).

After a tribe has had concurrent federal jurisdiction granted, the state's criminal jurisdiction will not change, but the federal government will also have jurisdiction over the crimes covered by the Major Crimes Act and the General Crimes Act. It is important to note that the federal government always has jurisdiction over certain crimes that occur anywhere in the United States, including Indian country, pursuant federal laws of general applicability such as the Controlled Substances Act.

Does the TLOA change the state's criminal jurisdiction?

A federal law passed in 1953, commonly called Public Law 280, gave Minnesota criminal jurisdiction over all the reservations located in the state, except the Red Lake Reservation. In 1973, Minnesota approved the retrocession of the Bois Forte Reservation in northeastern Minnesota from Public Law 280. Other than the Red

Lake and Bois Forte (Nett Lake) Reservations, all of the other federally recognized tribes (http://mn.gov/indianaffairs/tribes.html) in Minnesota are subject to state criminal jurisdiction (18 U.S.C. § 1162).

The TLOA does not change the state's criminal jurisdiction. Tribal members are still subject to state and tribal criminal laws. The difference is that on the White Earth Reservation and, starting in 2017, on the Mille Lacs Reservation, members of federally recognized tribes may be subject to federal prosecution for certain crimes.

Does the TLOA change the tribe's criminal jurisdiction?

The criminal jurisdiction the tribe has over members of federally recognized American Indian Tribes did not change under the TLOA. Those tribes still have the ability to arrest and prosecute individuals to the extent allowed by the Indian Civil Rights Act of 1968, which allows tribes to impose a fine up to $5,000 and up to one year in jail. However, the TLOA has now created an opportunity for tribes to implement enhanced sentencing powers.

The TLOA created the potential to enhance criminal sentencing for tribal courts when the courts have met certain requirements (25 U.S.C. § 1302(b)). Under TLOA, a tribal court must: guarantee the right to defense counsel for indigent clients; provide a judge who is licensed to practice law; be a court of record; make the tribal criminal code be publicly available; and have rules of evidence and rules of criminal procedure (25 U.S.C. § 1302).

Currently, no Minnesota tribes have the enhanced criminal sentencing authority provided for under the TLOA. The National Congress of American Indians has a list of tribes that have begun using enhanced sentencing or who are close to implementing programs in other states (http://tloa.ncai.org/tribesexercisingTLOA.cfm).

The TLOA does not change the tribe's criminal jurisdiction over non-Indians. Tribes have very limited jurisdiction over non-Indians, however the Violence Against Women's Act (VAWA) provides some exceptions. (See the House Research publication *American Indians, Indian Tribes, and State Government,* February 2014, for more information.)

How is the TLOA funded?

The TLOA provided increased federal funding for a number of programs administered by the Department of Justice and other federal agencies, as well as funding grants for criminal justice related programs for American Indian Tribes.

For more information: Contact legislative analyst Mary Mullen at 651-296-9253. Also see the House Research publication *American Indians, Indian Tribes, and State Government,* February 2014.

Matt Burress Updated: February 2016

Motor Vehicle Sales Tax

The motor vehicle sales tax has become a key transportation funding source following passage of a 2006 constitutional amendment dedicating its revenue. Fiscal year 2015 revenue totaled $694.3 million, distributed 60 percent to state and local highway systems and 40 percent to transit.

MVST imposition

The motor vehicle sales tax, or MVST, is a 6.5 percent tax applied to the sale of new and used motor vehicles based on the purchase price. It is imposed instead of the state general sales tax. Some older automobiles as well as collector's vehicles have flat tax rates instead. Minn. Stat. §§ 297B.02, 297B.025. MVST is collected by auto dealers at the time of sale or by registrars when the vehicle is registered (for private sales).

Historical allocations

Historically, MVST revenue had been allocated both to the state's general fund and to transportation purposes, with periodic changes and suspension in the amount provided to transportation. A series of legislative changes from 2000 to 2003 resulted in increased MVST revenue distributed to roads and transit. (However, the modifications essentially served to offset reductions in other funding sources, like the general fund, rather than to substantially increase transportation funding.) Changes connected to MVST reallocations during this time included:

- placing caps on the amount of registration taxes (tab fees) collected on motor vehicles (which were subsequently removed in 2008); and
- eliminating local property taxes as a key funding source for Twin Cities metropolitan area transit operations.

The 2006 constitutional amendment

At the 2006 general election, voters approved a constitutional amendment dedicating all MVST revenue to transportation purposes. The constitutional language established a floor for allocation to transit and a ceiling for allocation to roads. It required that:

- "not less than 40 percent" go to public transit assistance; and
- "no more than 60 percent" of the revenue go to the Highway User Tax Distribution (HUTD) fund, which in turn is constitutionally dedicated to state and local highways. Minn. Const. art. XIV, § 13.

The amendment also specified a phase-in period for shifting revenue from the state's general fund to transportation; this occurred over fiscal years 2008 to 2012.

MVST allocation

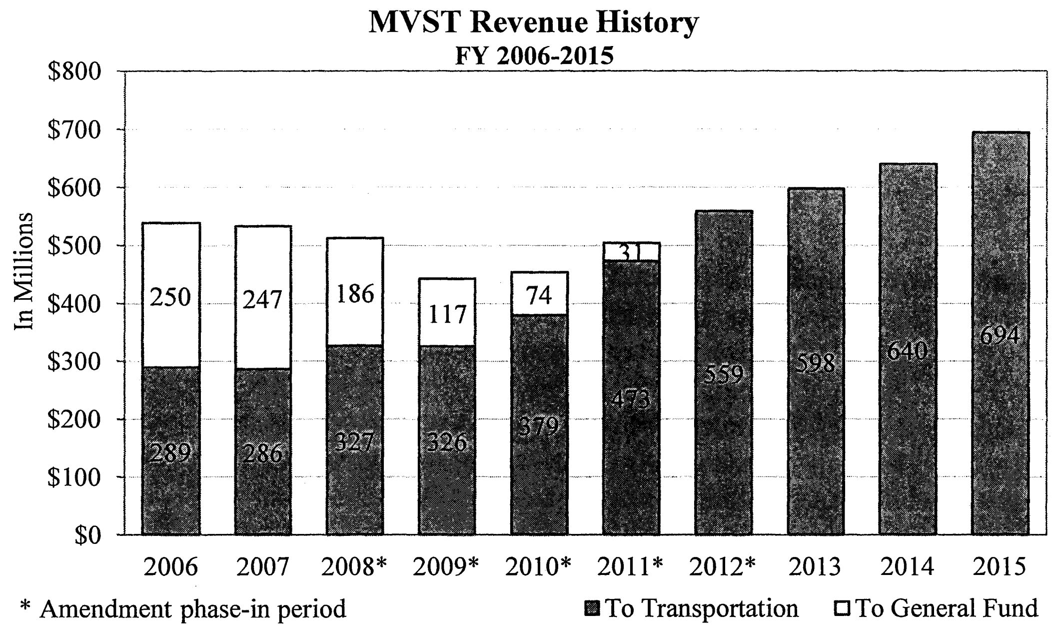
Within the constitutional limits, the legislature can by statute set the division between highways and transit. Legislation passed in 2007 allocated MVST revenue for the phase-in period and after. Minn. Stat. § 297B.09. It was temporarily modified in 2009 by shifting additional funds from highways to transit for fiscal years 2010 and 2011 only (which was designed to help offset reductions in transit funding from the general fund).

Since fiscal year 2012 (at completion of the phase-in), revenue is distributed:

- 60 percent to highways (via the highway user tax distribution fund); and
- 40 percent to transit, which consists of 36 percent for the Twin Cities metropolitan area and 4 percent for Greater Minnesota.

Revenue

The following chart summarizes historical revenue and distribution. One feature of note is that while the phase-in over fiscal years 2008-2012 increased transportation funding, the net increase was impacted by reduced MVST collections.



Revenue from the constitutional amendment

Additional funds for transportation purposes attributable to the MVST constitutional amendment (assuming no other changes to the allocation that had been in effect) amount to an estimated $1.63 billion over fiscal years 2008 to 2015. There has been an equivalent reduction in revenue to the general fund. Attributable funding is summarized in the table below.

Est. Transportation Funding from the Constitutional Amendment

	FY 2008-15
HUTD fund	$969.8
Metropolitan transit	558.8
Greater Minnesota transit	101.1
Total	**1,629.7**
Note: Amounts are in millions.	

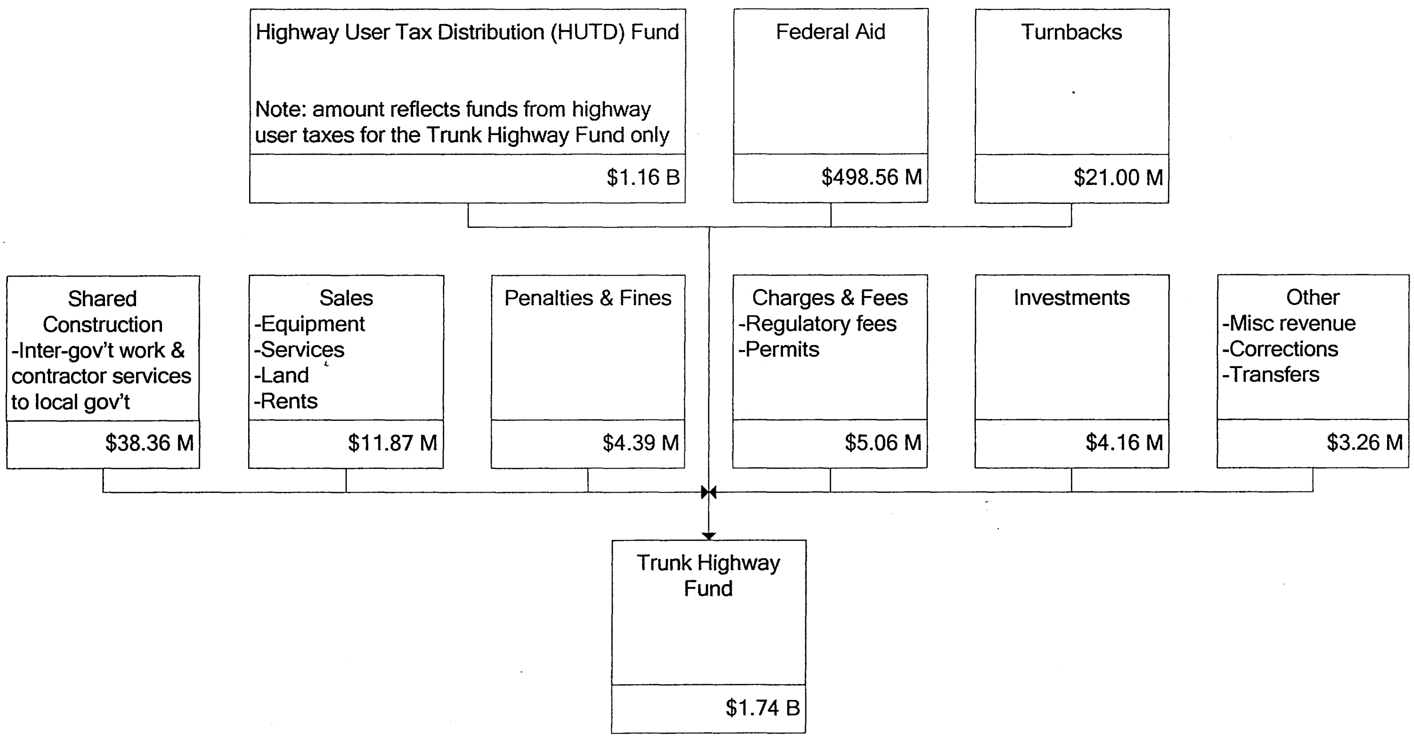
For more information: See the House Research publications *Motor Vehicle Sales Tax Chronology*, August 2009, and *Highway Finance*, February 2016.

HOUSE RESEARCH | Short Subjects

Matt Burress **Updated: February 2016**

Trunk Highway System

The trunk highway system is a roughly 12,000-mile network of key interstates and state highways connecting communities throughout the state. It is maintained by the Minnesota Department of Transportation (MnDOT). The bulk of funding comes from transportation-related taxes and federal aid. Fiscal year 2015 **sources amounted to $1.74 billion**, excluding trunk highway bond proceeds, and are summarized below.



Notes: chart excludes (1) $318.2 million in trunk highway bond proceeds, and (2) HUTD fund revenue tranfered to other funds.

Funding framework Funding reflects a highway finance framework established in the Minnesota Constitution, which includes dedication of funds through transportation-related taxes and formula-based allocation of the tax revenues via the highway user tax distribution (HUTD) fund. Minn. Const. art. XIV.

Primary funding sources The primary state sources of trunk highway revenue are three highway user taxes: a tax on motor fuels, a registration tax on motor vehicles, and a tax on the sale of motor vehicles (with a portion of each allocated to trunk highways from the highway user tax distribution fund). Federal aid is another significant source.

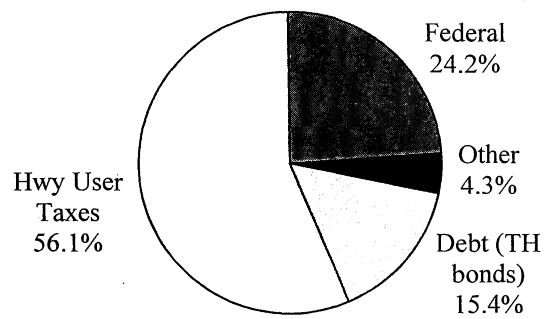
Trunk highway bonds Trunk highway bonds are a specialized form of general obligation bonding, issued by the state only for construction on the trunk highway system (following constitutional limits). Minn. Const. arts. XI, § 5 (e); XIV, § 11. Since bonds carry an obligation of future repayment with interest, proceeds from bond issuances represent debt rather than additional or "new" revenue.

Proceeds from bonds sales can nevertheless be viewed as a type of funding source. In fiscal year 2015, trunk highway **bonding funds totaled $318.2 million**. This amount only represents funds *expended* in that fiscal year. Legislative *authorizations* to issue bonds are distinct from expenditures and generally occur in a prior year. Projects can take place over multiple fiscal years following the year of bonding authorization, whereas associated bond proceeds expenditures reflect project costs in each year.

Funding distribution

The chart below shows the funding split with bond proceeds included as a source.

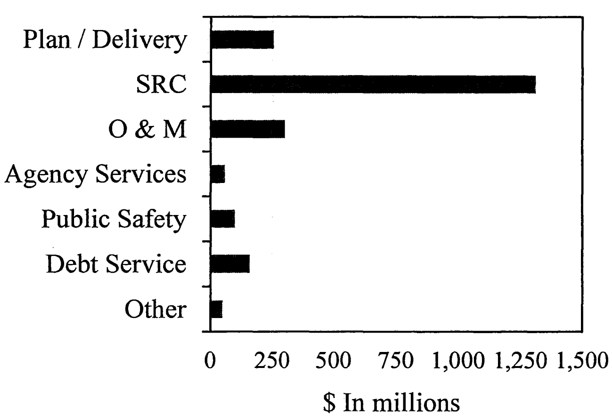
Distribution of Trunk Highway System Funding
FY 2015 ($2.06 billion), incl. TH bonding



Expenditures

The following summarizes trunk highway expenditures by budget activity. (Note that expenditures exceed funding mainly due to use of available fund balance.)

Trunk Highway System Expenditures
FY 2015 ($2.23 billion), incl. TH bonding



- **Program planning and delivery** includes (1) project development to prepare a project for construction through tasks like scoping, engineering, and environmental analysis; (2) construction management, which involves oversight of specific projects; and (3) research, development, and system planning.
- **State road construction (SRC)** funds specific construction projects. Its main components are (1) contracts and consultant agreements for actual construction work; (2) materials purchasing; and (3) right-of-way acquisition.
- **Operations and maintenance (O & M)** provides for maintaining highways through activities like bridge and roadway inspections, snowplowing, roadway repairs, safety infrastructure upkeep (such as guard rails and traffic control device), day-to-day preservation, and vehicle fleet maintenance.
- **Agency services** includes leadership, finance, information technology, and human resources.
- **Debt service** is repayment of principal and interest on trunk highway bonds (issued in previous years).
- **Public safety** primarily funds the State Patrol.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Joel Michael Updated: February 2016

Section 179 Expensing under the Federal and Minnesota Income Tax

What is section 179 expensing?

Income tax laws generally require businesses to spread deductions of capital expenditures over the useful lives of the purchased property. Section 179 expensing, which takes its name from a section of the Internal Revenue Code, allows businesses to deduct the entire amount of the cost of qualifying property in the tax year the property is placed in service, rather than claiming depreciation deductions over a number of years. This allows the business to accelerate recognition of the expense from future tax years into the present year. The number of years over which property would otherwise be depreciated ranges from three to 15 years, depending on the type of property and its useful life as classified under the Internal Revenue Code.

What businesses can use section 179 and what property qualifies?

A business is allowed to use section 179 based on the amount of its qualifying capital expenditures in a taxable year. Purchases of most equipment and other personal property qualify, including many leasehold improvements by businesses renting their facilities. Improvements to land (real estate) typically do not qualify. Businesses making more than $2.5 million in expenditures in a tax year cannot use section 179. Other businesses may deduct up $500,000 in expenditures (reduced dollar-for-dollar by amounts over $2 million). Congress has changed these dollar limits multiple times in recent years, often for temporary periods of time (see table below). In 2015, Congress made the $500,000 amount and the $2 million phaseout floor permanent, and indexed both for inflation beginning in 2016.

Summary of Federal Section 179 Legislation 2003-2015

Year	Maximum deduction	Phaseout	Indexing	Expiration
2003	$25,000, increased to $100,0000	$200,000, increased to $400,000	Yes for 2004 and 2005	2006
2004	No change	No change	Extended to 2006 and 2007	Extended to 2008
2006	No change	No change	Extended to 2008 and 2009	Extended to 2010
2007	Increased to $125,000	Increased to $500,000	Yes for 2008 to 2010	2011
2008 and 2009	Increased to $250,000	Increased to $800,000	No	2010
2010 to 2014	Increased to $500,000	Increased to $2 million	No	2014
2015	$500,000	$2 million	Yes	None

In 2002 businesses could claim up to $24,000 in section 179 expensing, and this phased out for businesses with total expenses from $200,000 to $224,000. The $24,000 allowance was scheduled to increase to $25,000 in 2003, but Congress temporarily increased the allowance to $100,000. This was the first of a series of congressional actions that provided temporary increases in the maximum allowance and the "phaseout" limit; Congress also periodically indexed for inflation the temporarily increased amounts.

What are the section 179 expensing allowances under the Minnesota income tax?

In tax year 2016, a business may claim up to $25,000 in expensing on its Minnesota return. This amount is reduced dollar for dollar by the cost of property placed in service over $200,000, so that a business that places in service more than $225,000 in qualifying property is ineligible.

If a business claims more in section 179 expensing under current federal law than it would have been allowed to claim under expired federal law, it must add 80 percent of the additional amount claimed to Minnesota taxable income on its Minnesota return. It is then allowed to subtract one-fifth of the amount added back in each of the next five tax years. In that way, the full amount claimed at the federal level is ultimately allowed at the state level—20 percent in tax year 2016 and 16 percent per year in tax years 2017 through 2021.

What are the federal and state allowances?

Under federal law, the maximum deduction is $500,000 and begins to phase out at $2 million in expenditures. Under state law, the maximum deduction is $25,000 and begins to phase out at $200,000.

Section 179 Allowances under Federal and Minnesota Law

	Federal		**Minnesota**	
Tax year	**Maximum deduction**	**Start of phaseout**	**Maximum deduction**	**Start of phaseout**
2002	$24,000	$200,000	$24,000	$200,000
2003	100,000	400,000	100,000	400,000
2004	102,000	410,000	102,000	410,000
2005	105,000	420,000	105,000	420,000
2006	108,000	430,000	25,000	200,000
2007	125,000	500,000	25,000	200,000
2008-2009	250,000	800,000	25,000	200,000
2010-present	500,000	2,000,000	25,000	200,000

What is the recent history of section 179 expensing in Minnesota?

Prior to 2006, Minnesota conformed to federal section 179 expensing allowances. At that time, businesses could claim the same amount under the Minnesota tax as they could under the federal tax. Since then, the legislature has elected not to conform to the higher federal section 179 allowances. From 2006 to the present, Minnesota allowed the $25,000 section 179 expensing amount in effect before tax year 2003, when the federal government first began allowing increased section 179 expensing.

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

Danyell Punelli and Sean Williams Updated: March 2016

Nursing Facility Reimbursement

The Medical Assistance (MA) program reimburses nursing facilities for services provided to low-income elderly and disabled persons who meet income and asset limits and other eligibility requirements. The Minnesota Department of Human Services (DHS) administers the MA reimbursement system for nursing facilities and establishes the reimbursement rates for each facility.

What are the components of a nursing facility's reimbursement rate?

MA reimburses nursing facilities for operating costs, external fixed costs, and property costs.

Operating costs include (1) *direct care costs* for salaries, wages, and associated fringe benefits and payroll taxes of nurses, certified nursing assistants, and other health care staff; supplies such as dressings, bandages, water pitchers, soap, and syringes; and technology related to the provision of nursing care; (2) *other care-related costs* for activities costs, raw food costs, therapy costs, social services costs, and other direct care costs for the salaries, wages, and associated fringe benefits and payroll taxes of mental health workers, religious personnel, and other direct care employees not specified under direct care costs; and (3) *other operating costs* for administrative costs (including property insurance), dietary costs, housekeeping costs, laundry costs, and maintenance and plant operation costs.

External fixed costs includes surcharges and fees; scholarships; planned closure rate adjustments; single-bed room incentives; property taxes, assessments, and payments in lieu of taxes; employer health insurance costs; quality improvement incentives; performance-based incentives; special dietary needs; and Public Employee Retirement Act costs.

Property costs include interest expense and return on equity.

How are nursing facility payment rates determined?

On January 1, 2016, DHS implemented a new reimbursement system, called the value-based reimbursement system. Under the value-based reimbursement system, nursing facility operating payment rates are determined based on each facility's reported costs. A facility's operating rate reflects the costs it reported in its most recent cost report. Due to the timing of the cost reporting cycle, this means that there is at least an 18-month lag between when a facility accrues costs and when those costs are reflected in the facility's rate.

How does DHS control the costs of nursing facility reimbursement?

The value-based reimbursement system assigns each facility a limit on its *total care-related costs.* This limit is tied to the facility's quality score; facilities with higher quality scores are assigned higher limits. DHS does not reimburse facilities for *direct care* or *other care-related* costs in excess of the facility's limit.

Additionally, each facility in the state receives the same *other operating* rate. This rate is set at the other operating costs per resident day for the median facility in the seven-county metropolitan area.

Are nursing facility rates adjusted for inflation?	The current value-based reimbursement system does not include an inflationary adjustment, but facilities' rates increase over time as their costs increase. Under previous reimbursement systems, nursing facility rates were supposed to be adjusted annually for inflation. However, from July 1, 1999, through September 30, 2011, the automatic inflation adjustment was applied only to the property-related rate. The legislature most recently authorized adjustments to operating costs in 2008 and 2013.
Do nursing facility rates vary by facility?	Reimbursement rates are facility- and resident-specific. Rates vary with the facility's historical costs, with the amount of care needed by a resident (as measured by a case-mix classification), and reflect any statutory facility-specific rate adjustments authorized by the legislature.
What are case-mix classifications?	Nursing facilities are reimbursed by MA on a resident-per-day basis. The nursing home reimbursement levels are adjusted under the Resource Utilization Groups (RUG) case-mix system to reflect the varying care needs of residents. All applicants to nursing facilities are assessed by the Department of Health upon admission and at least every 90 days thereafter. Residents are assigned to a case-mix classification based on the level of their dependence in activities of daily living, the severity of their cognitive and/or behavior management needs, and the complexity of their nursing needs. Each case-mix classification is assigned a case-mix weight, with the lowest level of care receiving the lowest weight and the highest level of care receiving the highest weight. The direct care-related component of a facility's rate is adjusted based upon a resident's case mix weight. All other components of a facility's rate are the same for all residents in the facility.
What methods have been used to determine payment rates in the past?	Prior to October 1, 2006, nursing facilities were reimbursed under a cost-based system sometimes referred to as "rule 50," where reimbursement to facilities was based on their reported costs, subject to various limits. From October 1, 2006, through September 30, 2008, all nursing facilities participating in MA were reimbursed under the Alternative Payment System (APS), a contract-based system where facilities were exempt from certain statutory requirements of the cost-based system and reimbursed at the level of their payment rate in effect just prior to entering into an APS contract with the commissioner. From October 1, 2008, through December 31, 2015, facilities were reimbursed under a blend of APS and a "rebased" reimbursement rate.
What other payments do nursing facilities receive?	Nursing facilities may receive several other payments or rate adjustments including: • rate adjustments for compensation-related costs due to minimum wage changes; • rate adjustments for the first 30 days; and • rate adjustments for ventilator-dependent persons.

For more information: Contact legislative analyst Danyell Punelli at 651-296-5058 or Sean Williams at 651-296-5053. Also see the House Research publication *Nursing Facility Reimbursement and Regulation*, March 2016.

HOUSE RESEARCH | **Short Subjects**

Nina Manzi and Sean Williams **April 2016**

Major State Aids and Taxes: An Overview of the 2012 Update

This provides a brief overview of the report *Major State Aids and Taxes: A Comparative Analysis, 2012 Update*, which highlights major aids provided to the local governments and people in Minnesota and lists the major taxes collected. The per capita amounts were calculated using 2011 population. Some aids are presented on a different basis in other settings (e.g., per pupil for education aid); however, in the report they are presented on a per capita basis to allow comparison of different aids.

STATE AIDS

Program	Year	Amount (millions)	Per Capita
Education aid *Aid paid to school districts for all K-12 educational expenses*	2011/2012 (school year)	**$6,878.0 State** $3,855.8 Metro $3,022.2 Nonmetro	**$1,281 State** $1,325 Metro $1,229 Nonmetro
Human services aid *State's share of human services aid for various income and medical assistance programs*	2012	**$4,829.8 State** $2,687.3 Metro $2,142.5 Nonmetro	**$900 State** $924 Metro $871 Nonmetro
Highway aid *Distributed to counties, cities, and towns for highway purposes*	2012	**$690.2 State** $217.2 Metro $472.9 Nonmetro	**$129 State** $75 Metro $192 Nonmetro
Local government aid *Provides property tax relief by providing general purpose financial support to cities*	2012	**$425.2 State** $133.0 Metro $292.3 Nonmetro	**$79 State** $46 Metro $119 Nonmetro
Disparity reduction aid *Provides aid to jurisdictions (counties, towns, and school districts) that had inordinately high tax rates in 1988*	2012	**$18.4 State** $1.4 Metro $17.0 Nonmetro	**$3 State** – Metro $7 Nonmetro
County program aid *County general purpose aids: includes former homestead and agricultural credit, county criminal justice aid, family preservation aid, and attached machinery aid*	2012	**$161.1 State** $67.0 Metro $94.1 Nonmetro	**$30 State** $23 Metro $38 Nonmetro
Community corrections funding *Aid that provides a portion of counties' costs for community correctional services*	2012	**$83.9 State** $40.9 Metro $43.1 Nonmetro	**$16 State** $14 Metro $18 Nonmetro
Property tax refund (excludes targeting) *Reimburses homeowners and renters for a portion of property taxes if those taxes exceed a household income threshold*	2011 (filed in 2012)	**$470.8 State** $323.2 Metro $147.6 Nonmetro	**$88 State** $111 Metro $60 Nonmetro
Targeting *Additional homeowner property tax refund if property taxes increased a certain percentage threshold over previous year (no income limits)*	2011 (filed in 2012)	**$3.3 State** $0.6 Metro $2.7 Nonmetro	**$1 State** – Metro $1 Nonmetro

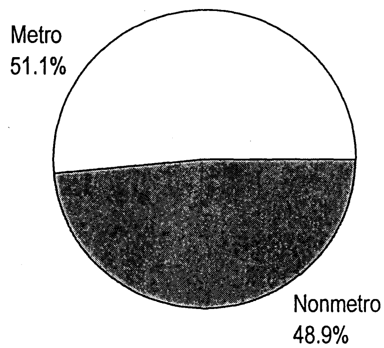
MAJOR TAXES

	Year	Amount (millions)	Per capita
Individual income tax *Imposed on income of state residents and income derived from state sources of nonresidents*	2011 (filed in 2012)	**$7,431.0 Total** **$7,018.5 Residents** $4,659.8 Metro $2,358.6 Nonmetro	**$1,307 State** $1,602 Metro $959 Nonmetro
Sales and use tax *Imposed on gross receipts of people who sell, lease, or rent tangible personal property at retail at a rate of 6.5 percent (does not include local sales taxes)*	2012	**$5,007.9 (After refunds)** **$4,192.3 Residents** $2,685.3 Metro $1,507.0 Nonmetro	**$781 State** $923 Metro $613 Nonmetro
Motor vehicle sales tax *Imposed on new and used motor vehicles at the time of sale at the same rate of state sales tax*	2012	**$578.4 State** $302.7 Metro $275.7 Nonmetro	**$108 State** $104 Metro $112 Nonmetro
Motor vehicle registration tax *Imposed annually on vehicles licensed in the state*	2012	**$595.5 State** $321.7 Metro $273.8 Nonmetro	**$111 State** $111 Metro $111 Nonmetro
Motor vehicle fuels tax (gas tax) *Imposed on gasoline, diesel fuel, and other motor fuels used by vehicles and on aviation fuels*	2012	**$852.3 State** $402.8 Metro $449.5 Nonmetro	**$159 State** $138 Metro $183 Nonmetro
Corporate franchise (income) tax *Imposed at a rate of 9.8 percent on the net income of corporations (or alternative minimum tax)*	2012	**$943.3 State** $644.6 Metro $298.7 Nonmetro	**$176 State** $222 Metro $121 Nonmetro
State general property tax *Imposed on commercial/industrial/public utility property and seasonal recreational property*	2012	**$817.4 State** $525.2 Metro $292.2 Nonmetro	**$152 State** $181 Metro $119 Nonmetro

PROPERTY TAX DATA, PAYABLE 2012

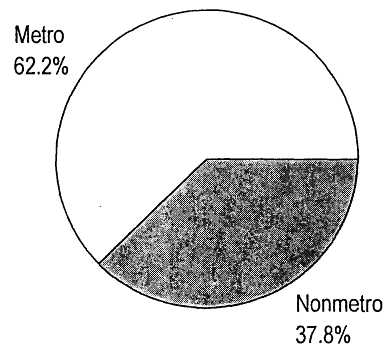
Market Value

Total statewide: $551.0 billion



Net Property Tax

Total statewide: $8.4* billion



* Includes state general property tax

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. See *Major State Aids and Taxes: Comparative Analysis, 2012 Update* (April 2016) for further details about each aid program and tax and data by county and economic development region.

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

HOUSE RESEARCH | Short Subjects

Nina Manzi and Joel Michael

Updated: May 2016

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 allows up to $2,500 to be deducted for each dependent in grades 7-12 and up to $1,625 for each dependent in grades K-6.

In tax year 2013 (fiscal year 2014) an estimated 216,000 returns claimed the deduction. The Department of Revenue estimates that the deduction will reduce income tax revenues by $20.0 million in tax year 2016 (fiscal year 2017).

What expenses qualify for the deduction?

Qualifying expenses for the deduction include payments for:

- 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; and
- transportation (paid to others for transporting children to school).

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 for each child in grades K-12, with parents allowed to allocate expenses among children as they choose. The credit begins to phase out when income exceeds $33,500. For families claiming the credit for one or two children, it is fully phased out when income reaches $37,500. The phaseout extends for an additional $2,000 of income for each additional child claimed (i.e., to $39,500 for three children, $41,500 for four children, etc.).

In tax year 2013, 53,713 Minnesota returns claimed a total of $14.6 million in K-12 education credits. The average credit was $272. In tax year 2016 (fiscal year 2017), the Department of Revenue estimates that Minnesota will claim $13.1 million in K-12 education credits.

What expenses qualify for the credit?

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

What are the tax benefits of the deduction and credit?

The deduction reduces an individual's taxable income. The tax benefit of the deduction depends on the taxpayer's marginal tax rate and the total amount deducted. Minnesota has four marginal tax rates: 5.35, 7.05, 7.85, and 9.85 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 9.85 percent bracket with the same deduction will pay $246.25 less in taxes. A taxpayer with too little income to have tax liability will not benefit from the deduction. In tax year 2016, a typical married couple with two dependents would need to have $28,800 of gross income before owing any state income tax.

The credit, in contrast, directly reduces tax liability and is fully refundable. If an individual's credit exceeds his or her 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 the credit 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 do taxpayers claim the deduction and credit?

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

Has the constitutionality of Minnesota's credit and deduction been challenged in court?

The constitutionality of state income tax benefits for education expenses have regularly been challenged in court under the First Amendment and the education clauses of state constitutions.

The Minnesota dependent education deduction was upheld by the U.S. Supreme Court in a 1983 decision, *Mueller v. Allen*. An earlier Minnesota tax credit that applied to private school tuition was invalidated by the Minnesota Supreme Court in 1974.

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

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn. Also see the House Research publication *Income Tax Deductions and Credits for Public and Nonpublic Education in Minnesota*, September 2011.

Mark Shepard

Updated: June 2016

State Agency Head Salaries

The governor proposes most agency head salaries

The governor proposes salaries for most state executive branch agency heads, within limits set in law. For most agency heads, the limit is 133 percent of the governor's salary, to be adjusted for inflation each January. For several, the limit is 120 percent of the governor's salary, to be adjusted for inflation each January. Minn. Stat. § 15A.0815, subds. 2 and 3. Changes that the governor proposes in individual agency head salaries are subject to legislative approval. A subcommittee established by the Legislative Coordinating Commission may approve changes in these salaries during legislative interims, subject to final approval by the full legislature.

The salary limit for most agency heads is $169,747 (133 percent of the governor's salary of $127,629). As indicated in the table on the following page, none of the agency head salaries currently is close to the limit. Current annual salaries range from about $120,000 to $155,000.

The legislature changed this system in 2013 and in 2015. Before the 2013 changes, agency head salaries were limited to 95 percent (or in several cases 85 percent) of the governor's salary. In 2013 the legislature removed the requirement for legislative approval of individual agency head salaries within the salary limits, but the requirement for legislative approval was reinstated in 2015.

There is a different process for setting some agency head salaries

There is a different process for setting salaries for heads of the statewide public pension funds, the lottery director, and the executive director of the State Board of Investment.

- For directors of the three statewide public pension funds, the governing board of the applicable pension system sets the salary, within the statutory limit of 133 percent of the governor's salary. Minn. Stat. §§ 352.03, subd. 5; 353.03, subd. 3a; and 354.06, subd. 2.
- The lottery director salary is set in statute at 95 percent of the governor's salary. Minn. Stat. § 349A.02, subd. 1.
- The salary for the executive director of the State Board of Investment is set by the board, under a compensation plan approved by the Subcommittee on Employee Relations of the Legislative Coordinating Commission and the full legislature. Minn. Stat. §§ 11A.04, cl. (14), and 43A.18, subd. 3b.

Agency head salaries vary

The following table lists the salaries for agency heads who are subject to the salary limits specified in statute. Most of the cabinet agency salaries were last increased by the governor on July 1, 2015, under a special provision that authorized these increases, without legislative approval, on that date only.

Cabinet Agencies	Salaries
Administration	$144,991
Agriculture	144,991
Commerce	144,991
Corrections	150,002
Education	150,002
Employment and Economic Development	150,002
Health	150,002
Office of Higher Education	144,991
Housing Finance Agency	144,991
Human Rights	144,991
Human Services	154,992
Iron Range Resources and Rehabilitation	140,000
Labor and Industry	144,991
Management and Budget	154,992
Mediation Services	140,000
Natural Resources	154,992
Pollution Control Agency	150,002
Public Safety	154,992
Revenue	154,992
Transportation	154,992
Veterans Affairs	144,991
Other Agencies	
Gambling Control Board	$119,997
Metropolitan Airports Commission, Chair	30,000
Metropolitan Council, Chair	144,991
Ombudsman for Mental Health and Developmental Disabilities	119,997
Pari-mutuel Racing	115,998
Public Utilities Commission	140,000
Minnesota State Retirement System	144,991
Public Employees Retirement Association	144,991
School Trust Lands	125,009
Teachers Retirement Association	144,991

For more information: Contact legislative analyst Mark Shepard at 651-296-5051. Also see the House Research publication *State Elected Officials' Compensation*, January 2016.

Matt Burress **Updated: July 2016**

County State-Aid Highway System

System overview

The county state-aid highway system is a network of key highways under the jurisdiction of Minnesota's counties. It covers roughly 30,700 miles of roadway throughout all counties, composing over two-thirds of county highway miles. Counties receive formula-based state money to assist in the construction, improvement, and maintenance of highways included in the state-aid system.

Sources of revenue

Aid is provided through the County State-Aid Highway (CSAH) fund, which is established by the Minnesota Constitution. Revenue mainly comes from a share of taxes on motor fuels, vehicle registration, vehicle sales, and vehicle leases.

Program administration

Money in the CSAH fund is administered by the Minnesota Department of Transportation (MnDOT). Based on a combination of tax receipts and future estimates, aid apportionments are released each January with distribution on a calendar-year basis. MnDOT also adopts administrative rules governing the program, although road project prioritization and project management are under the purview of each county.

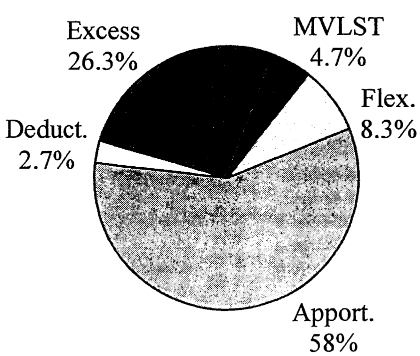
Aid requirements

Among the requirements of the aid, counties typically expend 60 percent on construction projects and 40 percent on maintenance efforts. Minn. Rules, part 8820.1400. Counties must also expend a share of aid on stretches of state-aid highways located within "small cities" having a population under 5,000, generally in amounts proportional to the share of construction needs of those county state-aid highway segments located in the small cities. Minn. Stat. § 162.08, subd. 1.

CSAH funds

Total funding is $656.9 million in calendar year 2016 and is allocated as follows.

CSAH Funding Breakdown
CY 2016 ($656.9 million)



- Following statutory requirements, $18.0 million in net **deductions** are set aside for county highway purposes, consisting of: (1) MnDOT administrative costs, (2) a disaster account, (3) a research account, and (4) a state park roads account. Minn. Stat. § 162.06.
- A portion of revenue from the **motor vehicle lease sales tax (MVLST)** is allocated to Twin Cities metropolitan area counties—excluding Hennepin and Ramsey. The distribution is formula-based, in proportion to the population of each county (which is distinct from direct aid, discussed below). Minn. Stat. § 297A.815. Funds in calendar year 2016 amount to nearly $30.7 million.
- $54.7 million from a "set-aside" in the **flexible highway account** is provided for county road turnbacks (generally, trunk highway segments that are improved and turned over to become part of the county state-aid highway system). Minn. Stat. § 161.081.
- **Direct aid** in calendar year 2016 is $553.5 million. It is divided into two categories for distribution among the counties by formula: the apportionment sum and the excess sum.

Apportionment and excess sum

Direct aid to counties had been allocated under one formula until 2008, when the excess sum was created as a second component with a separate but similar statutory distribution formula. The excess sum was calculated in a manner essentially designed to handle increased funding for transportation due to finance changes made in 2006 to 2008 (so that the additional funding was largely allocated through the excess sum formula). Legislation in 2015 eliminated the calculation methodology used to identify excess sum revenue, replacing it with straight percentages. Laws 2015, ch. 75, art. 2, § 12.

Starting with calendar year 2016, direct aid dollars are provided 68 percent through the apportionment sum formula, and 32 percent through the excess sum formula. Minn. Stat. § 162.07.

Apportionment sum formula

The formula to distribute the apportionment sum among counties is as follows:

- 10 percent of the apportionment sum is divided equally
- 10 percent is proportional based on the number of motor vehicles registered in each county (compared to the total for all counties)
- 30 percent is proportional based on a county's state aid lane-miles
- 50 percent is proportional based on construction needs for each county, the calculation of which is structured to enable comparison across the counties (and does not identify total costs to bring county state-aid highways up to state standards). Needs calculations submitted by counties are reviewed by a screening board composed of county engineers. Minn. Stat. § 162.07.

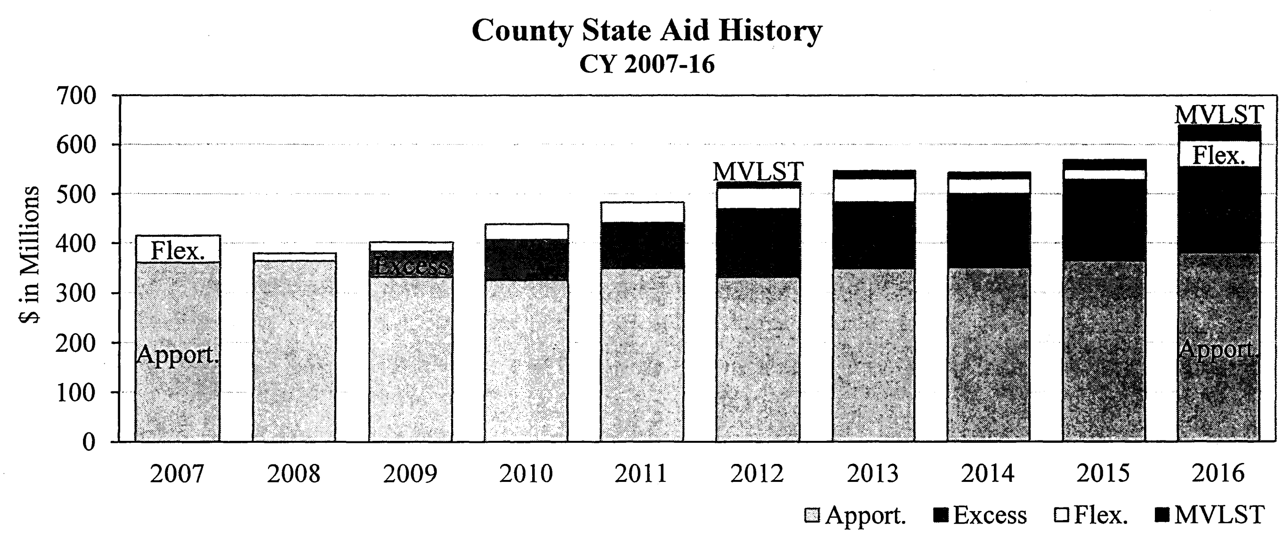
Excess sum formula

The excess sum is also distributed by formula:

- 60 percent is in proportion to each county's share of construction needs
- 40 percent of funds are allocated in proportion to each county's share of the total number of motor vehicles registered. Minn. Stat. § 162.07.

Aid amounts

The chart below summarizes distributed aid (that is, excluding deductions) by calendar year.



For more information: See the House Research publication *Highway Finance*, February 2016.

HOUSE RESEARCH | Short Subjects

Matt Burress Updated: July 2016

Municipal State-Aid Street System

Some cities receive assistance from the state for construction and maintenance of streets that are part of the municipal state-aid street system. The aid is funded via a portion of transportation-related taxes and is distributed following a statutory formula. Apportioned calendar year 2016 aid is $173.6 million.

System overview

The municipal state-aid street (MSAS) system is a collection of key streets located in 148 Minnesota cities. They comprise many of the higher traffic volume and key connecting roads in each city. At roughly 3,700 miles, state-aid streets constitute a little under a quarter of all miles of city streets. There are restrictions on the size of the MSAS system within each city. Minn. Stat. § 162.09.

Constitutional framework for aid

The Minnesota Constitution establishes a basic framework for state highway finance. Among its features, the constitution dedicates specific transportation-related taxes to transportation purposes; allocates tax revenues by formula among state, county, and municipal roads; and creates a MSAS fund for financial assistance to cities. Minn. Const. art. XIV.

Eligibility based on population

The constitution requires that a city has a population over 5,000 to qualify for MSAS aid. Minn. Const. art. XIV, § 8. Population is determined by the last federal decennial census or most recent estimates. However, statutory provisions allow some cities whose populations drop below 5,000 to receive aid, including:

- an exception for Chisholm, whose population fell below the cutoff with the 2000 census but is permanently grandfathered in; and
- a transition period that provides continuation of aid to a city that had been receiving assistance but whose population dropped below the cutoff in a decennial census (for this decade, 2015 was the last transition year under the provision). Minn. Stat. § 162.09, subd. 4 (f); Laws 2001, 1st spec. sess., ch. 8, art. 2, § 6; Laws 2002, ch. 364, § 29.

Other assistance to ineligible cities

While cities having a population under 5,000 are not eligible for MSAS funds, in 2015 the legislature established a small cities assistance program (funded at $12.5 million in fiscal year 2016, with no allocation in 2017). Minn. Stat. § 162.145. Also, such smaller cities are indirectly assisted through state aid to counties: a share of state funds for the county state-aid highway system must be allocated to a municipal account for use on those county state-aid highways located within smaller cities. Minn. Stat. § 162.08, subd. 1.

Program administration

The Minnesota Department of Transportation (MnDOT) administers the state-aid program. MnDOT determines amounts annually based on a combination of tax receipts and future estimates. Aid apportionment amounts are released each January and distributed on a calendar-year basis.

MnDOT also adopts administrative rules governing the program, which cover topics such as minimum roadway design and engineering standards, design variance procedures, apportionment between construction and maintenance, and contract and bidding requirements. Minn. Rules, ch. 8820. While the department oversees aid distribution and provides technical assistance, both prioritization of road projects and their development are under the purview of each city.

Allocation of funds

MSAS funds are allocated as aid and for related purposes (such as administrative costs) based on multiple formulas in state law. Calendar year 2016 funding is \$177.4 million, but a cap on the amount held in a disaster account yielded about \$612,000 in additional funds. Allocations consist of:

- \$173.6 million apportioned by formula as direct aid to cities;
- \$3.5 million for MnDOT agency expenses; and
- \$854,000 to a research account. Minn. Stat. §§ 162.12, 162.13.

Aid apportionment formula

Money in the MSAS fund apportioned to cities as direct aid follows a formula created in state statute, so that:

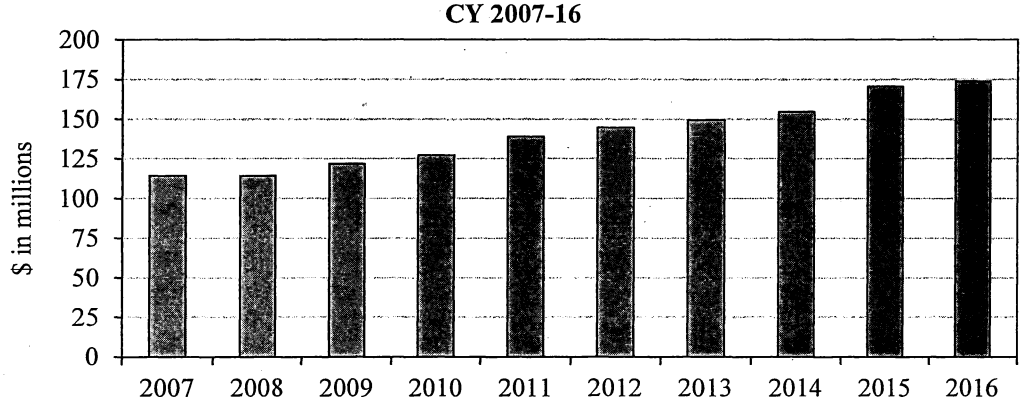
- **50 percent** is divided proportionally based on the population of each city (compared to the total for all municipal state-aid cities); and
- **50 percent** is divided proportionally based on construction needs for each city. Minn. Stat. § 162.13.

The needs calculation under the formula is structured to enable comparison across the cities (and does not identify total costs to bring municipal state-aid streets up to state standards). Calculations submitted by cities are reviewed by a screening board composed of city engineers.

Distribution to cities

Calendar year 2016 direct aid ranged from about \$178,000 to just over \$15.9 million (or \$29 to \$87 on a per capita basis). The average per city was just under \$1.2 million, with 47 cities receiving less than \$500,000 each and 20 cities receiving over \$2 million. Because of the weight of population in the aid formula, larger cities tend to receive greater shares of the aid.

MSAS Direct Aid History
CY 2007-16



For more information: See the House Research publications *Highway Finance*, February 2016, and *Small Cities Assistance,* September 2015.

HOUSE RESEARCH | Short Subjects

Lisa Larson

August 2016

Laws Governing Student Behavior

Laws governing student behavior supplement the Pupil Fair Dismissal Act

Laws on student behavior require districts and schools to adopt policies and rules on attendance, bullying and hazing, discipline and removing students from class, sexual, religious, and racial harassment and violence prevention, and school lockers. These laws may sometimes lead to students being suspended, excluded, or expelled from school under the Pupil Fair Dismissal Act.

Students must attend school and students' chronic unexcused absences may lead to truancy

All children between ages 7 and 17 must attend a school unless they have graduated. School districts may require students to attend summer school. An elementary student absent three school days without a valid excuse and a secondary student absent three or more class periods on three school days without a valid excuse is a "continuing truant." An elementary student absent seven school days without a lawful excuse and a secondary student under age 17 absent one or more class periods on seven school days without a lawful excuse is a "habitual truant." A student age 16 or older who is eligible for the graduation incentives program and meets certain other criteria may be referred to an area learning center if the referral is in the student's best interest.

Students are prohibited from bullying or hazing other students

Districts and schools must have policies to prevent student bullying and hazing. The bullying policy must help detect behavioral problems early and prevent students' inappropriate behavior from recurring, and prohibit a student from bullying another student. Nonpublic and home school students who voluntarily participate in a co-curricular, extracurricular, or other public school activity are subject to the anti-bullying policy while they participate in the activity. The hazing policy must address student and staff hazing on and off school property and during and after school hours, and include appropriate disciplinary consequences.

School officials may remove disruptive students from a class or activity, consistent with the school board's adopted policy

School boards must develop and adopt written rules on students' classroom conduct, the minimum consequences for violating such rules, and the grounds and procedures for removing students from class. In developing policies school boards must consult with administrators, teachers, other district employees, students, parents, community members, law enforcement agencies, county attorneys, social service agencies, and others as appropriate. A teacher, principal, or other district employee may prohibit a student from attending a class or activity for up to five school days. School officials must notify and meet with the parent of a student removed from class more than ten times in one school year.

Grounds for removing a student from class include: willful conduct that significantly disrupts the rights of others to an education; willful conduct that endangers others or school property; and a willful violation of a specified, board-adopted rules of conduct. A board's policy on removal from class must address: notice about the policy and rules; grounds for removal; the authority of school personnel to remove a student; the period for removing a student, which must not exceed five class periods over five school days; custodial responsibility for a removed student; returning a removed student to class; notice to the student and parent about the student's misconduct and discipline; procedures for detecting a student's behavioral problems and involving parents in early intervention efforts; appropriate referrals for special education services; procedures to detect and address a student's chemical abuse at school; consequences for violating the policy; intervention procedures; use of reasonable force by a district employee or agent; and crisis services coordinated with a county board.

Federal and state special education laws affect the discipline of students with disabilities

Federal and state special education laws affect how schools discipline students with disabilities. Procedures such as corporal punishment are prohibited. Conditional, restrictive procedures such as holding down or secluding a student are permitted in an emergency as part of an individualized education program (IEP) or with a parent's consent, but only if the school meets certain professional oversight and training requirements.

Schools may subject students to in-school suspensions if the student continues to receive the same special education services. Schools must hold an IEP meeting for students suspended from school for five or more consecutive days or for more than ten cumulative days in a school year. A school may place a student in an alternative education setting only with the permission of a hearing officer. Schools cannot exclude or expel a student for behavior related to the student's disability. Schools may discipline a student with disabilities like any other student for behavior unrelated to the student's disability.

Students and school personnel must comply with a harassment and violence policy

School boards must adopt a written sexual, religious, and racial harassment and violence policy consistent with Minnesota's Human Rights Act. The policy must apply to students and school personnel and establish disciplinary actions for violating the policy that conform to collective bargaining agreements and the Pupil Fair Dismissal Act. School boards must include the policy in the student handbook on school policies and develop a process for discussing the policy with students.

Students may use school lockers but school officials may inspect the lockers without notice or consent

School boards must include information about the school locker policy in the student handbook, notify parents, and give students a copy of the policy when first assigning them to a locker, which remains district property. Under the policy, school officials may inspect the inside of a student's locker for any reason without notice or student consent, but must not search a student's personal possessions unless the official reasonably suspects the search will uncover evidence of a violation of a law or school rule.

Teachers must report a student abusing alcohol or a controlled substance to a school team

Teachers who know or have reason to believe a student is using, possessing, or transferring alcohol or a controlled substance while on school premises or involved in a school-related activity must immediately notify the school's chemical abuse pre-assessment team. Teachers and other school employees may report to a law enforcement agency any violation of law occurring on school premises or at school-sponsored activities.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036. Also see the House Research publications *The Pupil Fair Dismissal Act*, August 2016, and *School Resource Officers (SROs)*, December 2015.

HOUSE RESEARCH | Short Subjects

Lisa Larson

August 2016

The Pupil Fair Dismissal Act

The Pupil Fair Dismissal Act establishes policies, grounds, and procedures for dismissing students from public schools

The Pupil Fair Dismissal Act includes the policies, grounds, and procedures for dismissing students from public schools (Minn. Stat. §§ 121A.40-121A.56). Dismissals occur when:

- a school administrator suspends a student from school for between one and ten school days;
- a school board excludes a student from school for some or all of the remaining school year; or
- a school board expels a student from school for up to one calendar year.

Grounds for all dismissals include: willfully violating a reasonable school board regulation; willful conduct that significantly disrupts others, officials' ability to perform their duties, or extracurricular activities; or willful conduct that endangers others or school property. If a student is dismissed more than ten days in a school year, a district must try to meet with the student and parent to determine whether the student needs a mental health screening or other services. Corporal punishment is prohibited. Dismissals do not include removing students from class.

Districts must have a school discipline policy

A local school discipline policy must: emphasize detecting behavioral problems early and preventing inappropriate behavior from recurring; recognize a school's ongoing responsibility to educate a dismissed student; and provide alternative education services where appropriate to help a student meet high school graduation standards. Schools must try to provide alternative educational services before dismissing a student unless the student is dangerous. An area learning center cannot refuse to enroll a student solely because the student is dismissed.

School officials must hold an informal hearing before suspending a student

Under a school board's rules and grounds for suspensions, an administrator: must not impose consecutive suspensions for the same misconduct unless an exception applies; must hold an informal conference to explain the grounds and evidence; may allow the student to explain, before suspending the student, unless the student is dangerous; must give the student written notice of the grounds, facts, and suspension policy and must notify the parent as soon as possible within 48 hours of suspending the student; and may develop a readmission plan for the suspended student that includes alternative educational services. An administrator may suspend a student pending a school board decision in an expulsion or exclusion hearing; the student must be given alternative education services if this suspension lasts more than five school days.

School officials must hold a formal hearing before excluding or expelling a student

A school board may exclude or expel a student only after holding a formal hearing conducted by an impartial official unless the student and parent waive the hearing. Hearing procedures require: written notice to the student and parent about the intended action; a hearing within ten days unless the hearing official grants an extension of up to five days; a hearing at a convenient time and place; an impartial hearing official; a hearing record; student access to the student's records; the student's right to compel school officials to testify, to present evidence and testimony, and to refuse to testify; a hearing official's recommendation based on the evidence and made to the school board within two days; and a decision by the school board at a public meeting, where parties may comment, within five days. A school board or a student may appeal to the education commissioner, whose decision is subject to judicial review. An administrator must develop a readmission plan for an excluded or expelled student.

Districts, under certain circumstances, may suspend, exclude, or expel a student with a disability

A student with a disability may be suspended. If the student is suspended for more than five consecutive school days or ten cumulative school days in one school year, and a change of placement is not recommended, the student's individualized education program (IEP) team must meet within ten days to determine the services and setting needed to realize the student's educational goals.

A district must have a policy on appropriately using peace officers and crisis teams to remove a disabled student from a classroom, school building, or school grounds. If a peace officer removes a disabled student twice in a 30-day period, the student's IEP team must determine whether the IEP is adequate or additional evaluation is needed.

A disabled student suspended for more than five consecutive school days is entitled to alternative educational services. Before an administrator expels or excludes a disabled student, the student's IEP team and the parent must determine if the student's conduct is a manifestation of the student's disability or results from the school not implementing the student's IEP. Schools must meet prescribed statutory standards when using restrictive procedures to restrain or remove a disabled student. A disabled student who is excluded or expelled continues to receive special education and related services.

School boards must expel a student who brings a firearm to school unlawfully

A school board must expel for at least one year a student who brings a firearm to school unlawfully, except the board may modify this requirement on a case-by-case basis. A district may disclose information about the expulsion to a possibly-enrolling district. Consistent with the federal Gun-Free Schools Act and the local school board policy, a school official, as appropriate, and as soon as practicable, must refer to the criminal justice or juvenile delinquency system a student who brings a firearm to school unlawfully.

Students must not carry a dangerous weapon on school property or buses

Students must not possess a dangerous weapon on school property or a school bus carrying students unless an exception applies. A student who violates this prohibition may be guilty of a felony or misdemeanor and imprisoned or fined. A law enforcement agency must notify school officials when a student, based on probable cause, is believed to have committed, or is adjudicated delinquent for, an offence involving using or possessing a dangerous weapon.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036. Also see the House Research publication *Laws Governing Student Behavior*, August 2016, and *School Resource Officers (SROs)*, December 2015.

HOUSE RESEARCH | Short Subjects

Steve Hinze

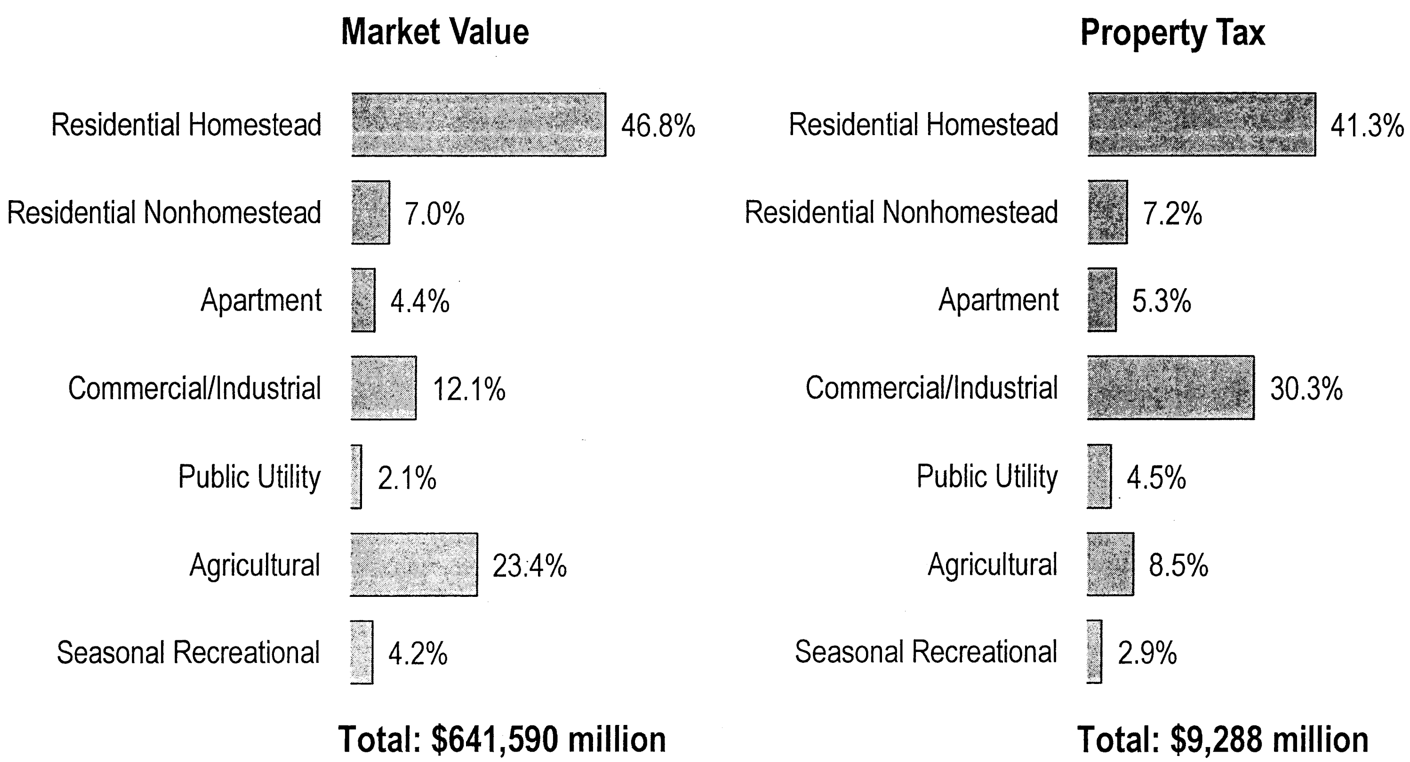
Updated: August 2016

Property Tax 101: Who Pays Property Taxes and Who Receives Them

Where property taxes come from

Total property taxes statewide were $9,288 million for calendar year 2016. The total amount of property value (excluding the value of exempt property) was $641,590 million. The graphs below show the breakdown of the state's total market value and total property taxes paid by property type. The differences between the shares of property value and the shares of tax paid result mainly from the state's classified property tax structure, but also from various property tax credit programs, the application of the state general levy and certain voter-approved levies to some property types but not others, and variations in local rates.

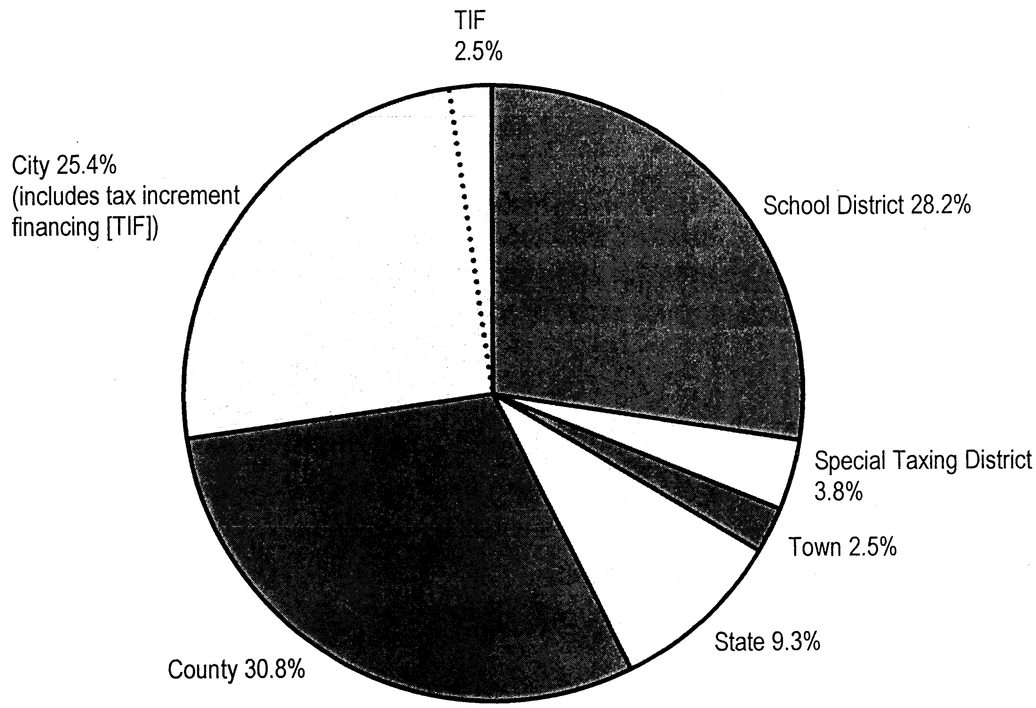
Statewide Shares of Market Value and Property Tax by Property Type (Taxes Payable 2016)



Where property taxes go

The total property tax burden in Minnesota was $9,288 million for calendar year 2016. The pie chart below shows the distribution of the tax among the various types of taxing jurisdictions.

Statewide Property Tax by Type of Government,*
Taxes Payable 2016
(Total: $9,288 million)



*Amounts shown are after allocation of property tax credits.

For more information: Contact legislative analyst Steve Hinze (steve.hinze@house.mn).

Sean Williams

Updated: August 2016

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: Minnesota State Colleges and Universities and the University of Minnesota.

- 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, including 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 five campuses providing undergraduate, graduate, and professional education and research and outreach centers throughout Minnesota. The main campus and central administration are in the Twin Cities.

The Minnesota **Office of Higher Education (OHE)** is a state agency responsible for postsecondary financial aid and other assistance programs, data and information, and registration and licensing of private postsecondary institutions. The OHE is the successor to the Higher Education Services Office.

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 and one member must represent labor. Student trustees serve two-year terms; other trustees serve staggered six-year terms. Except for the student and labor trustees, trustee candidates are recruited and screened by the Trustee Advisory Council, established in state law. All recommendations on trustee appointments are made 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, governed by a 12-member board of regents. 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. The council makes its recommendations to a joint legislative committee, also established in law, consisting of members of legislative committees with jurisdiction over higher education. The regents have the power to manage the university and all its campuses and facilities. Under the university charter, the board has responsibility for selecting the university president.

Minnesota Law. Minnesota Statutes, chapter 137, requires eight of the elected regents to reside in the state's eight congressional districts, one in each district. One at-large regent must be a student when elected. This chapter specifically provides authority for the regents to exercise eminent domain, accept federal money, control the permanent university fund, and establish a branch campus 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 OHE is created by state law and advised by a council

Minnesota Law. The OHE is established in chapter 136A of Minnesota Statutes. 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. OHE has a statutory Student Advisory Council (SAC), made up of student representatives of public and private postsecondary student associations. SAC reports quarterly to the commissioner of higher education and may make recommendations, as appropriate. Prior to 2013, OHE was advised by a separate advisory group, the Higher Education Advisory Council (HEAC). The 2013 Legislature repealed that council but retained the Student Advisory Council.

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

For more information: Contact legislative analyst Sean Williams at 651-296-5053.

Joel Michael

Updated: August 2016

Survey of State and Local Gasoline Taxes

This short subject shows state and local gasoline taxes in each state as of July 1, 2016. Because of the interrelationship in some 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 each state's total tax burden. While all states impose per-gallon taxes, seven states also impose sales taxes (which fluctuate based on price), and 13 states allow local gas or sales taxes to be imposed. Minnesota's total tax burden on gasoline, which includes the 28.5-cent per-gallon excise tax and 0.1-cent inspection fee, places it 22nd highest based on state taxes and 25th highest based on total state and local taxes. (The 2-cent per-gallon Petrofund cleanup fee did not apply on July 1, 2016; this fee is imposed periodically based on the balance in the fund.)

Gasoline taxes include state and local taxes

The columns in the table below represent the following:

- State excise 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; the table applies these fees, if they applied on July 1, 2016
- Total state taxes: Combined per-gallon tax, sales tax, other state taxes and fees
- Local excise tax: Locally imposed per-gallon taxes in the largest city in the state
- Local sales tax: Local retail sales taxes that apply to gasoline in the largest city in the state
- Total local tax: Combined local gas taxes and sales taxes
- Total tax: Combined state and local taxes

For price-based taxes, U.S. Energy Information Administration price data for the week of July 4, 2016, was used for the applicable region, state, or city. This price was adjusted in those states that impose a sales tax on gasoline, but excludes state or federal per-gallon taxes from the taxable price.

Total State and Local Taxes on Gasoline as of July 1, 2016

	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Alabama	$0.160		$0.030	**$0.190**	40	$0.010		$0.010	$0.200	41
Alaska	0.080		0.010	**0.090**	50				0.090	50
Arizona	0.180		0.010	**0.190**	40				0.190	43
Arkansas	0.215		0.003	**0.218**	36				0.218	37
California	0.278	0.068	0.072	**0.418**	3		0.046	0.046	0.464	6

	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Colorado	0.220			**0.220**	35				0.220	36
Connecticut	0.250		0.133	**0.383**	4				0.383	8
Delaware	0.230		0.019	**0.249**	30				0.249	32
Florida	0.040	0.133	0.001	**0.174**	44	0.134		0.134	0.308	20
Georgia	0.260			**0.260**	27		0.073	0.073	0.333	12
Hawaii	0.160	0.103	0.054	**0.317**	16	0.165	0.013	0.178	0.494	3
Idaho	0.320		0.010	**0.330**	12				0.330	15
Illinois	0.190	0.130	0.011	**0.331**	10	0.110	0.070	0.180	0.511	2
Indiana	0.180	0.141	0.010	**0.331**	11				0.331	14
Iowa	0.307		0.010	**0.317**	15				0.317	19
Kansas	0.240		0.010	**0.250**	29				0.250	31
Kentucky	0.246		0.014	**0.260**	27				0.260	30
Louisiana	0.200		0.001	**0.201**	38				0.201	40
Maine	0.300			**0.300**	20				0.300	24
Maryland	0.335			**0.335**	8				0.335	11
Massachusetts	0.240		0.026	**0.266**	26				0.266	29
Michigan	0.190	0.122	0.009	**0.321**	14				0.321	18
Minnesota	**0.285**		**0.001**	**0.286**	**22**				**0.286**	**25**
Mississippi	0.180		0.004	**0.184**	43				0.184	45
Missouri	0.170		0.003	**0.173**	45				0.173	46
Montana	0.270		0.008	**0.278**	24				0.278	27
Nebraska	0.258		0.009	**0.267**	25				0.267	28
Nevada	0.230		0.008	**0.238**	33	0.200		0.200	0.438	7
New Hampshire	0.222		0.016	**0.238**	32				0.238	34
New Jersey	0.105		0.040	**0.145**	49				0.145	49
New Mexico	0.170		0.019	**0.189**	42				0.189	44
New York	0.088	0.096	0.178	**0.362**	5		0.108	0.108	0.470	5
North Carolina	0.340		0.003	**0.343**	6				0.343	9
North Dakota	0.230			**0.230**	34				0.230	35
Ohio	0.280			**0.280**	23				0.280	26
Oklahoma	0.160		0.010	**0.170**	46				0.170	47
Oregon	0.300			**0.300**	20	0.030		0.030	0.330	16
Pennsylvania	0.503		0.011	**0.514**	1				0.514	1
Rhode Island	0.330		0.010	**0.340**	7				0.340	10
South Carolina	0.160		0.008	**0.168**	48				0.168	48
South Dakota	0.280		0.020	**0.300**	19				0.300	23
Tennessee	0.200		0.014	**0.214**	37				0.214	38
Texas	0.200			**0.200**	39				0.200	41
Utah	0.294		0.007	**0.301**	18				0.301	22
Vermont	0.121		0.184	**0.305**	17				0.305	21
Virginia	0.162		0.006	**0.168**	47	0.034		0.034	0.202	39
Washington	0.494			**0.494**	2				0.494	4
West Virginia	0.205		0.127	**0.332**	9				0.332	13
Wisconsin	0.309		0.020	**0.329**	13				0.329	17
Wyoming	0.230		0.010	**0.240**	31				0.240	33

Note: The table does not include special tax rates for alcohol-gasoline blends or for gasoline used in commercial vehicles.
Sources: Federation of Tax Administrators; American Petroleum Institute; U.S. Energy Information Administration; and state revenue agency websites.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

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

Sean Williams

Updated: August 2016

Election of University of Minnesota Regents

Regents are elected by the legislature to govern the University of Minnesota. This short subject describes the current requirements for recruiting, reviewing, recommending, nominating, and electing regents and highlights recent changes to the process.

The Minnesota Constitution provides for regent elections

The Minnesota Constitution requires that 12 regents be elected by a joint convention of the Minnesota Legislature to staggered six-year terms to govern the University of Minnesota. One-third of the Board of Regents is elected each odd-numbered year at a joint convention of the legislature. Minn. Const. art. XIII, § 3, and University of Minnesota Charter §§ 4 and 5.

The board represents specific areas and includes one student

Minnesota law specifies that eight of the 12 regents must reside in Minnesota's congressional districts, one in each district. The four remaining regents are elected from the state at-large. Minnesota law also requires one of the four at-large regents to be a University of Minnesota student at the time of the election. Minn. Stat. §§ 137.023 and 137.024.

Minnesota law requires an advisory council to recruit and screen regent candidates

The regent candidate advisory council is established in law to identify, recruit, and recommend qualified candidates. The council has 24 members, including two student members, appointed by the House of Representatives and the Senate to staggered terms. Student members serve two-year terms. All others serve six-year terms with a two-term limit. The council screens and recommends regent candidates to a joint committee of the legislature. Minn. Stat. § 137.0245, subd. 2.

The council must develop selection criteria for recruiting regent candidates. In 2005, diversity became an explicit part of the criteria, including geography, gender, race, occupation, and experience. The council must identify the membership needs of the board, including the skills and characteristics necessary to govern the university and must develop criteria to ensure membership diversity. The council's selection criteria must not include a limit on the number of terms served by an individual regent. Minn. Stat. § 137.0245, subd. 3.

The council recommends regent candidates to a joint legislative committee

The regent candidate advisory council must make recommendations to the regent nomination joint legislative committee by January 15 of each odd-numbered year. The council must recommend two to four candidates for each regent to be elected and must submit, with the recommendations, a report that identifies the membership needs of the board. Minn. Stat. § 137.0245, subd. 4.

The regent nomination committee receives the council recommendations and may nominate other candidates

The regent nomination joint committee was first established in law in 2005 to consider the governor's slate of regent candidates. Previously, legislative rules governed the makeup and duties of a joint committee for the regent election process. Under current law, the joint committee consists of the members of the higher education budget and policy divisions of the Senate and the House. The Senate and House committee chairs serve as cochairs of the joint committee.

The joint committee must meet by February 28 of each odd-numbered year, or on a date set by concurrent resolution, to consider the regent nominees. A committee quorum exists when a majority of the House members and majority of the Senate members are present at the joint committee meeting. The 2009 Legislature repealed a requirement that the committee meet more than once.

The joint committee may nominate and consider a candidate who is not recommended by the advisory council. To be considered, the nominee must be supported by at least five members of the joint committee—two from the Senate and three from the House. Minn. Stat. § 137.0246.

The regent nomination committee recommends candidates to the joint convention

For each vacancy on the Board of Regents, the regent nomination joint committee may recommend only one candidate to the joint convention of the Senate and the House. A majority of the House members and a majority of the Senate members on the joint committee must support a candidate for that candidate to be recommended to the joint convention. In making recommendations, the law requires the committee to consider the needs of the board, and the gender, racial, and ethnic balance of the board. Minn. Stat. § 137.0246.

Joint rules of the Senate and House provide for the operation of the joint committee, including how nominations are made and votes are taken. Joint Rules of the Senate and House of Representatives, 4.01.

A joint convention of the Senate and the House elects regents

The joint rules also provide for the election of the regents at a joint convention of the legislative bodies, as required in the constitution. Under the joint rules, the joint committee must report the names of persons recommended for each vacant regent seat. The person named is considered to be nominated for a regent position. Members of the legislature may submit additional nominations, and the joint rules govern voting on all nominations. The candidate for a regent vacancy who receives a majority of the votes cast is declared the winner.

The regent selection process was last modified in 2005 and 2007

In the early 2000s, the legislature made several changes to the process for nominating regent candidates. The 2005 Legislature established a role for the governor in the nomination process and created a joint committee of the legislature to consider nominations. In 2007, the governor's role was subsequently eliminated, and the composition and responsibilities of the joint committee were modified.

For more information: Contact legislative analyst Sean Williams at 651-296-5053. For a list of regents, see the higher education page on the House Research website, www.house.mn/hrd.

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

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HOUSE RESEARCH | Short Subjects

Lisa Larson

Updated: August 2016

Minnesota's Statewide Assessments

The 2015 and 2016 Legislatures amended the law on statewide tests

The 2015 and 2016 Legislatures revised Minnesota's existing law on statewide testing. Beginning in the 2015-2016 school year, statewide testing requirements for many students are as follows:

- **Minnesota Comprehensive Assessments (MCAs):** Public school students in grades 3 through 8 must take statewide computer-adaptive MCAs online that include on-grade-level test items and may include off-grade-level test items, depending on students' responses to the test questions; students in grade 10 take the reading MCA and students in grade 11 take the math MCA; students in grade 9 must take a statewide writing test when it becomes available
- **College entrance exams:** To the extent state funding is available, districts must pay the cost, one time, for students in grade 11 or 12 to take a nationally normed college entrance exam at the student's high school during the school day; students are no longer required to take a nationally normed college entrance exam to graduate from high school
- **Career and college readiness:** Students remain subject to career and college readiness expectations but are no longer required to take a series of career and college readiness assessments that are predictive of a nationally normed, college readiness assessment
- **Graduation assessments:** Students are not required to achieve a specified score or level of proficiency on any statewide assessments in order to graduate from high school
- **Assessments for students with special needs:** Students with an individualized education program may satisfy state assessment requirements by taking state-identified alternative assessments; additionally, the education commissioner must include accommodations or provide alternative assessments for English learners

The 2015 changes in the law applied to students enrolled in grade 8 in the 2012-2013 school year or later, which was most students entering grade 11 in the 2015-2016 school year. Students enrolled in grade 8 in the 2011-2012, 2010-2011, or an earlier school year are subject to transitional assessment requirements.

Students remain subject to career and college readiness expectations

Districts and schools annually must help students, beginning no later than grade 9, and their families prepare for postsecondary education and a career. Districts and schools also must help these students and their parents develop, review, and revise an individualized plan for postsecondary education or a career. Underlying the planning process are career and college-ready benchmarks that inform students and their parents and teachers about what knowledge and skills the students must learn and how well the students must perform to have a reasonable chance to succeed in a career or college without need for postsecondary remediation.

The education commissioner, in consultation with the chancellor of the Minnesota State Colleges and Universities (MnSCU), must establish empirically derived benchmarks on the high school reading and math tests to show a trajectory toward career and college readiness. Students who receive a college-ready ACT or SAT score or meet a career and college-ready MCA benchmark are not required to take a remedial noncredit course at a MnSCU institution in the corresponding subject area. Students through grade 12 must continue to participate in targeted instruction, intervention, and remediation, as appropriate.

Schools and districts must encourage students in grades 11 or 12 who are identified as academically ready for a career or college to participate in dual credit courses and programs.

ABE and EL students must be informed about targeted interventions

The education commissioner and the MnSCU chancellor also must collaborate in aligning instruction and assessments to give adult basic education (ABE) students and English learners (EL) diagnostic information about the targeted interventions they need to seek postsecondary education or employment without need for postsecondary remediation.

Districts must limit the amount of local testing

School districts and charter schools must limit any additional local testing to ten hours per school year for students in grades 1 to 6 and 11 hours per school year for students in grades 7 to 12, excluding Advanced Placement and International Baccalaureate exams, unless the district and its teachers agree to exceed the limit and include that information in the district's World's Best Workforce Report.

Before the start of the school year, districts and charter schools must publish on their official website a comprehensive standardized testing calendar for the school year and the rationale for administering each assessment, and indicate whether the test is a local option or required under state or federal law.

MDE must develop a list of special circumstances and an opt-out form for parents

The Minnesota Department of Education (MDE) must develop a list of circumstances under which a student may be unable to be tested. These circumstances include transferring from another state or from a nonpublic school, or hospitalization, among other circumstances. The MDE commissioner must publish a form for parents to complete if they refuse to have their student participate in state or local standardized testing.

For an overview of the Minnesota assessment system see the Statewide Testing page on the MDE website, http://education.state.mn.us/MDE/fam/tests/index.htm.

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

HOUSE RESEARCH | **Short Subjects**

Rebecca Pirius

September 2016

Ignition Interlock for DWI Offenders

What happens to a person's driver's license after a DWI?

When a person is charged with a DWI, there are two types of sanctions: administrative and criminal. This short subject deals with just *one* administrative sanction—loss of driving privileges.

DWI charges will result in a person's driving privileges either being revoked or canceled for a length of time based on the person's current and past DWI record (see chart on next page). Instead of waiting out the entire revocation or cancelation period to drive legally again, a person may apply to drive only vehicles equipped with an ignition interlock device during that time.

What is an ignition interlock device?

An ignition interlock device is installed in a vehicle to measure and record a person's alcohol concentration (AC) level. A vehicle will not start if a person blows into the device and alcohol is detected. (The AC level must be below .02.)

Are DWI offenders required to go on ignition interlock?

DWI offenders are not required to go on ignition interlock. However, ignition interlock allows DWI offenders to drive during the revocation or cancelation period, and for certain offenders, it is necessary to reinstate their driver's license.

For persons with **revoked** licenses (i.e., generally first or second DWI offense), a few options are available during the revocation period. The person may: (1) wait out the revocation period and not drive; (2) apply for limited driving privileges (only available to certain offenders); or (3) regain full driving privileges right away by going on ignition interlock. After the revocation period, the person may seek full driving privileges again.

For **canceled** drivers (i.e., generally third and subsequent DWI offenses), ignition interlock is necessary not only to drive during the cancelation period, but also to reinstate a person's driver's license once the cancelation period is over. For this group, participation in the ignition interlock program is proof of abstinence from alcohol, which is one of the requirements for license reinstatement. Participation is required for the length of the cancelation period. Accordingly, a person who chooses not to drive during the cancelation period cannot afterwards apply for a regular driver's license (like a revoked driver can). The canceled person would still need to go on ignition interlock for the entire length of the cancelation period regardless of time spent not driving.

How long do DWI offenders need to be on ignition interlock?

Generally, an offender will be on ignition interlock for the length of the revocation or cancelation period (as briefly described in the chart below). Other factors may affect the overall program length—such as program violations.

Length of Revocation and Cancelation Periods

	DWI Incidents*				
	1st	**2nd in 10 Years or 3rd on Record**	**3rd in 10 years or 4th on record**	**4th in 10 years**	**5th+ on record**
	Revocation Period		**Cancelation Period**		
AC < .16	90 days/180 days if under age 21	1 year	3 years	4 years	6 years
AC ≥ .16	1 year	2 years	3 years	4 years	6 years
Test Refusal	1 year*	2 years	3 years	4 years	6 years

* DWI incidents include convictions and administrative loss of license.

Can the ignition interlock device detect who is starting or driving the vehicle?

Anytime a person blows into the device, a photo is taken and recorded. The photos are sent to the Department of Public Safety (DPS) for review. In addition to the initial breath test to start the vehicle, rolling retests are taken, photographed, and recorded. Rolling retests are breath samples taken at random intervals while the person is driving.

What happens if the device detects alcohol?

If alcohol is detected before starting the vehicle, the vehicle will not start and the violation is reported to DPS. During a rolling retest, if alcohol is detected or the driver does not provide a breath sample, the vehicle will *not* stop but the violation will be reported to DPS.

What are the consequences for test failure or skipping rolling retests?

Administrative sanctions for test failure or skipping rolling retests may include extension of, or termination from, the ignition interlock program.

Moreover, a **revoked** driver cannot have full driving privileges reinstated until the last 90 days of the program show no positive AC tests over .02. For a **canceled** driver, a positive AC test over .02 recorded anytime during the program results in termination from the ignition interlock program. To regain driving privileges, the person must re-enroll in the program and restart the entire cancelation period.

Can a family member drive the vehicle with ignition interlock?

A family member or any another person may drive the vehicle, but the person must know how to start the car with the ignition interlock device and how to take rolling retests. Typically, the family member will take the same training as the offender.

Who pays for the ignition interlock?

The cost of the ignition interlock is the responsibility of the offender. Discount rates, through ignition interlock providers, may be available to indigent offenders.

For more information: See the House Research publication *An Overview of Minnesota's DWI Laws*, March 2016. See also Minnesota Department of Public Safety's Ignition Interlock Program Guidelines.

HOUSE RESEARCH | Short Subjects

Lisa Larson

Updated: September 2016

Minnesota's High School Graduation Requirements

Students must meet state and local high school graduation requirements

In order to graduate from a Minnesota public high school, a student must meet the state's course credit requirements and any additional local course credit requirements established by the school district. State graduation requirements are outlined in Minnesota Statutes, chapter 120B, and Minnesota Rules, chapter 3501. Students also must take standards-based tests in reading and math.

Minnesota requires students to complete 21.5 required and elective course credits

State course credit requirements for graduating from high school require students to complete the following 21.5 course credits:

- four language arts credits
- three math credits in algebra, geometry and statistics, and probability; students in the class of 2015 and later also must complete an algebra II credit (or its equivalent) as part of this three-credit requirement
- three science credits that include one biology credit and one physics or chemistry credit as part of the three-credit science requirement
- three-and-a-half social studies credits in U.S. history, geography, world history, economics, and government and citizenship that includes civics, or three social studies credits in U.S. history, geography, world history, government and citizenship that includes civics, and half a credit in economics taught in the social studies, business, or agriculture education department of a high school; civics instruction must include test questions given to applicants seeking to become naturalized U.S. citizens
- one art credit
- seven elective credits

Students may use: an agriculture science course to meet a general science credit other than the science credit in biology; a career and technical education credit to meet a science, math, or arts credit; a computer science credit to meet a math credit; and a Project Lead the Way credit to meet a science or math credit.

Students also must have physical education based on the most recent K-12 standards developed by the National Association of Sport and Physical Education, which MDE may modify and adapt to accommodate state interests.

A course credit signifies that a student successfully completed an academic year of study in a particular subject area or the district otherwise determined that the student mastered the subject area.

State graduation requirements apply to ELL students and children with disabilities

Students with limited English proficiency, or English language learners (ELL), must meet the same graduation requirements as all other students. English learners must take the Access for ELLs so districts can measure their progress toward meeting Minnesota standards for English language development. Children with disabilities must be given accommodations that are appropriate to their strengths and needs, and that permit equal access to and work toward grade-level content standards.

Students also must complete local graduation requirements

Districts must establish local health standards. Districts also must establish standards in career and technical education and world languages, and must offer elective courses in these two subject areas. Districts may impose additional local graduation requirements.

Students must take annual summative tests under federal and state law

Minnesota Comprehensive Assessments (MCAs): Public school students in grades 3 through 8 must take annual statewide MCAs in reading and math; students in grade 10 take the reading MCA and students in grade 11 take the math MCA; students in grade 9 must take a statewide writing test when it becomes available.

College entrance exams: To the extent state funding is available, districts must pay the cost, one time, for students in grade 11 or 12 to take a nationally normed college entrance exam at the student's high school during the school day.

Graduation assessments: Students are not required to achieve a specified score or level of proficiency on any statewide assessment in order to graduate from high school.

Students must answer questions from the U.S. naturalization test

Students enrolled in grade 9 in the 2017-2018 school year and later must take a civics test, correctly answering 30 of 50 questions from the U.S. naturalization test. A district cannot prevent a student from graduating or deny a student diploma who does not correctly answer 30 civics test questions.

Students are subject to career and college readiness expectations

Districts and schools annually must help students, beginning no later than grade 9, and their families prepare for postsecondary education and a career and must help these students and their parents develop an individualized plan for postsecondary education or a career. Underlying the planning process are career and college-ready benchmarks that inform students and their parents and teachers about what knowledge and skills the students must learn and how well the students must perform to have a reasonable chance to succeed in a career or college without need for postsecondary remediation.

The education commissioner, in consultation with the chancellor of the Minnesota State Colleges and Universities (MnSCU), must establish benchmarks on the high school reading and math tests to show progress toward career and college readiness. Students who receive a college-ready ACT or SAT score or meet a career and college-ready MCA benchmark are not required to take a remedial noncredit course at a MnSCU institution in the corresponding subject area.

Students with significant cognitive disabilities can take the MTAS

Students with IEPs and significant cognitive disabilities can take the Minnesota Test of Academic Skills (MTAS) instead of the MCA reading and math tests. The MTAS is an alternative assessment in reading, math, and science that is based on alternative achievement standards and measures the extent to which students are making progress in the general curriculum.

The MCA II high school science test is not a graduation requirement

Although federal law requires states to administer a science test to high school students, students do not need to pass the high school science test to graduate. Under state law, students are not required to receive a passing score on high school science assessments as a condition of receiving a diploma.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036. Also the House Research publication *Minnesota's Statewide Assessments*, August 2016.

HOUSE RESEARCH | **Short Subjects**

Danyell Punelli and Sean Williams **Updated: September 2016**

Nursing Facility Reimbursement

The Medical Assistance (MA) program reimburses nursing facilities for services provided to low-income elderly and disabled persons who meet income and asset limits and other eligibility requirements. The Minnesota Department of Human Services (DHS) administers the MA reimbursement system for nursing facilities and establishes the reimbursement rates for each facility.

What are the components of a nursing facility's reimbursement rate?

MA reimburses nursing facilities for operating costs, external fixed costs, and property costs.

Operating costs include (1) *direct care costs*, which are salaries, wages, and associated fringe benefits and payroll taxes of nurses, certified nursing assistants, and other health care staff; supplies such as dressings, bandages, water pitchers, soap, and syringes; and technology related to the provision of nursing care; (2) *other care-related costs*, which are activities costs, raw food costs, therapy costs, social services costs, and the salaries, wages, and associated fringe benefits and payroll taxes of mental health workers, religious personnel, and other direct care employees not specified under direct care costs; and (3) *other operating costs*, which are administrative costs (including property insurance), dietary costs, housekeeping costs, laundry costs, and maintenance and plant operation costs.

External fixed costs include surcharges and fees; scholarships; planned closure rate adjustments; single-bed room incentives; property taxes, assessments, and payments in lieu of taxes; employer health insurance costs; quality improvement incentives; performance-based incentives; special dietary needs; and Public Employee Retirement Act costs.

Property costs include interest expense and return on equity.

How are nursing facility payment rates determined?

On January 1, 2016, DHS implemented a new reimbursement system, called the value-based reimbursement system. Under the value-based reimbursement system, nursing facility operating payment rates are determined based on each facility's reported costs. A facility's operating rate reflects the costs it reported in its most recent cost report. Due to the timing of the cost reporting cycle, this means that there is at least a 15-month lag between when a facility accrues costs and when those costs are reflected in the facility's rate.

How does DHS control the costs of nursing facility reimbursement?

The value-based reimbursement system assigns each facility a limit on its *total care-related costs.* This limit is tied to the facility's quality score; facilities with higher quality scores are assigned higher limits. DHS does not reimburse facilities for *direct care* or *other care-related* costs in excess of the facility's limit.

Additionally, each facility in the state receives the same *other operating* rate. This rate is set at the other operating costs per resident day for the median facility in the seven-county metropolitan area.

Are nursing facility rates adjusted for inflation?

The current value-based reimbursement system does not include an inflationary adjustment, but facilities' rates increase over time as their costs increase. Under previous reimbursement systems, inflation adjustments for nursing facility rates were sporadic. From July 1, 1999, through September 30, 2011, the automatic inflation adjustment was applied only to the property-related rate. The legislature most recently authorized adjustments to operating costs in 2008 and 2013.

Do nursing facility rates vary by facility?

Reimbursement rates are facility- and resident-specific. Rates vary with the facility's historical costs, with the amount of care needed by a resident (as measured by a case-mix classification), and reflect any statutory facility-specific rate adjustments authorized by the legislature.

What are case-mix classifications?

Nursing facilities are reimbursed by MA on a resident-per-day basis. The nursing home reimbursement levels are adjusted under the Resource Utilization Groups (RUG) case-mix system to reflect the varying care needs of residents.

All applicants to nursing facilities are assessed by the Department of Health upon admission and at least every 90 days thereafter. Residents are assigned to a case-mix classification based on the level of their dependence in activities of daily living, the severity of their cognitive and/or behavior management needs, and the complexity of their nursing needs. Each case-mix classification is assigned a case-mix weight, with the lowest level of care receiving the lowest weight and the highest level of care receiving the highest weight.

The direct care-costs component of a facility's rate is adjusted based upon a resident's case-mix weight. All other components of a facility's rate are the same for all residents in the facility.

What methods have been used to determine payment rates in the past?

Prior to October 1, 2006, nursing facilities were reimbursed under a cost-based system sometimes referred to as "rule 50," where reimbursement to facilities was based on their reported costs, subject to various limits. From October 1, 2006, through September 30, 2008, all nursing facilities participating in MA were reimbursed under the Alternative Payment System (APS), a contract-based system where facilities were exempt from certain statutory requirements of the cost-based system and reimbursed at the level of their payment rate in effect just prior to entering into an APS contract with the commissioner. From October 1, 2008, through December 31, 2015, facilities were reimbursed under a blend of APS and a "rebased" reimbursement rate.

What other payments do nursing facilities receive?

Nursing facilities may receive several other payments or rate adjustments including:

- rate adjustments for compensation-related costs due to minimum wage changes;
- rate adjustments for the first 30 days; and
- rate adjustments for ventilator-dependent persons.

For more information: Contact legislative analyst Danyell Punelli at 651-296-5058 or Sean Williams at 651-296-5053. Also see the House Research publication *Nursing Facility Reimbursement and Regulation*, March 2016.

HOUSE RESEARCH | Short Subjects

Randall Chun

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Emergency Medical Assistance

Emergency Medical Assistance (EMA) covers emergency services for lawfully present noncitizens who are not eligible for regular Medical Assistance (MA) coverage with a federal match, and undocumented persons. (Certain groups of lawfully present noncitizens qualify for regular MA coverage with a federal match; individuals in these groups do not qualify for EMA.) EMA is administered by the Department of Human Services (DHS); the state receives the regular federal Medicaid match for the cost of EMA services. Eligibility and covered services for EMA are specified in Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (f), (g), (h), and (k).

Eligibility

Individuals must have an MA basis of eligibility (which means they belong to a group for which MA coverage is available) and meet all MA eligibility requirements such as income and asset limits and residency, other than those related to immigration status.

The following groups of individuals are eligible for EMA:

(1) Lawfully present noncitizens who do not qualify for regular MA coverage with a federal match due to their immigration status. Pregnant women and children under age 21 who are lawfully present qualify for regular MA coverage with a federal match regardless of their immigration status.

(2) Sponsored immigrants ineligible for MA because of the deeming of sponsor income and assets. Pregnant women and children under age 21 are exempt from sponsor deeming.

(3) Noncitizens who are undocumented. Most pregnant women who are not lawfully present and who do not have other insurance qualify for regular MA coverage while pregnant, including labor and delivery and 60-days postpartum.

Services Covered Under EMA

EMA covers: (1) care and services provided in an emergency department or inpatient hospital (following admission from an emergency department), or by an ambulance service, that are necessary to treat an emergency condition; (2) services provided in a nursing facility or the community necessary for continued treatment of an emergency condition or necessary to prevent the recipient's condition from developing into an emergency medical condition; and (3) certain dialysis services, cancer treatment, and kidney transplants.

Minnesota law specifies that EMA covers "care and services necessary for the treatment of an emergency medical condition" as this term is defined in federal law. Federal law (42 U.S.C. 1396b (v)) defines an emergency medical condition as "...a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate attention could reasonably be expected to result in—

(A) placing the patient's health in serious jeopardy,
(B) serious impairment to bodily functions, or
(C) serious dysfunction of any bodily organ or part."

EMA may cover services provided in a nursing facility or a home/community setting following discharge from an emergency department or inpatient hospital, if these services are part of a care plan approved by the DHS medical review agent and are medically necessary and required to prevent the individual's condition from quickly becoming an emergency medical condition (typically within 48 hours); other criteria also must be met.

EMA also covers the following services, if approved as part of a care plan approved by the DHS medical review agent: (1) dialysis and services provided in a hospital or freestanding dialysis facility; (2) surgery, chemotherapy, radiation and other services necessary to treat cancer that is not in remission; and (3) kidney transplants for persons with end-stage renal disease who are currently receiving dialysis services.

Limits on services

Certain services are specifically excluded from coverage under EMA. These services include, but are not limited to: nonemergency services delivered in an emergency department or inpatient setting; transplants (other than certain kidney transplants); routine prenatal care; continuing care; elective surgery; outpatient prescription drugs, unless administered or dispensed as part of an emergency department visit; preventive health care and family planning services; rehabilitation services; physical, occupational, and speech therapy services; nonemergency transportation for routine or preventive care; case management; dental services; vision services and eyeglasses; waiver services; and chemical dependency treatment. See Minnesota Statutes, section 256B.06, subdivision 4, paragraph (h), clause (2), for the full list of excluded services.

Certain services, such as emergency dental services, personal care assistant and home care services, and outpatient prescription drugs, require authorization by DHS in addition to care plan approval, in order to be covered under EMA.

For more information: Contact legislative analyst Randall Chun at 651-296-8639.

Christopher Kleman Updated: September 2016

Indian Gambling in Minnesota

There are 18 tribal casinos in Minnesota operating under a combination of state law, tribal ordinance, and tribal-state compacts.

The federal Indian Gaming Regulatory Act authorizes gambling on Indian land

Nationally, Indian gambling is authorized by the federal Indian Gaming Regulatory Act (IGRA). This law generally allows Indian tribes in any state to conduct on Indian land those types of gambling that the state allows for non-Indians. IGRA divides all gambling on Indian land into one of three classes:

- **Class I gambling**, which includes traditional Indian ceremonial and social games, is controlled exclusively by the tribes.
- **Class II gambling** consists of bingo, keno, pull-tabs, punchboards, and nonbanking card games (games where players play against each other rather than against the house). Class II gambling is governed by a tribal ordinance that must meet federal guidelines and be approved by the National Indian Gaming Commission.
- **Class III gambling** consists of common casino games such as roulette, craps, chemin de fer, baccarat, and banking card games such as blackjack. The term also includes all mechanical or electronic gambling machines such as slot machines and video poker devices. Class III gambling is conducted under a compact that each tribe negotiates with the government of the state in which it is located. Compacts can specify which party has civil and criminal jurisdiction over gambling enforcement. The compacts can apply those state laws to class III gambling that each party believes necessary for regulation.

IGRA defines Indian land as land that is either:

- part of a federally recognized Indian reservation, or
- off of a reservation but held in trust for an Indian tribe by the federal government, or under the jurisdiction of an Indian governing body.

It is not necessary for land to be actually part of a reservation for gambling to be conducted on it. In theory, an Indian tribe could buy land anywhere in a state and operate a casino on it by having it declared Indian trust land by the U.S. Secretary of the Interior. Such a designation of Indian trust land for gambling purposes also requires the concurrence of the governor of the state.

A state's authority to control gambling is limited

A state cannot prohibit Indian gambling if it is a type of gambling that the state allows for non-Indians. States' rights to control Indian gambling are sharply limited under federal law.

The states have no role in regulating bingo and other class II games. If a state allows a class II game to be played on non-Indian lands, tribes have a right to conduct that game under a federally approved tribal ordinance. Unbanked card games played under a tribal ordinance have to abide by state laws on hours of play and wagering limits.

If a state allows blackjack, slot machines, and other class III games for non-Indians, the IGRA requires the state to negotiate a compact for those games with an Indian tribe that requests it. The IGRA also provides an administrative procedure to determine contract terms if a state does not negotiate with a tribe in good faith. The first step in the procedure requires a tribe to obtain a federal court order directing negotiations and, if needed, mediation. However, a 1996 U.S. Supreme Court decision held that this provision violates state sovereign immunity under the 11th amendment. This decision effectively thwarts the IGRA's procedure for resolving deadlocked contract negotiations, unless a state has waived is sovereign immunity (as some states have done).

To give effect to the administrative procedures after the Court's 1996 holding, the Department of the Interior promulgated regulations that eliminated the federal court order requirement. The validity of these regulations has been the subject of litigation. In 2007, the 5th Circuit Court of Appeals held that the department did not have the authority to promulgate them. A case filed by New Mexico challenging the regulations is pending in the 10th Circuit. For states that have not waived their sovereign immunity under the IGRA, it is not clear how deadlocked contract negotiations will be resolved.

States negotiate compacts with tribes

Minnesota has negotiated 22 tribal-state compacts with 11 Indian tribes, resulting in the establishment of 18 casinos in the state. The class III games permitted under these compacts are blackjack and video games of chance.

The compacts provide for inspection and approval of machines by the state Department of Public Safety, licensing of casino employees, standards for employees (no prior felony convictions, etc.), machine payout percentages, and regulation of the play of blackjack. In addition, if off-track betting on horse racing is ever permitted in Minnesota (the law authorizing it was declared unconstitutional by the state supreme court), there could be one Indian off-track betting establishment for each non-Indian establishment in the state.

Both types of compacts (video games and blackjack) provide that they remain in effect until the two parties renegotiate them. Either party can request a renegotiation at any time.

States can't tax Indian gambling to raise general revenue

IGRA specifically prohibits states from imposing taxes or fees on Indian gambling, except for fees that the tribe agrees to. These fees are intended to compensate the state for its costs in performing inspections and other regulation under the tribal-state compact. In other words, states cannot raise general revenue by taxing Indian gambling.

Some states, notably Connecticut, have negotiated agreements with Indian tribes under which the tribe voluntarily pays the state a percentage of gambling revenue in exchange for state agreement to maintain tribal monopoly over certain types of gambling.

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HOUSE RESEARCH | **Short Subjects**

Joel Michael

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Minnesota Research and Development Tax Credit

What is the Minnesota research and development credit?

Minnesota allows businesses conducting research and development to claim research credits against their corporate franchise taxes or individual income taxes (for pass-through tax entities, such as LLCs and S corporations). The credit's computations are based on definitions under the federal tax credit for increasing research activities, except the research must be done in Minnesota.

What is the policy rationale for the research credit?

There are two basic rationales for research credits:

- It is widely recognized that businesses under-invest in research and development, because some of benefits of research go to society generally and cannot be captured solely for the business and its owners. Others can copy or build on their research, siphoning off some of the benefit. Research credits, including the federal and Minnesota credits, help overcome this barrier by providing tax benefits for qualifying research.

- State credits, such as Minnesota's, have a general "economic development" purpose—that is, they seek to encourage businesses to do more research in Minnesota to create jobs and other economic benefits for Minnesota residents. The credits help the state to compete for research investment by businesses. Some published academic research supports the view that state credits help to achieve this end.

What types of research expenses qualify?

Under the federal definition used by Minnesota, "qualifying research expenses" must be made to discover technological information that is applied to develop a new or improved business component (e.g., a product or process). The expenditures could be intended to improve quality, performance, reliability or something similar. The expenditures typically are for wages of the business's employees, supplies purchased, or amounts paid to contractors to do research for the business. Expenditures on equipment do not qualify, but instead qualify for separate expensing benefits under federal and state tax law.

Is the credit incremental?

The credit applies to research over a base amount. The federal definition of "qualified research expenses" is limited to the *increase* in research expenditures over a "base amount," making the credit an "incremental" credit. This base amount is expressed as a percentage of the business's gross receipts (Minnesota gross receipts for the Minnesota credit). The percentage is determined for each business based on the percentage its research spending was of its 1984-1988 gross receipts (for the businesses starting up after 1988, 3 percent is used) with a maximum of 16 percent. This incremental credit structure is intended to make the credit more cost effective in stimulating research by disallowing the credit for the normal or basic research the business would otherwise do. For example, a business whose research is a constant percentage of its gross receipts would not be allowed the credit, because it had not increased its research "effort."

50-percent limit applies. The credit cannot exceed 50 percent of the business's research expenditures and many businesses' credits are determined under that rule, because their research is always well above their base amount. This typically occurs for Minnesota-based multistate businesses, because their base amounts are calculated using Minnesota gross receipts, a relatively low amount, while their Minnesota research often relates to their entire operations. Since these businesses qualify for a credit based on 50 percent of their research spending, their credits are really not incremental or dependent on increasing the relative amount of their research.

How is the credit computed?

The Minnesota credit has a two-tiered rate structure; a higher rate (10 percent) applies to the first $2 million of Minnesota qualified research expenses and a lower rate (2.5 percent) for the amount over that.

Is the credit refundable?

The credit is not refundable; it cannot exceed the liability for tax. (For three tax years, 2010 through 2012, the credit was refundable.) However, a unitary business (that is, a business with two or more corporations or other entities that are part of one business), may allocate the credit among its individual corporations to fully use the credit. If the credit still exceeds the liability for tax, it can be carried over and used to reduce taxes in later tax years (for up to 15 tax years).

How much does the credit reduce tax revenues?

The Minnesota Department of Revenue's (DOR) *Tax Expenditure Budget* (February 2016) estimated that for fiscal year 2017, $50.2 million in corporate franchise tax credits will be allowed and $18.5 million in individual income tax credits. The *Tax Expenditure Budget* also reports that expensing of research and development costs provides tax expenditures for fiscal year 2017 of $16 million (under the corporate franchise tax) and $600,000 (under the individual income tax) for research and development expenditures.

How does Minnesota's credit compare to credits in other states?

Minnesota was the first state to enact a research and development credit in 1981. Most states with corporate taxes now have credits for some types of research expenditures. These credits vary considerably and it is difficult to generalize about them. Some states, like Minnesota, follow the basic federal credit. Other states use different—both more expansive or narrower—definitions of the types of research that qualify for their credits. Some states target their credits to specific types of businesses (e.g., high technology companies), while others follow the alternative, as well as the basic, federal research credit rules. Several states have credit rates that are higher than Minnesota's first tier (10 percent) rate and most allow rates higher than second tier (2.5 percent) rate. Finally, some state credits are not incremental, but rather apply to all qualifying research done in the state.

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Steve Hinze

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Property Tax 101: Property Tax Variation by Property Type

What causes property taxes to vary by type of property?

The primary cause of variation in property tax burdens is Minnesota's classified property tax system. In a classified system, each class of property is assigned one or more *class rates*. The property's taxable market value is multiplied by the class rate(s) to determine the property's tax base, technically called its *net tax capacity*.

Besides the class rates, variations in tax by type of property also occur because the state general tax and school district operating referendum levies apply to some types of property but not to others. (All voter-approved levies are levied on referendum market value, except school district levies for bonded debt and other units' debt levies approved by voters after 6/30/08; those levies are levied on the net tax capacity of all types of property.)

Class Rate Schedule for Taxes Payable in 2017

Class	Property Type (major property types only)	Class Rate	Subject to State Tax?	Subject to Referendum Levies?
1	**Homestead**			
1a	Residential homestead:			
	Up to $500,000	1.00%	No	Yes
	Over $500,000	1.25	No	Yes
2	**Agricultural**			
2a	Agricultural homestead:			
	House, garage & 1 acre – same as residential homestead			
	Agricultural land & buildings:			
	Up to $2,050,000	0.50	No	No
	Over $2,050,000	1.00	No	No
2a	Agricultural nonhomestead	1.00	No	No
2b	Nonhomestead rural vacant land	1.00	No	No
3	**Commercial/Industrial/Public Utility**			
3a	Commercial/Industrial/Public Utility:			
	Up to $150,000	1.50	Yes*	Yes
	Over $150,000	2.00	Yes*	Yes
	Electric generation attached machinery	2.00	No	Yes
4	**Other residential**			
4a	Market-rate apartments (4 or more units)	1.25	No	Yes
4bb	Residential nonhomestead single unit:			
	Up to $500,000	1.00	No	Yes
	Over $500,000	1.25	No	Yes
4b	Residential nonhomestead 2-3 unit and undeveloped land	1.25	No	Yes
4c	Seasonal recreational residential (noncommercial):			
	Up to $500,000	1.00	Yes**	No
	Over $500,000	1.25	Yes**	No
4d	Low-income apartments:			
	Up to $115,000 per unit	0.75	No	Yes
	Over $115,000 per unit	0.25	No	Yes

* Subject to state general tax at commercial-industrial rate.
** Subject to state general tax at seasonal recreational rate.

What other factors cause property taxes to vary by type of property?

Variations also occur because of various property tax exclusions and credits. Homesteads benefit from the homestead market value exclusion, which provides for up to $30,000 of a homestead's market value to be deducted before determining the taxes payable. Other exclusions are the disabled veterans' exclusion and the agricultural "Green Acres" program. Certain types of property also qualify for property tax credits that reduce the net tax on the property. The biggest property tax credit programs are the agricultural market value credit and the taconite homestead credit.

Local variation also occurs because tax rates are determined separately for each taxing jurisdiction in the state, based on each jurisdiction's levy and tax base.

What is effective tax rate?

Effective tax rate is a measure of tax burden useful in making property tax comparisons. It is defined as net tax divided by market value (i.e., tax as a percent of market value). It allows comparison of tax burdens between properties of different values, different types, and different locations.

Comparison of Property Taxes on Various Types of Property, Within the Same Taxing Jurisdiction, Each with an Estimated Market Value of $200,000 (Property taxes payable in 2017)

Property Type	Class Rate(s)	Net Tax Capacity	Property Tax*		Effective Tax Rate
			Gross	Net	
Agricultural homestead**	0.5/1.0%	$1,040	$1,112	$722	0.36%
Agricultural nonhomestead	1.0	2,000	2,000	2,000	1.00
Residential homestead	1.0	1,808	2,168	2,168	1.08
Seasonal recreational residential (i.e., cabin)	1.0	2,000	2,309	2,309	1.15
Residential nonhomestead (1 unit)	1.0	2,000	2,360	2,360	1.18
Residential nonhomestead (2-3 units)	1.25	2,500	2,860	2,860	1.43
Apartment	1.25	2,500	2,860	2,860	1.43
Low-income apartment	0.75	1,500	1,770	1,770	0.89
Commercial/Industrial	1.5/2.0	3,250	5,235	5,235	2.62
Commercial/Industrial @ $2,000,000***	1.5/2.0	39,250	62,475	62,475	3.12

* These examples assume a total local net tax capacity tax rate of 100 percent, a total market value tax rate of 0.18 percent, a state commercial-industrial tax rate of 50 percent, and a state seasonal recreational tax rate of 20 percent.

** The agricultural homestead is assumed to consist of a house valued at $40,000 and agricultural land and buildings valued at $160,000.

*** This property has a market value of $2,000,000 to show a typical effective tax rate on a larger commercial/industrial property.

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Deborah A. Dyson

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Terms Used in Local Government Legislation

Minnesota statutes and laws use a number of terms to refer to local governmental units, and from one law to another they may not mean the same thing. This is a summary of commonly used terms.

Local government "Local government" usually refers to counties, towns, and cities. Single- or multi-purpose special districts, such as school districts, are frequently included in the term "political subdivision" but are less often defined as local governments. Sometimes, absent a definition, only the context of the law will indicate what entities are meant to be included.

Political subdivision "Political subdivision" is probably the broadest term used to describe any public body that is not state or federal government. However, a statute may define the term to mean specific entities.

Public corporation In the context of local government, "public corportation" means an entity created for the administration of public affairs, an instrumentality of the state, and may include counties, cities, towns, and special purpose entities. It also applies to quasi-governmental entities, created in law and often exempt from some laws that apply to state agencies. See, e.g., Enterprise Minnesota, Inc. Minn. Stat. § 116O.03, subd. 1.

Municipal corporation In the narrowest sense, a municipal corporation is a city. However, the term can be defined for the purposes of a law to include other governmental units.

City: statutory or home rule charter; classification **There are two types of cities in Minnesota: statutory and home rule charter.** A statutory city is governed by statute and any special laws enacted for that city. A home rule charter city is governed by its charter and any special laws enacted for that city. Also, if the home rule charter is silent on a matter that is addressed for statutory cities by general law, and general law does not prohibit a city charter from addressing the matter or expressly provide that a city charter prevails over general law, then the city may apply the general law on the matter. Minn. Stat. § 410.33.

"In any law adopted after July 1, 1976, the word 'city' when used without further description extending the application of the term to home rule charter cities means statutory cities only." Minn. Stat. § 410.015.

Classification: Cities are divided, for legislative purposes, into classes as follows:

- First class: over 100,000 inhabitants; once a city is defined to be of the first class, it is not reclassified unless its population decreases by 25 percent from the census figures that last qualified the city for inclusion in the class
- Second class: 20,001 to 100,000 inhabitants
- Third class: 10,001 to 20,000 inhabitants

- Fourth class: not more than 10,000 inhabitants

Changes in classification take effect after the federal decennial census. Minn. Stat. § 410.01.

"Village" and "borough" are obsolete terms. All villages and boroughs in the state became statutory cities in the early 1970s.

Municipality

This term generally means a city but many statutes define it to include other entities. For example, the uniform municipal contracting law defines "municipality" to mean "a county, town, city, school district or other municipal corporation or political subdivision of the state authorized by law to enter into contracts." Minn. Stat. § 471.345, subd. 1.

County

"County" rarely needs additional definition except to limit its application or to define it as a shorthand reference to the county board or some other entity covered by the law.

Town, township, urban town

"Town" and "township" have been used interchangeably in Minnesota law, but "town" is the correct term to refer to an organized governmental unit and "township" is the term to refer to the geographic area. In county areas without organized town government, the term "unorganized territory" is also used. As in other states, Minnesota towns are based on the congressional townships—generally 36 square miles. Towns are the primary local government units for unincorporated areas. Urban towns are those towns that have been granted some of the same powers as statutory cities.

Incorporated, unincorporated

In the context of governmental units, "incorporated" means a city and "unincorporated" means a town. See Minn. Stat. § 414.011, subd. 3.

Interpretation of statutes, definitions

"When a county, town, or city is mentioned, without any particular description, it imports the particular county, town, or city appropriate to the matter." Minn. Stat. § 645.44, subd. 3.

Metropolitan area

There are at least two definitions of "metropolitan area" used in state law. One means the seven-county area of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties that is within the jurisdiction of the Metropolitan Council. Minn. Stat. § 473.121, subd. 2.

Another definition is "metropolitan statistical area" (MSA), defined by the federal Office of Management and Budget (OMB) using OMB standards applied to U.S. Census Bureau data. As of July 2015, the Minneapolis-St. Paul-Bloomington MSA includes 14 Minnesota counties (the seven named above and Chisago, Isanti, Le Sueur, Mille Lacs, Sherburne, Sibley, and Wright), and the Wisconsin counties of Pierce and St. Croix.

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Deborah A. Dyson

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Special Legislation and Local Approval: An Overview

The Minnesota Constitution prohibits "special legislation" with the exception of certain special legislation relating to local governments.

Special legislation

Special legislation is legislation that applies to part of a class—a particular person, thing, or locale within a given class—and, in general, is prohibited under the state constitution. If a general law can be enacted, the legislature may not enact a special law, except a local law.

Whether a law is "special" is determined by the court on a case-by-case basis, applying general principles. In distinguishing permissible general legislation and unconstitutional special legislation, courts have said:

- a law is general when it is uniform in its operation even though it divides the subjects of its operation into classes and applies different rules to different classes; and
- a law is special if it applies to particular members of a class.

In order to determine if a classification is justified and constitutional, courts have applied a three-part rational-basis test. A classification is proper if:

- the classification applies to and embraces all who are similarly situated;
- the distinctions are not manifestly arbitrary or fanciful but are genuine and substantial so as to provide a natural and reasonable basis justifying the distinction; and
- there is an evident connection between the distinctive needs peculiar to the class and the remedy or regulations in the law.

Prohibited special legislation

The Minnesota Constitution lists certain subjects that cannot be the subject of special legislation, whether they are local law or not:

- authorizing the laying out, opening, altering, vacating, or maintaining of roads, highways, streets, or alleys
- remitting fines, penalties, or forfeitures
- changing the names of persons, places, lakes, or rivers
- authorizing the adoption or legitimation of children
- changing the law of descent or succession
- conferring rights on minors
- declaring any named person of age
- giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability
- granting divorces
- exempting property from taxation or regulating the rate of interest on money
- creating private corporations, or amending, renewing, or extending the charters thereof
- granting to any private corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever or authorizing public taxation for a private purpose

The constitution also prohibits special laws in the form of bills of attainder. A bill of attainder is special legislation that inflicts punishment or a penalty upon an individual.

Finally, the constitution requires taxes to be uniform on the same class of objects.

Legislative appropriations are not special legislation.

Local approval

As an exception to the prohibition on special legislation, the state constitution permits the legislature to enact special laws relating to local government units. A local law is effective only after approval by the affected local government unit, unless the general state law provides otherwise.

State statute requires approval by resolution adopted by a majority vote of all members of the governing body of the unit unless the particular special law specifies another method of approval. The chief clerical officer of a local government unit then files a certificate of local approval with the secretary of state, including a copy of the resolution of approval or, if submitted to the voters, the number of votes cast for and against approval at the election. Generally, the law is effective after the local government files the required certificate with the secretary of state.

If a local government unit fails to file a certificate of approval before the first day of the next regular session of the legislature (i.e., before the first Tuesday after the first Monday in January of odd-numbered years), the law is deemed to be disapproved by the local government unless otherwise provided in the special law.

Exceptions

The constitution permits the legislature to provide by general law exception to the local approval requirement. Currently, state statute provides three instances in which local approval is not required:

(1) The law enables one or more local government units to exercise authority not granted by general law. That is, the law is permissive, not mandatory.

(2) The law brings a local government unit within the general law by repealing a special law, by removing an exception to the applicability of a general statutory provision, by extending the applicability of a general statutory provision, or by reclassifying local government units.

(3) The law applies to a single unit or a group of units with a population of more than one million people.

Under all other circumstances, local approval is required. This includes legislation for a local government that is coded in Minnesota Statutes. Even if a law does not require local approval because it fits one of the exceptions above, if the specific legislation requires it, it is not effective until approved. Finally, whether or not the legislation expressly requires local approval, if the legislation is local law and none of the general law exceptions apply, the constitution requires local approval before the law is effective.

"Application clause"

The constitution also requires that special legislation for a local government name the local government unit or the counties, if more than one unit is affected, whether or not local approval is required.

Usually the affected unit of government is named as a substantive part of the law and the application is apparent. With regard to the Metropolitan Council, although the unit of government is named in the substantive part of the law, it has become standard practice to add an "application clause," listing the counties included in the jurisdiction of the council.

For more information: See the House Research publication *Special Legislation*, October 2016.

Rebecca Pirius

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Minnesota's Public Defender System

Who is entitled to a public defender?

The United States and Minnesota Constitutions both establish the right to an attorney for anyone facing a charge punishable by "loss of liberty." Minnesota law entitles anyone who is financially unable to obtain counsel to a public defender if he or she: (1) is charged with a felony, gross misdemeanor, or misdemeanor; (2) is appealing a felony, gross misdemeanor, or misdemeanor conviction, or pursuing post-conviction relief and has not already had a direct appeal; or (3) is contesting grounds for a probation revocation.

Are juveniles entitled to a public defender?

Similar to adults, juveniles who are financially unable to obtain counsel are entitled to a public defender. In delinquency cases, juveniles have the right to the appointment of a public defender except for juvenile petty offenses (e.g., minor alcohol or controlled substance offenses, minor traffic offenses, etc.).

In CHIPS (Child in Need of Protection or Services) and TPR (Termination of Parental Rights) cases, juveniles who are ten years of age or older have the right to a public defender, except in habitual truancy cases. A guardian ad litem may be appointed to a juvenile under age ten.

Who is considered "financially unable" to obtain counsel?

Pursuant to statute, a defendant is financially unable to obtain counsel if the defendant, or a defendant's dependent (residing in the same household), receives means-tested governmental benefits, or, considering the defendant's liquid assets and current income, the defendant would be unable to pay the reasonable costs charged by a private attorney. The court must *not* appoint a public defender to a person who is able to afford private counsel but refuses to do so.

The burden is on the defendant to show financial inability to pay. The defendant must submit a financial statement under oath, and the court makes the determination of the defendant's financial eligibility. The defendant is under a continuing duty to disclose any change in financial circumstances.

How does a person request a public defender?

A person may ask the court to appoint a public defender at any time where the matter is pending or the conviction has occurred. Depending on the judicial district, a financial inquiry may occur before the first court appearance or in court. Prior to a court appearance, a person may request a public defender if facing a police interrogation or other procedures affecting one's rights. For more information, see the websites for the State of Minnesota Board of Public Defense (http://www.pubdef.state.mn.us/getapublicdefender) and the Minnesota Judicial Branch (http://www.mncourts.gov/Help-Topics/Public-Defender.aspx).

Does the defendant ever have to reimburse the state for the cost of a public defender?

The court may order a defendant to reimburse the state, in whole or in part, for the cost of a public defender. In determining the amount of reimbursement, the court must consider the defendant's income, assets, and employment. If necessary, the court may establish a reimbursement schedule or issue an order for wage withholding. In cases where a public defender is appointed to represent a juvenile, the court may order a parent to reimburse the state. The presiding judge must terminate the appointment of a public defender to any person who subsequently becomes financially able to pay for private counsel.

How do co-pays work?

Upon disposition of the case, a defendant who received public defender services must pay a $75 co-payment, unless the court reduces or waives the co-payment. The statute does not indicate when a court should exercise its discretion to waive the co-payment. In 2003, the Minnesota Court of Appeals held that the court must waive the co-payment when a defendant is indigent or when the co-payment would cause manifest hardship on a defendant.

Are public defenders appointed in civil cases?

Public defenders represent individuals only in criminal cases. A person is not generally entitled to representation by counsel in civil cases (e.g., divorce, eviction, contract, personal injury, wrongful death, etc.). There are organizations (with limited resources) throughout the state that may assist low-income individuals in civil lawsuits (e.g., legal aid, see Legal Services State Support, www.mnlegalservices.org), and certain judicial districts offer legal advice clinics (http://www.mncourts.gov/selfhelp/?page=251).

In certain civil cases, a person may have a statutory right to counsel at public expense. This is different from a public defender; generally, court-appointed counsel in such matters is a county expense.

How is the Minnesota public defender system organized?

There is a district public defender office in each of the state's ten judicial districts. District public defenders represent individuals in trial and juvenile court. In addition, there is an appellate and a state public defender office. Attorneys in the appellate office represent individuals who are appealing a conviction or seeking post-conviction relief. The state public defender supervises the operation, activities, policies, and procedures of the statewide public defender system.

How is the Minnesota public defender system governed?

There is a State Board of Public Defense consisting of seven members. The board appoints the state public defender for a four-year term, and, with the advice of the state public defender, appoints a chief administrator. The board also appoints a chief public defender in each of the state's ten judicial districts and a chief appellate public defender. In addition, the board distributes funding from the legislature to the district and appellate offices. Although the State Board of Public Defense is part of the judicial branch of government, it is not under the judicial branch's administrative control.

How is the public defender system funded?

Money is appropriated to the Board of Public Defense from the state general fund each biennium. (In the 1990s, the state assumed the cost of the public defender system from the counties, with the exception of Hennepin County. In the Fourth Judicial District, costs are shared between the state and Hennepin County.) There are also four legal defense corporations funded through grants from the board.

For more information: Contact legislative analyst Rebecca Pirius for legal citations. House Research does not provide legal advice or representation for members of the public.

Nina Manzi and Jeffrey Diebel

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Military Pay under Minnesota's Individual Income Tax

Military pay, including retirement pay, is exempt from Minnesota income tax

Calculation of Minnesota's individual income tax starts with federal taxable income. As a result, military pay that is exempt from taxation at the federal level, such as combat pay and hazardous duty pay, is also exempt at the state level. Minnesota allows subtraction from federal taxable income of most other types of military pay that are taxed at the federal level.

Beginning in tax year 2016, Minnesota also allows an income tax subtraction for military retirement pay, including survivor benefit plan payments.

Federal law prohibits states from taxing some types of military income

Federal law prohibits states from taxing active service military pay earned by nonresidents. Thus, a nonresident member of the military often does not need to file a Minnesota tax return.

Military pay for regular full-time active service is not taxed by the state

Minnesota also allows for the subtraction of military pay earned by a Minnesota resident for full-time active military service. This subtraction typically applies to Minnesota residents who serve either within Minnesota as full-time military recruiters or Coast Guard personnel, for example, and to Minnesota residents who are in full-time military service outside Minnesota.

Military pay for Minnesota National Guard and reserve service is not taxed by the state

A member of the Minnesota National Guard or other military reserve unit is allowed to subtract pay received for active service. "Active service" includes:

- certain state active service, such as assistance in natural disasters and searches for lost persons (Minn. Stat. § 190.05, subd. 5a, cl. (1));
- federally funded state active service, under U.S. Code, title 32 (National Guard), such as, weekend drills and annual training (summer camp), special school attendance, airport security, or active duty for special work (ADSW) (Minn. Stat. § 190.05, subd. 5b);
- federal active service, under U.S. Code, title 10 (Reserves), such as weekend drills, annual training (summer camp), special school attendance, pre- or postdeployment-related duty, and time on medical hold under U.S. Code, title 10; active duty orders while recuperating from an injury; and Active Guard and Reserve (AGR) service under U.S. Code, title 10 (Minn. Stat. § 190.05, subd. 5c).

Beginning in tax year 2014, "active service" also includes service by Minnesota residents working in AGR status under U.S. Code, title 32 (federally funded state active service), and service by current or former members of the National Guard or reserves ordered to active service by the adjutant general to perform full-time administration of the Department of Military Affairs.

Military pay for service outside Minnesota is generally not taxed by the state

Income received by Minnesota residents for military service under U.S. Code, title 10, including service in AGR status by members of the military reserves other than the National Guard, and service by Minnesota residents in other states' National Guards, is not taxed by the state of Minnesota, and thus is not subject to Minnesota income tax withholding. Income received by Minnesota residents for service under U.S. Code, title 32, in other states' National Guards is taxed by the state of Minnesota.

It may not be necessary for the person to file a Minnesota income tax return for a given tax year, unless a service member who has served only outside Minnesota during the year is due some specific tax-related benefit from the state (e.g., a refundable tax credit), has had other income tax withheld, or has earned a sufficient amount ($10,150 or more for tax year 2014) of other taxable military and/or nonmilitary income to require filing.

The following are some common types of income received by service members who are Minnesota residents that are normally subject to the Minnesota income tax:

- income earned by the service member's spouse living and employed within Minnesota (when filing jointly)
- nonmilitary income earned by the service member as a pay differential provided by the person's (public or private) Minnesota civilian employer
- nonmilitary income earned by the service member from civilian employment within Minnesota during part of the year (e.g., preceding or following military deployment or transfer)
- other nonmilitary income earned by the service member before, during, or following military deployment outside Minnesota (e.g., rental income from property in Minnesota)

For more information: The Department of Revenue maintains information on taxation of military pay online at http://www.revenue.state.mn.us/individuals/individ_income/Pages/Members_of_the_Military.aspx. Also see the House Research publication *Minnesota Income Tax Benefits for Veterans*, October 2016, or contact legislative analyst Nina Manzi at 651-296-5204 or Jeffrey Diebel at jeffrey.diebel@house.mn.

Christopher Kleman **Updated: October 2016**

Mortgage and Deed Taxes: An Overview

What are the mortgage registry and deed taxes?

The mortgage registry tax (MRT) and deed taxes are two separate state taxes that apply to many real estate transactions. The MRT is based on the amount of debt secured by a mortgage of real property and is imposed when the mortgage is recorded. The deed tax is a transfer tax; it is imposed on the value of real property transferred. While these taxes are independent of each other, they are often thought of together, since many property transactions trigger both taxes.

What are the rates?

The MRT rate is 0.23 percent of the total debt. The deed tax rate is 0.33 percent of net consideration (i.e., the price paid for the real property). These rates have been in effect since 1987.

How does it work?

The following example illustrates how each tax applies to a typical home purchase.

Mortgage Registry Tax

John and Mary Anderson buy a home with a purchase price of $150,000. The Andersons make a $20,000 down payment and take out a home loan with a principal amount of $130,000. How much mortgage registry tax do the Andersons owe?

Principal debt x 0.23% = MRT liability

$130,000 x 0.23% = $299

The Andersons owe $299 in MRT.

Deed Tax

John and Mary Anderson record the deed for their new home. The deed is valued at $150,000. How much deed tax must be paid?

Value of the deed recorded x 0.33% = deed tax liability

$150,000 x 0.33% = $495

$495 must be paid when the deed is recorded.

Who is responsible for paying the tax?

The mortgagor (borrower) is liable for the MRT, while the seller is liable for the deed tax. As a practical matter, the lender usually collects both of the taxes at closing and remits them to the county when the mortgage and deed are recorded.

The deed tax is collected from the seller at closing. But since the deed tax must be paid to record a deed and since it is primarily in the buyer's interest to record the deed, the tax may fall on the buyer if the seller fails to pay the tax.

Who collects the money?

County treasurers collect these taxes. They remit 97 percent of the revenues to the state for deposit in the state general fund. The county retains the other 3 percent for its administrative expenses.

How much is collected?

The table below shows the MRT and deed tax collected by the state since 2004. The amounts reflect only the state's 97 percent share.

Collections are sensitive to the volume and value of real estate transactions; MRT collections are also sensitive to refinancing activity. Following the effects of the 2007-2009 recession, historically low interest rates and a slowly improving economy have spurred growth in collections for the past two years.

State MRT and Deed Tax Revenue (in millions)

Fiscal Year	**Mortgage**	**Deed**	**Total**	**Change** (from previous year)	**Percent Change** (from previous year)
2004*	230.2	120.6	350.7	53.0	17.8%
2005*	162.2	124.2	286.4	-64.3	-18.3%
2006	173.6	136.4	310.0	23.6	8.2%
2007	149.6	111.5	261.1	-48.9	-15.8%
2008	114.4	84.3	198.7	-62.5	-23.9%
2009	101.2	59.7	160.9	-37.8	-19.0%
2010	94.6	58.5	153.1	-7.8	-4.8%
2011	98.9	54.6	153.5	0.4	2.6%
2012	103.0	57.1	160.1	6.6	4.3%
2013	139.9	73.6	215.5	55.4	34.6%
2014	93.4	87.1	180.5	-35.0	-16.2%
2015	107.4	99.8	207.2	26.7	14.89%

* Accelerating the June payment began in fiscal year 2004 and distorts the change amounts and percentages for fiscal years 2004 and 2005.
Source: Department of Revenue

Are there exemptions from the taxes?

Both taxes have multiple exemptions. MRT exemptions include contracts for deed, certain agricultural mortgages, marriage dissolution decrees, and certain low- and moderate-income housing mortgages. Common deed tax exemptions are mortgages, plats, wills and testamentary distributions, leases, sheriff's foreclosure sale certificates, and marriage dissolution decrees.

Can local governments also impose mortgage and deed taxes?

State law authorizes Ramsey and Hennepin county to impose local mortgage and deed taxes. Both of these county taxes have rates of 0.0001 (or 0.01 percent) for both taxes. The taxes expire on January 1, 2028, unless extended by the legislature. Bills have been introduced to authorize other counties to also impose local mortgage and deed taxes, but these proposals have not been enacted into law.

For more information: Contact legislative analyst Christopher Kleman at christopher.kleman@house.mn.

Nina Manzi and Jeffrey Diebel

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Minnesota Income Tax Benefits for Veterans

What tax benefits does Minnesota provide for past military service and military retirees?

Minnesota allows a nonrefundable credit for past military service and an income tax subtraction for military retirement pay. Individuals who are eligible for both the credit and the subtraction may claim one or the other, but not both.

The credit equals $750 for qualifying individuals and is subject to an income limitation. The credit took effect in tax year 2009.

The income tax subtraction applies to all retirement pay and is not income limited. The subtraction takes effect in tax year 2016.

Who qualifies for the credit for past military service?

To qualify for the credit, an individual must meet one of two criteria:

- have served in the military (including the National Guard and reserves) for at least 20 years; *or*
- have a service-connected disability rated by the U.S. Department of Veterans Affairs as being 100 percent total and permanent.

Individuals currently serving in the military do not qualify for the credit, nor do survivors of individuals who qualified. Individuals are not required to receive military retirement pay in order to claim the credit.

How is the military service credit income limited?

The military service credit is phased out for individuals with federal adjusted gross income (FAGI) of $30,000 or more. The credit is reduced by 10 percent of FAGI in excess of $30,000, so that individuals with FAGI over $37,500 are not eligible for the credit. FAGI is a broad income measure that includes most kinds of income; among the items excluded are tax-exempt bond interest, the nontaxable portion of Social Security benefits, and veterans disability payments.

Who qualifies for the military retirement pay subtraction?

Individuals who receive military retirement pay qualify for the subtraction. The subtraction applies to pay received by retirees from the full-time military, National Guard and reserves, and also Survivors Benefit Plan payments received by survivors of retirees. Disability pensions are excluded from federal and state taxable income and thus are not eligible for the subtraction.

How does the nonrefundable credit for past service compare with the income tax subtraction for retirement pay?

A nonrefundable credit and an income tax subtraction both reduce tax liability, but in different ways. A credit is a dollar-for-dollar reduction in tax liability, while a subtraction reduces taxable income, which reduces tax liability. The benefit from a subtraction depends upon the taxpayer's tax bracket or rate. Because of the income limits for the credit, veterans who qualify for the credit will be in the bottom or lowest tax bracket with a rate of 5.35 percent. The $750 nonrefundable military service credit is equivalent to a $14,020 income tax subtraction ($14,020 times

5.35 percent, the state income tax rate for the first bracket of taxable income, equals $750).

Only individuals with tax liability will benefit from either a nonrefundable credit or a subtraction, and the amount of the benefit is limited to their tax liability.

Who will claim the credit and who will claim the subtraction?

Some individuals will be eligible for the credit but not the subtraction, chiefly lower-income individuals who have a service-connected disability rated as being 100 percent total and permanent. While these individuals may receive disability pensions, the disability pensions are exempt from federal and state tax, and they would not benefit from the subtraction. Most individuals who receive military retirement pay will obtain a greater tax benefit from the subtraction rather than the credit. Individuals who are eligible for both the credit and the subtraction must choose one or the other, and may not claim both.

How many returns claim the credit and how much do they claim?

In tax year 2014, 2,004 returns claimed about $1.4 million in credits, for an average of $677. Since the credit is nonrefundable, the reduction in liability in 2014 may have been less than $1.4 million. Individuals who are eligible for credits that exceed their tax liability use the credit to reduce their liability to zero, and do not benefit from the remaining credit amount that exceeds liability. For tax year 2016, the Department of Revenue projects that about 500 individuals who have previously claimed the credit will shift to the subtraction.

How many individuals are projected to claim the subtraction, and how much will they benefit?

The Department of Revenue estimates that 16,400 taxpayers will claim the subtraction in tax year 2016, including 500 taxpayers who in previous tax years claimed the credit, with a $22.6 million decrease in income tax revenues. The average tax benefit is estimated to be $1,378.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research publication *Military Pay under Minnesota's Individual Income Tax*, October 2016.

Randall Chun

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MinnesotaCare: An Overview

MinnesotaCare is administered by the Minnesota Department of Human Services (DHS) under federal guidance as a Basic Health Program that provides subsidized health care coverage to low-income individuals. DHS, in cooperation with MNsure, the state's health insurance exchange, is responsible for processing applications and determining eligibility.

Eligibility

Most MinnesotaCare enrollees are parents and caretakers, children ages 19 to 20, and adults without children.

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

- Have gross income that is greater than 133 percent of the federal poverty guidelines (FPG) ($15,800 for a household of one) but does not exceed 200 percent of FPG ($23,760 for a household of one). Exceptions to the income floor are made for certain children under age 19 and legal noncitizens, who are not eligible for MA.
- Not be eligible for Medical Assistance (MA). This requirement has the effect of shifting the vast majority of pregnant women and children from MinnesotaCare to MA.
- Not have access to subsidized health coverage that, as defined in the federal Affordable Care Act (ACA), is affordable (the employee pays no more than 9.69 percent of income for self-only coverage for 2017) and provides minimum value (pays for at least 60 percent of medical expenses on average).
- Not have minimum essential health coverage (defined in the ACA as coverage under Medicare, Medicaid and other government programs, employer-sponsored coverage, individual market coverage, and other specified coverage).
- Be a resident of Minnesota. Enrollees must meet the residency requirements of the MA program.

Covered services

Enrollees age 21 and over are covered for most, but not all, services covered under MA. Covered services include physician care, hospitalization, prescription drugs, therapy services, and a wide range of other health care services. Services not covered include personal care attendant services, private duty nursing, nursing home care, ICF/DD (intermediate care facility for persons with developmental disabilities), and special transportation services.

Children ages 19 and 20, and certain children under age 19, receive coverage for a broader range of services than adults.

Premiums and cost-sharing

Enrollees age 21 and older pay monthly, per-person premiums based on a sliding scale. Persons under age 21, and persons with incomes less than 35 percent of FPG, are not charged premiums. Adult enrollees are subject to copayments and other cost-sharing for specified services.

Provider reimbursement

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.

MinnesotaCare as Basic Health Program

Under the ACA, states have the option of operating a basic health program to provide health coverage to persons with incomes greater than 133 percent but not exceeding 200 percent of FPG. The 2013 Legislature directed DHS to seek federal approval to operate MinnesotaCare as a basic health program. Federal approval was received December 15, 2014, and implementation began January 1, 2015. The legislature also made changes in MinnesotaCare eligibility, covered services, and service delivery necessary to meet federal requirements for a basic health program; many of these changes took effect January 1, 2014.

Expenditures and funding

In fiscal year 2015, the MinnesotaCare program paid $510 million for medical services provided to enrollees. Fifty-four percent of this cost was paid for by the state, 43 percent by the federal government, and 3 percent by enrollees through premium payments (this last category also includes enrollee cost-sharing).

Through 2014, the state received federal funding at the MA match rate for health care services provided to enrollees under a federal waiver. Since January 1, 2015, the state has received from the federal government a payment for each enrollee equal to 95 percent of the subsidy that the individual would have otherwise received through MNsure.

State funding for MinnesotaCare and other health care access initiatives is provided by a tax of 2 percent on the gross revenues of health care providers and a tax of 1 percent on the premiums of nonprofit health plan companies. The tax on health care provider revenues is scheduled to sunset January 1, 2020. Prior to that date, the Commissioner of Management and Budget is required to reduce the rate of the tax on health care provider revenues if certain financial criteria are met.

Recipients

As of June 2016, 101,388 individuals were enrolled in the MinnesotaCare program.

Application procedure

MinnesotaCare applications can be obtained by calling the Department of Human Services (1-800-657-3672) or MNsure, the state's health insurance exchange (1-855-366-7873). Applications are also available at county human services agencies and other locations.

For more information: See the House Research information brief *MinnesotaCare*.

HOUSE RESEARCH | Short Subjects

Randall Chun

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Medical Assistance: An Overview

Medical Assistance (MA), the state's Medicaid program, is a federal-state program that pays for health care services for low-income individuals. The program is administered by counties, under the supervision of the state Department of Human Services (DHS). Federal Medicaid law 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, persons with disabilities, and adults without children.
- Meet program income and any applicable asset limits. Certain types of income and specified assets are excluded when determining eligibility. Income and asset limits for selected groups are described below.
- Be a U.S. citizen or a noncitizen who meets specified immigration criteria.
- Be a resident of Minnesota.
- Meet other program eligibility requirements.

Eligibility group	Net income limit, as % of federal poverty guidelines (FPG)	Asset limit*
Children < age 2	283	None
Children 2 through 18	275	None
Children 19 through 20	133	None
Pregnant women	278	None
Parents and caretakers	133	None, unless on spenddown
Aged, blind, or disabled	100	$3,000 for one/$6,000 for two/$200 each additional
Adults without children	133	None

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

Some 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 133 percent of FPG for families and children and 80 percent of FPG for individuals who are aged, blind, or disabled. There is no spenddown for adults without children.

Medicaid expansion and other 2013 session changes

The 2013 Legislature made a number of changes in MA eligibility related to the federal Affordable Care Act (ACA). These changes included raising the income limit and requiring the use of modified adjusted gross income (MAGI) and a standard 5 percent income disregard when determining eligibility for certain groups, and eliminating the asset requirement for parents and caretakers.

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 developmental disabilities (ICF/DD) services. Adult enrollees who are not pregnant are subject to copayments for certain services.

The state has also received federal approval to provide home and community-based "waivered services" not normally covered by Medicaid that are intended to allow individuals to remain in the community, rather than reside in a hospital, nursing home, or intermediate care facility for persons with development disabilities (ICF/DD).

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, county-based purchasing initiatives, and programs for the elderly and persons with disabilities). In recent years. DHS has used competitive bidding to select managed care and county-based purchasing plans to deliver services to MA enrollees who are families and children.

Funding and expenditures

In state fiscal year 2015, total state and federal MA expenditures for services were $10.461 billion. The federal share of MA costs is determined by a formula based on state per capita income. In most fiscal years, the federal government has paid 50 percent of the cost of MA services, with Minnesota responsible for the remaining 50 percent. The federal government is providing an enhanced federal match, initially 100 percent of the cost of services and phasing down to 90 percent, for services provided to adults without children.

Recipients

During state fiscal year 2015, an average of 1,049,819 individuals were eligible for MA services each month. As of August 2016, 813,663 MA recipients received services through the MA managed care system, with the remaining enrollees served through fee-for-service.

Application procedure

Individuals interested in applying for MA should contact their county human services agency or MNsure, the state's health insurance exchange.

For more information: See the House Research information brief *Medical Assistance*.

Nina Manzi and Steve Hinze **Updated: November 2016**

Homestead Credit Refund Program

What is the homestead credit refund program?

The homestead credit refund is a state-paid refund that provides tax relief to homeowners whose property taxes are high relative to their incomes. The program was previously known as the homeowner's property tax refund program, or PTR, and sometimes popularly called the "circuit breaker." If the 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 share of tax over the threshold that the taxpayer must pay (the "copay percentage") increases, and
- the maximum refund decreases.

The program uses household income, a broad measure that includes most types of income, including income that is not subject to income tax. Deductions are allowed for dependents and for claimants who are over age 65 or disabled. The refund is based on taxes payable after subtracting any targeting refund claimed by the homeowner.

What aspects of the program have changed recently?

The 2011 and 2013 tax laws both expanded the refund program. The 2011 changes increased the maximum refund for homeowners with incomes under about $37,000, and decreased the copayment percentage for most homeowners. The 2013 changes, effective for refunds based on taxes payable in 2014, lowered the threshold percentage for determining eligibility from 3.5 percent of income to 2.0 percent of income for homeowners with household incomes from $19,530 to $65,049, and to 2.5 percent for those at higher income levels.

What are the maximums?

For refund claims filed in 2017, based on property taxes payable in 2017 and 2016 household income, the maximum refund is $2,660. Homeowners whose income exceeds $108,659 are not eligible for a refund.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue (DOR) Schedule M1PR, which is filed separately from the individual income tax form. Claims based on taxes payable in 2017 that are filed before August 15, 2017, will be paid beginning in late September 2017; claims filed electronically may be paid a month earlier. The deadline for filing claims based on taxes payable in 2017 is August 15, 2018; taxpayers filing claims after that date will not receive a refund.

How many homeowners receive refunds, and what is the total amount paid?

Based on payable 2015 property taxes and 2014 incomes, 440,840 homeowners received refunds. The average refund was $847, and the total dollar amount of refunds paid statewide was $373.3 million. The average refund for senior and disabled claimants ($876) was slightly higher than the average for those under age 65 and not disabled ($827).

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

The following table shows the refund calculations for four example families with different incomes—two families in the metro area and two in Greater Minnesota. Although the program parameters are the same statewide, the average residential homestead property tax in the metro area is higher than in Greater Minnesota. The example metro area families have homes valued at $265,000 and payable 2017 property taxes of $3,500, typical amounts for the metro area. The example families in Greater Minnesota have homes valued at $165,000 and payable 2017 property taxes of $1,700, typical amounts 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
Example refunds for claims to be filed in 2017,
based on taxes payable in 2017 and 2016 income

		Metro area		**Greater Minnesota**	
		Taxpayer #1	**Taxpayer #2**	**Taxpayer #3**	**Taxpayer #4**
1	Property tax	$3,500	$3,500	$1,700	$1,700
2	Gross income	$35,000	$75,000	$35,000	$75,000
3	Deduction for dependents	$10,865	$10,865	$10,865	$10,865
4	Household income (2 – 3 = 4)	$24,135	$64,135	$24,135	$64,135
5	Threshold income percentage	2.0%	2.0%	2.0%	2.0%
6	Threshold % x income (4 x 5 = 6)	$483	$1,283	$483	$1,283
7	Property tax over threshold (1 – 6 = 7)	$3,017	$2,217	$1,217	$417
8	Statutory copay percentage	30%	40%	30%	40%
9	Taxpayer copay amount (7 x 8 = 9)	$905	$887	$365	$167
10	Remaining tax over threshold (7 – 9 = 10)	$2,112	$1,330	$852	$250
11	Maximum refund allowed	$2,660	$1,880	$2,660	$1,880
12	Net property tax refund	$2,112	$1,330	$852	$250
13	Net property tax paid after refund (1 – 12)	$1,388	$2,170	$848	$1,450

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.revenue.state.mn.us.

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

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Nina Manzi and Steve Hinze

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Targeting Property Tax Refund

What is targeting?

The "additional" or "special" 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. In determining eligibility, the previous year's tax amount is the net amount paid by the homeowner after deduction of any targeting refund received in that year.

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?

Generally, the refund equals 60 percent of the increase over the greater of (1) 12 percent of the previous year's tax after deduction of targeting, or (2) $100. The maximum refund is $1,000. The targeting refund is calculated prior to calculation of the homestead credit refund. The following example shows how the refund is calculated.

Payable 2016 Property Tax after Targeting Payable 2017 Property Tax	$1,600 $2,000
2017 tax increase (over 2016) Taxpayer pays first 12% of increase compared to previous year's tax, which must be at least $100 (12% x $1,600)	$400 $192
Remaining increase eligible for relief ($400 - $192 = $208)	$208
State pays 60% of excess over 12% increase up to a $1,000 maximum (60% x $208 = $125)	$125
Amount of 2017 increase paid by taxpayer ($400 - $125)	$275

The taxpayer's $400 increase (i.e., 25 percent) is reduced to an out-of-pocket property tax increase of $275 (i.e., 17.2 percent) as a result of the $125 refund.

The taxpayer pays the full $2,000 amount of the 2017 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 on form M1PR. The targeting refund is paid at the same time the regular homestead credit refund ("circuit breaker") is paid in late September.

Does targeting have any other restrictions?

No, unlike the homestead credit refund, the targeting refund is not tied to the taxpayer's household income. Under the homestead credit 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, higher income taxpayers who do not qualify for the homestead credit refund due to income restrictions are eligible for the targeting refund.

What are the dollar amounts of refunds paid for the state, metro, and nonmetro areas?

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

Homeowners claimed $3.889 million on targeting refund claims filed in 2015. Changes in targeting refunds from one year to the next generally track changes in property taxes on homesteads. For example, from 2011 to 2012, homestead property taxes generally increased in Greater Minnesota and remained relatively constant in the metro area.

Targeting Refunds, Filed 2012 – 2015 (dollars in thousands)

	Filed 2012	Filed 2013	Filed 2014	Filed 2015
Total Metro	$570	$380	$799	$2,749
Total Nonmetro	$2,696	$348	$723	$1,140
State	$3,266	$729	$1,523	$3,889

Some taxpayers (e.g., those who typically don't qualify for the homestead credit refund) may not be aware of the targeting program, resulting in lower total refunds statewide than if all eligible taxpayers had filed.

How many homeowners claim the refund?

In 2015, just over 47,000 homeowners claimed refunds based on their property tax increase from payable 2014 to 2015. The average refund amount was $82.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue (DOR) Schedule M1PR, the homestead credit refund form. There is a separate schedule on the back of the M1PR ("Schedule 1 – Special Refund") for the targeting program. The taxpayer files for this refund after receiving his or her property tax statement in February or March. Claims filed before August 15, 2017, will be paid beginning in late September 2017. The deadline for filing claims based on taxes payable in 2017 is August 15, 2018; taxpayers filing claims after that date will not receive a refund. Forms are available online at DOR's website, under "Forms and Instructions" (www.revenue.state.mn.us).

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.revenue.state.mn.us. Also see the House Research Short Subject *Homestead Credit Refund Program*, November 2016, and the Information Brief *Targeting*, February 2016.

Nina Manzi and Steve Hinze Updated: November 2016

Renter's Property Tax Refund Program

What is the renter's property tax refund program?

The renter's 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 17 percent of rent paid. If rent constituting property taxes 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 share 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, including income that is not subject to income tax. Deductions are allowed for dependents and for claimants who are over age 65 or disabled.

What are recent changes to the program?

The 2013 tax law expanded the program, by lowering the threshold percentage for determining eligibility from 3.5 percent of income to 2.0 percent of income, in conjunction with reductions to the homeowner thresholds. It also increased the maximum refund to $2,000 for refunds based on rent paid in 2013.

For refunds based on rent paid from 1998 to 2008, the percentage of rent constituting property taxes was 19 percent. It was reduced to 15 percent for refunds based on rent paid in 2009 only under Gov. Tim Pawlenty's June 2009 unallotment, subsequently enacted into law. For refunds based on rent paid in 2010, the percentage returned to 19 percent. The 2011 tax law reduced the rate to 17 percent beginning for refunds based on rent paid in 2011 and following years.

What are the maximums?

For refund claims filed in 2017, based on rent paid in 2016 and 2016 household income, the maximum refund is $2,060. Renters whose income exceeds $58,879 are not eligible for refunds.

How are claims filed?

Refund claims are filed using Minnesota Department of Revenue (DOR) Schedule M1PR. Schedule M1PR is filed separately from the individual income tax form. Claims filed before August 15, 2017, will be paid beginning in August 2017. The deadline for filing claims based on rent paid in 2016 is August 15, 2018; taxpayers filing claims after that date will not receive a refund.

How many renters receive refunds, and what is the total amount paid?

Based on rent paid in 2014 and 2014 incomes, 335,679 renters received refunds. The average refund was $623, and the total dollar amount of refunds paid statewide was $209.0 million. The average refund for senior and disabled claimants ($687) was higher than the average for those under age 65 and not disabled ($599).

How do refunds vary depending on income and property taxes?

The following table shows the refund amount for four example families (married couples without dependents). Although the threshold percentage, copayment rates, and maximum refund amounts are the same statewide, the average rent is higher in the metro area than in 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, no dependents
Example refunds for claims to be filed in 2016,
based on rent paid in 2016 and 2016 household income

		Metro area		Greater Minnesota	
		Taxpayer #1	Taxpayer #2	Taxpayer #1	Taxpayer #2
1	Monthly rent, one bedroom apartment	$813	$813	$554	$554
2	Annual rent (1 x 12 = 2)	$9,756	$9,756	$6,648	$6,648
3	Rent constituting property tax (2 x 17% = 3)	$1,659	$1,659	$1,130	$1,130
4	Gross income	$15,000	$30,000	$15,000	$30,000
5	Deduction for dependents	0	0	0	0
6	Household income (4 – 5 = 6)	$15,000	$30,000	$15,000	$30,000
7	Statutory threshold percentage	1.3%	1.9%	1.3%	1.9%
8	Threshold % x income (7 x 6 = 8)	$195	$570	$195	$570
9	Property tax over threshold (3 – 8 = 9)	$1,464	$1,089	$935	$560
10	Copay percentage	15%	30%	15%	30%
11	Taxpayer copay amount (9 x 10 = 11)	$220	$327	$140	$168
12	Remaining tax over threshold (9 – 11 = 12)	$1,244	$762	$795	$392
13	Maximum refund allowed	$1,910	$1,700	$1,910	$1,700
14	Net property tax refund	$1,244	$762	$795	$392

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.revenue.state.mn.us.

HOUSE RESEARCH | **Short Subjects**

Christopher Kleman

Updated: November 2016

Alcoholic Beverage Taxes

Two special state taxes apply to alcoholic beverages: excise taxes and a gross receipts 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 gross receipts tax** of 2.5 percent applies to retailers making both on-sale (to be consumed in bars or restaurants) and off-sale (in liquor stores or by other sellers) sales. The tax is imposed on the retail price (receipts).

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 rates apply to wines with alcoholic contents that exceed 21 percent and 24 percent, but little or none of these products are sold. A special "bottle tax" of one cent per bottle also applies to each wine and liquor bottle that is 200 milliliters or larger.

Beverage Type	Excise Tax per Gallon	Excise Tax per 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 by 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 products are sold; revenues 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). In inflation-adjusted terms, the excise tax rates in 2014 are less than half the amounts that they were in 1987.

Few exemptions apply

The law exempts the following from the excise tax:

- Sacramental wine
- Products sold to food processors and pharmaceutical companies
- The first 25,000 barrels of beer produced by a brewery with annual production of less than 250,000 barrels (A barrel is 31 gallons.)

- A microdistillery may take a tax credit of $1.33 per liter on up to 100,000 liters of distilled spirits, per year.

Revenues go to the general fund

Revenues from both the excise taxes and the gross receipts tax go to the general fund. Fiscal year 2015 revenues from the excise taxes were about $85 million and from the gross receipts tax, $83.5 million. Thus, the gross receipts tax raises about half of alcohol tax revenues. The table to the right shows the collections by beverage type for the excise tax and for the additional gross receipts tax. 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). The sales tax imposes a much higher tax burden on wine and beer than the excise tax does.

Beverage Type	**FY2015 Revenues (000)**	**% of Total**
Beer	$15,127	8.98%
Wine	6,548	3.89
Distilled Spirits	62,916	37.35
Excise tax total	84,591	50.22
2.5% gross receipts tax	83,327	49.58
Total	**$167,918**	
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 state 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 a gross receipts tax (at a 2 percent rate) similar to Minnesota's. 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	NA
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 when looking at 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 a typical liquor is about nine cents, while it is between two and three 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 more regressive than the general sales tax.

For more information: Contact legislative analyst Christopher Kleman at christopher.kleman@house.mn.

Randall Chun **Updated: December 2016**

MNsure Subsidized Health Coverage: An Overview

MNsure, the state's health insurance exchange, was established as part of the implementation of the Affordable Care Act (ACA). Individuals who are not eligible for Medical Assistance (MA) or MinnesotaCare, with incomes that do not exceed specified guidelines, may be eligible to receive premium tax credits and cost-sharing reductions to purchase a qualified health plan through MNsure.

Qualified health plans

The ACA requires health coverage offered through an exchange to meet the standards of a qualified health plan. These standards include providing essential health benefits, and complying with certain limitations on cost-sharing. The essential health benefits include the following ten categories of items and services: ambulatory patient services; emergency services; hospitalization; maternity and newborn care; mental health and substance use disorder services including behavioral health treatment; prescription drugs; rehabilitation and habilitative services and devices; laboratory services; preventive and wellness services and chronic disease management; and pediatric services including oral and vision care.

The ACA requires qualified health plans (and other types of health coverage) to be offered at different "metal levels" that correspond to different actuarial values (actuarial value is an estimate of the percentage of medical expenses incurred by a typical enrollee that will on average be paid by the insurer). These metal levels, and corresponding actuarial values, are bronze (60 percent actuarial value), silver (70 percent), gold (80 percent), and platinum (90 percent).

Eligibility for premium tax credits

In order to be eligible for a premium tax credit through MNsure, an individual must: (1) be enrolled in a qualified health plan through MNsure; (2) not be eligible for other types of health coverage such as Medical Assistance, MinnesotaCare, Medicare, and employer coverage (unless the employer coverage is unaffordable or does not provide minimum value); (3) have an income greater than 200 percent but not exceeding 400 percent of the federal poverty guidelines (FPG) (e.g., $48,600 to $97,200 for a family of four); and (4) file a federal income tax return. Individuals with incomes below the threshold for premium tax credits may be eligible for MA or MinnesotaCare.

The premium tax credit is refundable—it is available to all who are eligible, even persons with little or no income tax liability. Refundable credits in excess of tax liability are paid as refunds.

Calculation and amount of premium tax credits

The amount of a premium tax credit varies from person to person. The premium tax credit amount is equal to the difference between the premium cost of the lowest cost silver plan in the individual's geographic area (referred to as the benchmark plan) and the individual's expected premium contribution. The expected premium contribution varies based on income, and for 2017 in Minnesota, ranges between 6.43 percent of income (for persons with incomes just over 200 percent of FPG) to 9.69 percent of income (for persons with incomes at 400 percent of FPG). These percentages are indexed annually to take into account health insurance premium growth. The amount of the tax credit is fixed (being calculated in reference to the benchmark plan). Persons who choose a higher cost plan through MNsure will pay higher premiums after application of the tax credit than persons who choose a lower cost plan.

Administration and reconciliation of tax credits

Individuals apply for premium tax credits and cost-sharing reductions (described below) through MNsure, and may claim the tax credit in advance or when filing a tax return. If a person claims the credit in advance, the federal government pays the tax credit directly to the insurer from whom the person has purchased coverage. The amount of the premium tax credit received in advance is based on an estimate of expected income. The amount of the tax credit is reconciled to actual income as part of the tax filing process. Persons whose actual income is higher than the estimated amount may need to pay back some or all of the advanced tax credits received, and persons whose actual income is lower than the estimated amount may get a refund when filing taxes or have the amount of taxes owed reduced. The amount of excess tax credits received that must be repaid by an individual is limited by a dollar cap that increases with income.

Cost-sharing reductions

Persons with incomes greater than 200 percent but not exceeding 250 percent of FPG, who receive tax credits and purchase a silver-level plan through MNsure, are eligible for a cost-sharing reduction. This cost-sharing reduction is provided in the form of an increase in the actuarial value of the silver plan to 73 percent (compared to a 70 percent actuarial value for a regular silver plan). The increase in actuarial value is generally achieved by first reducing the regular silver plan's annual out-of-pocket limit, and then reducing other cost-sharing as needed. American Indians and Alaska Natives are exempt from cost-sharing or are eligible for reduced cost-sharing if certain criteria are met.

Financing subsidized coverage

The cost of providing premium tax credits and cost-sharing reductions to persons purchasing coverage through MNsure is borne by the federal government. Health insurers are reimbursed by the federal government for the cost of premium tax credits that enrollees receive in advance and for the cost of any cost-sharing reductions provided.

Enrollment statistics

As of September 18, 2016, 100,092 individuals were enrolled in a qualified health plan through MNsure (additional individuals were enrolled in MA and MinnesotaCare through MNsure). Based on August 2016 enrollment data, 63 percent of qualified health plan enrollees received premium tax credits and 15 percent received cost-sharing reductions.

Application procedure

Individuals interested in applying for premium tax credits and cost-sharing reductions can contact MNsure at 1-855-366-7873 or www.mnsure.org. The MNsure website also has information on obtaining face-to-face enrollment assistance from a navigator or insurance agent.

For more information: Contact legislative analyst Randall Chun at 651-296-8639. Also see the House Research publication *Subsidized Health Coverage through MNsure*.

Joel Michael

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Estate and Inheritance Taxation: An Overview of Taxes in the States

For deaths in 2017, 32 states impose neither estate nor inheritance taxes

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 Congress repealed the federal credit for state death taxes (effective for deaths after December 31, 2004). Now that they can no longer impose taxes that do not increase the total tax burden on estates and heirs, most states no longer impose estate or inheritance taxes (31 states for deaths in 2017). Minnesota imposes an estate tax.

Inheritance and estate taxes differ in the base used to compute them; one depends on the total size of the estate, the other on to whom bequests are made

Estate taxes generally apply a single tax rate schedule to the taxable value of the decedent's total estate (bequests to charities and surviving spouses are typically exempt).

Inheritance taxes apply varying tax rate schedules to bequests made to different classes of beneficiaries. Bequests to surviving spouses and lineal heirs typically enjoy lower rates or are totally exempt, while bequests to more distant or unrelated heirs (collateral heirs) are usually taxed at higher rates or have lower exemptions or both.

Twelve states and the District of Columbia impose only estate taxes

For decedents dying in calendar year 2017, 12 states (Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, Minnesota, New York, Oregon, Rhode Island, Vermont, and Washington) and the District of Columbia impose only estate taxes.

Exemption amounts under the state estate taxes vary, ranging from the federal estate tax exemption amount or $5.49 million, indexed for inflation (three states) to $1,000,000 (Massachusetts). States have been steadily increasing their exemption amounts with Maryland's and New York's scheduled to rise to the federal amount in 2019. Minnesota's exemption for 2017 is $1.8 million for 2017 and will rise to $2 million in 2018. Top rates range from 12 percent to 20 percent with most states, like Minnesota, imposing a top rate of 16 percent.

Four states impose only inheritance taxes

Four states (Iowa, Kentucky, Nebraska, and Pennsylvania) impose only inheritance taxes.

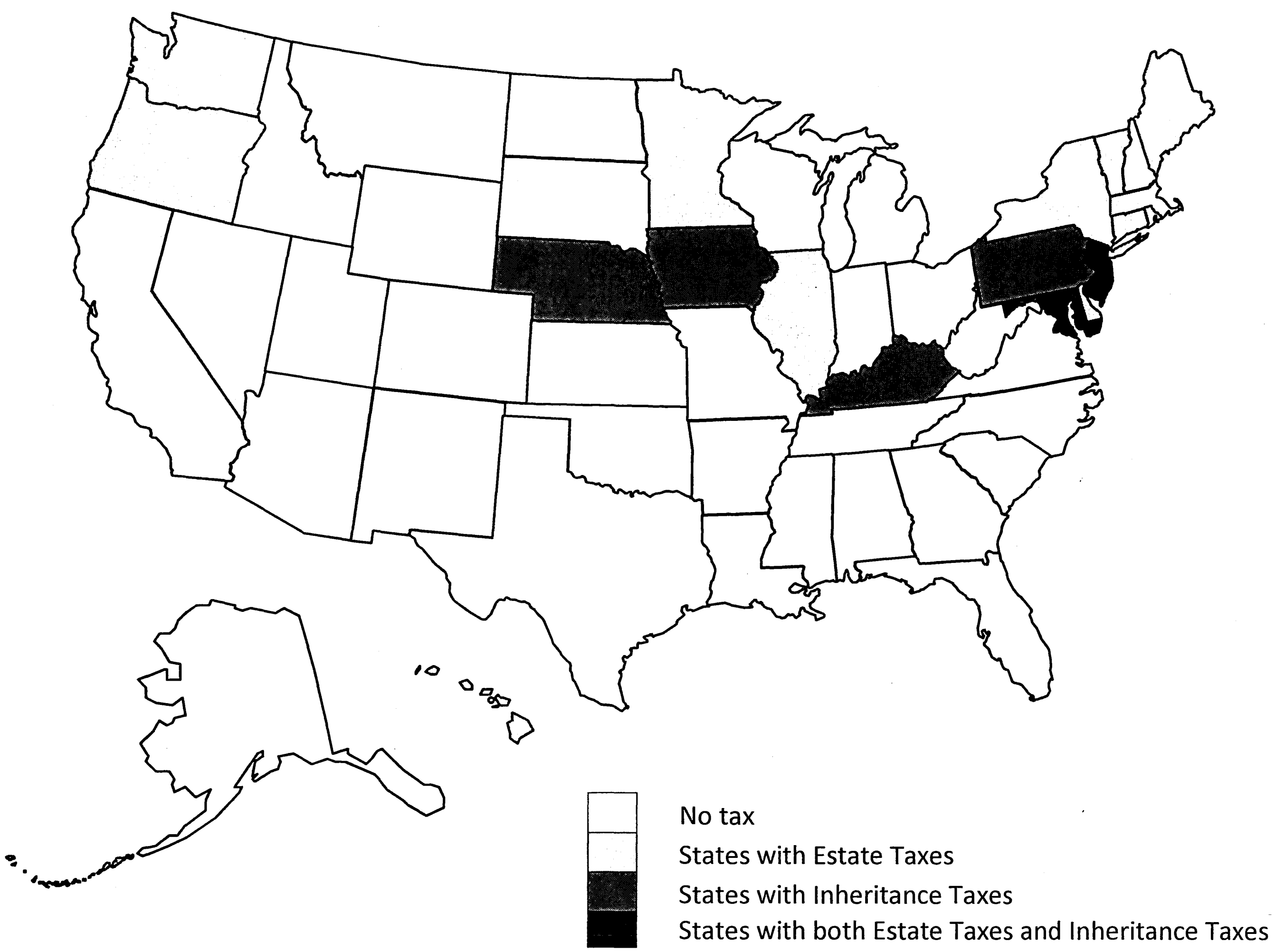
The exemptions under state inheritance taxes vary greatly, ranging from $500 (Kentucky and New Jersey) for bequests to unrelated individuals to unlimited exemptions (Iowa and Kentucky) for bequests to lineal heirs, such as children or parents of the decedent. No states tax bequests to surviving spouses; only two states (Nebraska and Pennsylvania) tax bequests to lineal heirs. Top tax rates range from 4.5 percent (Pennsylvania on lineal heirs) to 18 percent (Nebraska on collateral heirs).

Two states impose both taxes

Maryland and New Jersey impose both types of taxes, but the estate tax is a credit against the inheritance tax, so the total tax liability is not the sum of the two, but the greater of the two taxes. Neither tax applies to bequests to lineal heirs. The New Jersey estate tax is repealed effective for 2018 deaths.

The map shows the states with estates and inheritance taxes for deaths in 2017.

State Estate and Inheritance Taxes



House Research Department

For more information: See the information brief *Survey of State Estate, Inheritance, and Gift Taxes*, December 2015.

HOUSE RESEARCH | **Short Subjects**

Nina Manzi and Joel Michael **Updated: December 2016**

Historic Structure Rehabilitation Credit

To encourage preservation of historic buildings, Minnesota allows tax credits (or grants in lieu of the credit) to individuals and entities that spend substantial amounts rehabilitating qualifying buildings. This credit and grant program ("Historic Structure Rehabilitation Credit" or "Historic Credit") mirrors the similar federal income tax credit and is administered in much the same way. The program was enacted in 2010 and is scheduled to expire after fiscal year 2021.

What projects qualify for credits or grants?

To qualify for a credit or grant, the project must also qualify for the federal tax credit. That requires projects to:

- rehabilitate a building that is certified as a historic structure by the National Park Service (NPS)—i.e., the building either must be on the national register or be certified as contributing to a registered historic district;
- be an income-producing property (e.g., rental housing qualifies but owner-occupied residences do not); and
- spend "substantial" amounts on rehabilitation that meets NPS standards.

What is the credit rate?

The credit rate is 20 percent. (The federal credit rate is also 20 percent, so the combined state and federal credit can equal up to 40 percent of qualifying expenses.) The grant in lieu of the credit equals 90 percent of the credit, so its effective rate is 18 percent (20% * 90% = 18%). No maximum or "cap" applies.

What expenses qualify for the credit?

The credit applies to expenditures to rehabilitate a qualifying building. The amount spent must be substantial, which federal law defines as the greater of (1) $5,000 or (2) the tax basis of the property. The credit cannot be used to pay for:

- acquiring the property;
- personal property (e.g., equipment that doesn't become part of the building);
- enlargement or expansion of the building; or
- site work.

Who administers the credit and what actions must taxpayers take to qualify?

The federal and state credits are jointly administered by the tax administrators (the federal Internal Revenue Service and Minnesota Department of Revenue) and the agencies responsible for historic preservation (NPS and Minnesota State Historic Preservation Office or SHPO). To receive the tax credits or grants, projects must go through a multi-part certification process administered by SHPO and NPS. This process generally must begin before work starts on the project. Credits are paid only after completion of work and when the project is "placed in service." Detail on these processes (for both the federal and Minnesota credits) is available on the websites of the NPS and Minnesota Historical Society.

Which taxes are the credits allowed against?

The Minnesota credit is allowed against any of the following taxes: the individual income, corporate franchise, or insurance premiums taxes. The credit is refundable and the taxpayer may assign or sell the credit (once) to another individual or entity.

How do the federal and state credits affect calculation of federal and state taxes?

The federal and state credits are direct subtractions from tax liability, so they provide a dollar-for-dollar reduction in tax liability under the respective federal and state taxes. (Because the Minnesota credit is refundable, the full amount is paid regardless of the amount of the tax liability.) Allowance of the credit also has other effects on calculation of tax. Federal law provides that the federal credit reduces tax basis and that straight-line (rather than accelerated) depreciation must be used for the project. These rules flow through to calculation of Minnesota individual or corporate tax and result in some of the apparent benefit of the credit being offset by a reduction in tax benefits available to similar real estate investments that are not allowed the credit.

In addition, because state income taxes are deductible (e.g., as business expenses) by real estate investors, federal income tax will rise as a result of allowance of the state credit—in effect, the state credit increases federal tax.

What is the purpose of the grant option?

The Minnesota program allows projects to claim a grant (equal to 90 percent of the credit amount) instead of a credit. The grant is paid by the Minnesota Historical Society and no differences in qualifying rules apply to a grant versus a tax credit. The grant may be paid to an entity other than a taxpayer. The grant option allows projects involving tax-exempt entities an option for avoiding the indirect federal income tax on state tax credits, as described above. How successful the grant is in minimizing federal tax on projects is unclear, since the federal tax treatment of the grants is somewhat uncertain.

What is the fiscal impact of the program?

The table shows Minnesota Management Budget's forecast of the tax credit and the grant-in-lieu-of-credit amounts for fiscal year 2014 through fiscal year 2019 for the November 2016 revenue forecast. Fiscal years 2014 to 2016 are actual amounts. The forecast is based on SHPO application and certification data.

Fiscal year	Tax Credit (in thousands)	Grant (in thousands)
2014	$12,244	$344
2015	56,704	-
2016	13,781	-
2017	97,406	3,737
2018	41,657	1,294
2019	29,223	3,332

Where are most projects located?

To date, most projects have been located in Minneapolis and St. Paul, where many historic buildings are located and where recent robust real estate development has occurred. Through fiscal year 2016 (the most recent year with actual data), 77 percent of the projects and 98 percent of the credit/grant amounts were in Minneapolis and St. Paul.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn.

Nina Manzi **Updated: December 2016**

The Federal Child Tax Credit

What is the federal child tax credit?

Parents may claim a credit against federal income tax equal to $1,000 for each child under age 17. The credit was enacted in the Tax Relief Act of 1997 (TRA) and first allowed in 1998. It was made permanent by the American Taxpayer Relief Act (ATRA) of 2012.

Are there income limitations?

The credit is reduced by $50 for every $1,000 of income over $110,000 of adjusted gross income for married joint filers and $75,000 for head of household filers. A married couple filing jointly with two children under age 17 will become ineligible for the credit when their income exceeds $149,000; a single parent claiming the credit for one child will become ineligible when income exceeds $94,000.

Is the credit refundable?

The child credit is partly refundable; the refundable portion is referred to as the "additional child tax credit." The additional child tax credit equals the greater of:

- 15 percent of earned income over $3,000, or,
- for families with three or more children, payroll taxes in excess of the federal earned income tax credit.

For example, a married couple with two children under age 17 and $40,000 of income is eligible for $2,000 in child tax credits, $1,000 for each child. If the couple claims the standard deduction, their federal income tax will equal $1,120 in 2016. They use $1,120 of their $2,000 credit to reduce their liability to $0. They may claim up to 15 percent of their earnings in excess of $3,000 as a refund. Assuming all $40,000 of their income is from wages, that means they would be eligible to claim up to $5,550 of the remaining credit as a refund (15 percent of $40,000, minus $3,000, equals $5,550). The result is that they claim $1,120 as an offset to their tax liability and are paid the remaining $880 as a refund.

How much do Minnesotans claim?

In tax year 2014, 412,510 federal income tax returns filed by Minnesotans claimed $554 million in the nonrefundable portion of the federal child credit. The average amount claimed was $1,342. For the same year, 237,490 returns filed by Minnesotans claimed $325 million under the refundable additional child credit. Some of these returns also claimed the nonrefundable portion of the credit. The average additional child tax credit (the refundable portion) was $1,366.

How does Minnesota compare with other states?

Nationwide, 15.1 percent of all income tax returns claimed the child credit, compared with 15.4 percent in Minnesota. The average amount of the nonrefundable portion claimed nationwide was $1,211, compared with $1,342 in Minnesota. Since the credit is only partly refundable, the larger average amount claimed on Minnesota returns may result from Minnesotans having above-average incomes, and consequently more federal liability available to be offset by the child credit. Utah had the highest average nonrefundable portion, at $1,533, and the District of Columbia had the lowest, at $959.

The average amount of the refundable portion claimed nationwide was $1,343, compared with $1,366 in Minnesota. Utah had the highest average refundable portion, at $1,619, and Massachusetts had the lowest, at $1,180.

How has the credit amount changed over time?

The credit equaled $400 per child in 1998, increased to $500 in 1999, $600 in 2001 and 2002, and $1,000 beginning in 2003. The $1,000 credit amount was made permanent in 2012 by ATRA.

Has the credit always been refundable?

When first enacted in TRA, the child credit was only refundable for taxpayers with three or more children, and only to the extent that their payroll taxes exceeded the federal earned income tax credit. The implicit rationale was that the refundable portion of the federal earned income tax credit was first used to offset payroll taxes for Social Security and Medicare, and then any payroll taxes left over after the federal earned income tax credit could be offset by the federal child credit. This refund mechanism was limited to families with three or more children because families with fewer children and no federal tax liability would typically have all of their payroll taxes offset by the federal earned income tax credit and none left over to be offset by the new child credit.

In 2001 the refundable portion was changed to be the greater of:

- 15 percent of earned income over a minimum amount for all families regardless of the number of children, or,
- for families with three or more children, payroll taxes in excess of the federal earned income tax credit (the provision that was already in law).

The 2001 law set the minimum amount at $10,000 and provided for it to increase annually for inflation; ATRA made the $10,000 as indexed for inflation permanent. The American Recovery and Reinvestment Act of 2009 temporarily reduced the indexed $10,000 to $3,000, not adjusted for inflation, for tax years 2009 and 2010 only; ATRA extended the $3,000 minimum amount through 2017. The Protecting Americans from Tax Hikes Act of 2015 made the $3,000 minimum amount permanent.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204.

Christopher Kleman **Updated: December 2016**

Cigarette and Tobacco Excise Taxes and Fees

Minnesota imposes a $3.04/pack tax on cigarettes, annually indexed for inflation

Minnesota imposes an excise tax on the sale or possession of cigarettes of $3.04 per pack of 20. The excise tax on cigarettes is imposed on a "per unit" basis—i.e., on the number of cigarettes sold, not as a percentage of the sale price. As a result, the tax does not vary based on the price of the brand purchased or change as the prices rise or fall. However, under 2013 legislation the tax rate is annually adjusted (each January 1) for the change in the average retail price of cigarettes in the state. The latest indexing adjustment, effective January 1, 2017, increased the rate by 4 cents to the $3.04 per pack rate that now applies.

A per-pack tax applies in lieu of the general sales tax

Since 2005, cigarette sales have been exempt from state and local sales taxes. A per-pack tax applies instead of the sales tax. The commissioner of revenue annually sets this in-lieu tax based on a survey of Minnesota retail cigarette prices. The rate is set as an average of these prices and is reset January 1 for the calendar year. Effective January 1, 2017, the rate is 55 cents/pack. The tax does not replace local sales taxes, although cigarettes are exempt from these local taxes.

Payments made to settle state lawsuits against the tobacco industry have similar effects as excise taxes

Settlements of the states' lawsuits against the tobacco companies have similar economic effects to cigarette taxes, since these settlement payments are passed along to consumers (nationally) as higher cigarette prices. However, they do not affect companies that were not part of the lawsuit or that have not entered the Master Settlement Agreement as participating manufacturers. To compensate for the lower prices of cigarettes produced by nonsettling companies, the 2003 Legislature imposed a 35-cent per-pack fee on those cigarettes. The 2013 Legislature increased this fee to 50 cents.

A 95 percent excise tax applies to other tobacco products

An excise tax of 95 percent of the wholesale price applies to other tobacco products, such as cigars, pipe tobacco, snuff, and chewing tobacco. Since this tax is a percentage of price, it fluctuates as the prices of the products change with two exceptions to this general rule, both enacted by the 2013 Legislature:

- A minimum tax applies to each container of moist snuff equal to the tax rate on a pack of 20 cigarettes.
- Premium cigars (hand-rolled with a wholesale price of $2/cigar or more) are subject to a maximum tax of $3.50/cigar.

A use tax can apply, if Minnesota tax has otherwise not been paid

A use tax applies to consumers who purchase untaxed cigarettes (e.g., over the Internet or in-person in another state) for use in Minnesota. The tax is the same as the rate of the excise tax. The use tax does not apply to one carton of cigarettes purchased in another state and brought into the state by the individual. For larger quantities brought into the state and for any quantity shipped to the consumer in Minnesota, the use tax applies.

The taxes yielded revenues of nearly $660 million in FY 2015

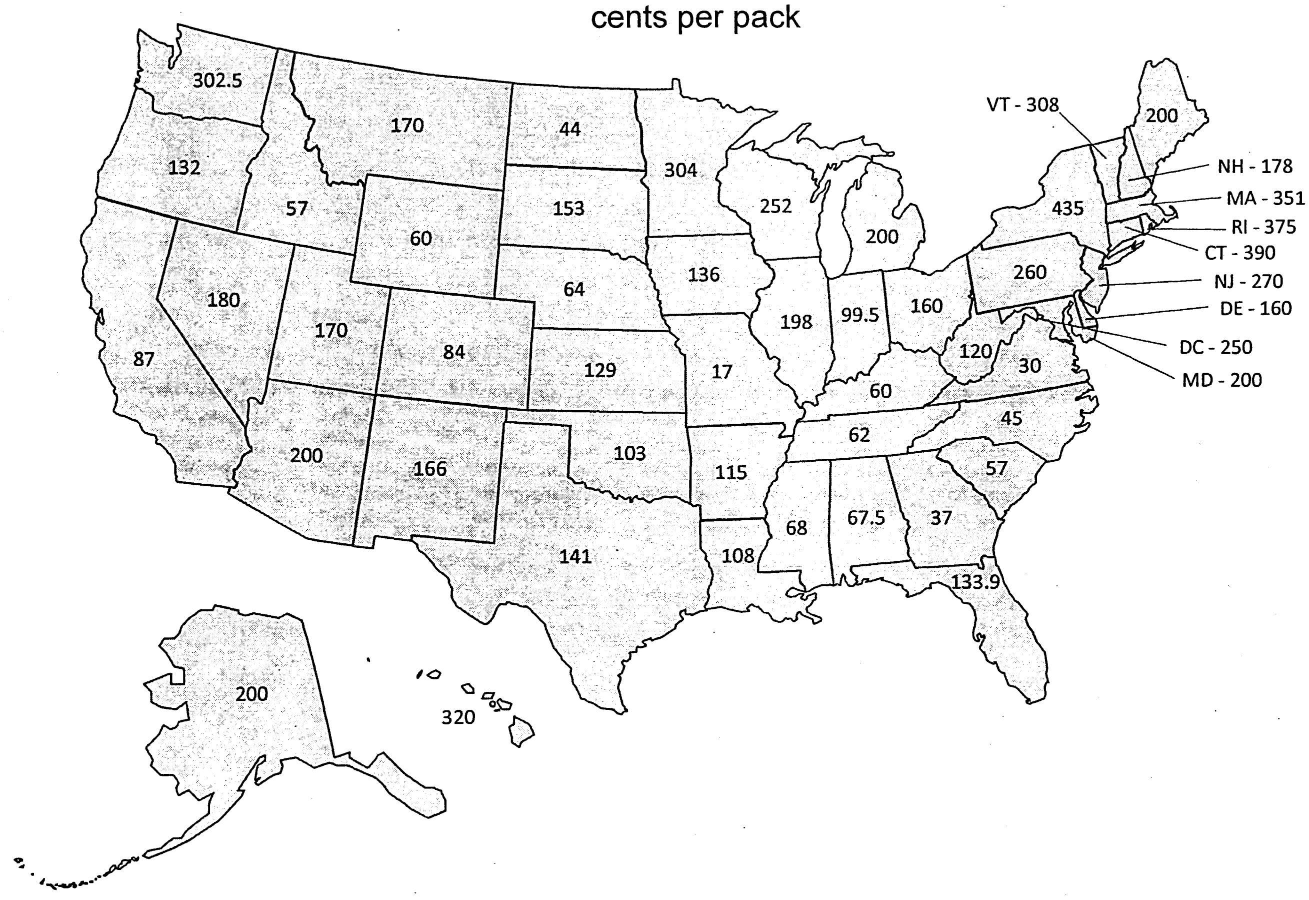
For fiscal year 2015, the Minnesota Department of Revenue reported collections from the two excise taxes and the sales tax on cigarettes to be $659.9 million. Revenues from the tobacco products tax are deposited in the general fund. Each fiscal year, cigarette tax revenues of $22.25 million go to fund the Academic Health Center, $3.94 million to the medical education and research account, and the rest to the state general fund.

Minnesota has a higher cigarette excise tax rate than neighboring states

Because cigarettes can easily be transported, the tax rates in other states (especially border states) are important. Minnesota excise tax ($3.04/pack) is higher than any of the bordering states: Wisconsin ($2.52), South Dakota ($1.53), Iowa ($1.36), North Dakota (44 cents). All states' rates are shown on the map below. The map does not reflect local cigarette taxes; some of these local taxes are substantial (e.g., $1.50 in New York City and $4.18 per pack in Chicago). The map does not reflect the effect of general sales taxes (including Minnesota's per-pack tax in lieu of the sales tax). Some states have no sales tax or exempt cigarettes from sales taxation, lowering the overall tax burden. California's excise tax will increase to $2.87 in early 2017.

State Cigarette Tax Rates*

as of 1/1/2017
cents per pack



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

For more information: Contact legislative analyst Christopher Kleman at christopher.kleman@house.mn.

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

Elisabeth Klarqvist **December 2016**

Minnesota's All-Payer Claims Database (MN APCD)

What is the all-payer claims database?

Minnesota's all-payer claims database (MN APCD) is a database of health care claims data on Minnesota residents. The database is maintained by the Minnesota Department of Health (MDH) and a data processor under contract with MDH to collect and process the data. Laws authorizing the database were enacted in 2008, and data collection began in 2009. The MN APCD is governed by Minnesota Statutes, section 62U.04, and Minnesota Rules, chapter 4653, and appendices.

Who reports data to the MN APCD?

Data is submitted to a data processor under contract with MDH by:

- health plan companies and third-party administrators that provide or administer coverage to Minnesota residents and that paid at least $3 million in health care claims for covered Minnesota residents in the previous calendar year; and
- pharmacy benefits managers that provide or administer coverage to Minnesota residents and that paid at least $300,000 in claims for covered Minnesota residents in the previous calendar year.

MDH also obtains Medicare and Medical Assistance claims data from the Centers for Medicare and Medicaid Services, the Minnesota Department of Human Services, and health plan companies. Data must be submitted in an electronic format at least every six months, but no more frequently than monthly. The data processor works with data submitters to ensure submissions are complete and free of material errors.

What data is reported to the MN APCD?

Health plan companies, third-party administrators, and pharmacy benefits managers must report the following data in a de-identified format:

- enrollment data, which means demographic information and other information about covered individuals
- encounter data and pricing data for institutional and professional health care claims, and pharmacy drug claims paid by the entity that submitted the data (Encounter data includes data about who provided a health care service to an individual patient, what service was provided, and where and when the service was provided. Pricing data means the amount paid to a health care provider for a health care service provided to an individual patient, including any amount paid by the patient.)

How is data in the MN APCD used?

State law allows MDH to use data in the MN APCD only for the following purposes:

- to evaluate the performance of the health care home program
- to study hospital readmission trends and rates

- to analyze variations in health care costs, quality, utilization, and illness burden based on geographic areas or populations (This use is permitted until July 1, 2019)
- to evaluate the state innovation model (SIM) testing grant received from the federal government
- to compile summary data or tables made available to the public as public use files
- to conduct annual research activities related to public and private health care spending on specified health conditions and deaths from those conditions
- for a onetime analysis of chronic pain management procedures (completed in 2014) and a onetime assessment of the feasibility of operating a state-based risk adjustment program (completed in 2016)

Have other uses for the data been contemplated?

In 2008, MDH was directed to develop a provider peer grouping system, in which health care providers would be grouped based on risk-adjusted costs of care and quality of care, and on costs of care and quality of care for specific conditions. Data from the MN APCD was to be used to develop and implement the provider peer grouping system. In 2014, development and implementation of the provider peer grouping system was suspended by law and remains suspended until the legislature authorizes the commissioner to resume development and implementation. Currently, MN APCD data cannot be used for the provider peer grouping system.

How is MN APCD data classified?

Data collected in the MN APCD is classified as private data on individuals or nonpublic data. These classifications mean that data in the APCD is not public but is accessible to the subject of the data, if any. Since data is de-identified before it is reported to the MN APCD, MDH does not know the identities of the data subjects and cannot share data with them. Summary data may be derived from nonpublic data. MDH or a designee must establish procedures and safeguards to protect the integrity and confidentiality of the data. MDH cannot publish data that identifies individual health care facilities, providers, or patients.

How does* Gobeille v. Liberty Mutual Insurance Company *affect the MN APCD?

Vermont's statute establishing its APCD in part required health insurers over a certain size, including self-insured health benefit plans, to submit health claims data to the database. In *Gobeille v. Liberty Mutual Insurance Company*, 136 S.Ct 936 (2016), the U.S. Supreme Court found that requiring self-insured health plans to report data to Vermont's APCD is preempted under the Employee Retirement Income Security Act (ERISA). Following this decision, Minnesota and other states cannot require self-insured health plans to report claims data to the state's APCD. MDH is exploring the possibility of obtaining data from self-insured plans under the authority of a federal regulation.

For more information: Contact legislative analyst Elisabeth Klarqvist at 651-296-5043. Additional resources from MDH are available at www.health.state.mn.us/healthreform/allpayer/index.html.

Colbey Sullivan and Nina Manzi **Updated: December 2016**

Economic Forecasts, Budget Surpluses, and Budget Shortfalls

When are economic forecasts prepared?

The commissioner of Minnesota Management and Budget (MMB) must prepare a forecast of state revenues and expenditures twice each year—in February and November.

What are the forecasts used for?

The November forecast in even-numbered years becomes the basis for the governor's budget recommendations to the legislature. The November 2016 forecast provides the revenue and expenditure projections that the governor will use to develop the budget proposal for the fiscal year 2018-2019 biennium, which runs from July 1, 2017, to June 30, 2019. The November 2016 forecast also shows that the state is on track to finish the fiscal year 2016-2017 biennium with a positive balance.

The February forecast modifies the preceding November's forecast with any new data that's available. The February 2017 forecast will provide the revenue and expenditure projections that the legislature will use in adopting a budget for the fiscal year 2018-2019 biennium. Following the February forecast, the governor will submit modifications to the budget proposal developed from the November forecast, which are called "supplemental budget recommendations." The February 2017 forecast will also provide an update on the status of revenues and expenditures in the current biennium.

The November forecast in odd-numbered years and the February forecast in even-numbered years also provide updates on revenues and expenditures in the current biennium. Using the projections of the November 2017 and February 2018 forecasts, the governor may make additional "supplemental budget recommendations" proposing changes to the fiscal year 2018-2019 budget during the 2018 legislative session. The legislature will use the projections in the February 2018 forecast to ensure that the fiscal year 2018-2019 biennium closes with a balanced budget.

What if a forecast shows a budget shortfall?

If a forecast projects a shortfall for the *general fund in the current biennium*, the commissioner of MMB may reduce the budget reserve account as needed to balance revenues with expenditures. If there isn't enough money in the budget reserve to balance the general fund in the current biennium, and if a balanced budget has been enacted for the biennium, then the commissioner may also reduce outstanding appropriations, commonly referred to as "unalloting." Before reducing the budget reserve or unalloting appropriations, the commissioner must obtain the approval of the governor and must consult with the Legislative Advisory Commission. When the legislature is in session, the governor typically makes recommendations to the legislature on how to resolve the shortfall before approving use of the budget reserve or unalloting.

What if the forecast shows a budget surplus?

If a forecast shows a surplus for the *general fund in the current biennium*, the commissioner of MMB must allocate the surplus in priority order as follows:

1. to the cash flow account, until it reaches $350 million (currently satisfied)
2. to the budget reserve account, until it reaches $1,596,522,000 (currently surpassed)
3. to increase the school aid payment schedule to 90 percent, in increments of one-tenth of 1 percent with any residual amount deposited in the budget reserve (currently satisfied)
4. to restore previous school aid reductions and reduce the property tax recognition shift accordingly (currently satisfied).

If a November forecast projects a surplus and priorities (1) to (4) have been satisfied, 33 percent of the surplus is transferred to the budget reserve, until the reserve reaches the percentage of the current biennium's revenues recommended as a reserve. The commissioner must update the percentage each September based on a review of the adequacy of the reserve and the volatility of Minnesota's tax structure. Under this requirement, the commissioner transferred $334 million to the budget reserve after the November 2016 forecast, bringing the amount in the reserve to $1.930 billion.

Any surplus remaining after meeting the four priorities and making the 33 percent transfer is reported in the forecast as a "positive unrestricted budgetary general fund balance." For the fiscal year 2016-2017 biennium, this balance is $678 million.

What are recent changes to treatment of budget surpluses?

Laws 2014, chapter 150, required the commissioner to recommend a budget reserve level specified as a percentage of current biennium revenues, to update the percentage each January, and to transfer 33 percent of a November forecast surplus to the reserve. Laws 2015, chapter 77, pushed the commissioner's annual update back to September.

For more information: Contact legislative analyst Colbey Sullivan at 651-296-5047 or Nina Manzi at 651-296-5204. Also see the House Research publication *Unallotment: Executive Branch Power to Reduce Spending to Avoid a Deficit,* December 2010.

Nina Manzi and Joel Michael Updated: December 2016

Capital Gains Taxation: Federal and State

What is capital gains income?

When a taxpayer sells a capital asset, such as stocks, a home, or business assets, the difference between the sale price and the asset's tax basis is either a capital gain or a loss. The "tax basis" is usually what the taxpayer invested in the asset, less any depreciation deductions claimed for business assets. Special basis rules apply to assets received as a gift or inheritance.

What are short-term and long-term gains and losses?

The gain or loss on an asset held for more than one year is considered "long term." If the taxpayer disposes of an asset after holding it for a year or less, the gain or loss is "short term."

How does the federal government tax capital gains income?

Four maximum federal income tax rates apply to most types of net long-term capital gains income in tax year 2016 (these rates include the additional 3.8 percent tax on net investment income or NII):

- 0 percent for taxpayers in the 10 percent or 15 percent bracket (under $75,300 of federal taxable income or FTI for married joint filers)
- 15 percent for taxpayers above the 15 percent bracket but below the threshold for the tax on NII (from $75,300 of FTI to $250,000 of modified adjusted gross income or MAGI for married joint filers)
- 18.8 percent for taxpayers subject to the tax on NII but not in the top bracket on ordinary income (from $250,000 of MAGI to $466,950 of FTI for married joint filers)
- 23.8 percent for taxpayers in the top 39.6 percent bracket ($466,950 of FTI or higher for married joint filers)

The net capital gain income that qualifies for the preferential rates is long-term capital gain after subtracting both long-term capital losses and net short-term capital losses (i.e., in excess of short-term capital gains). Short-term capital gains do not qualify for the preferential federal rates but are taxed as ordinary income.

Are there higher or lower rates for certain kinds of income?

Three exceptions to the maximum federal rates apply:

- **Qualified small business stock.** 50 percent to 100 percent of the gain on sale of qualified small business stock is exempt, depending on when the stock was acquired; a 31.8 percent maximum rate applies to any remaining gain
- **Collectibles.** The net capital gain from selling collectibles (such as coins or art) is subject to a maximum 31.8 percent rate
- **Section 1250 real property.** The part of any net capital gain on property for which the taxpayer claimed "additional depreciation" (Section 1250 real property) is taxed at a maximum 28.8 percent rate

How are gains from the sale of the taxpayer's main home taxed?

Taxpayers may exclude up to $250,000 of gain on the sale of the home ($500,000 for married joint filers), if they owned and used the homes as their principal residences for two out of the five years before the sales. There is no limit to the number of times a taxpayer may claim this exclusion.

Can capital losses reduce ordinary income?

Yes, up to $3,000 per year of capital losses can be deducted from ordinary income. Losses over $3,000 are carried forward to future tax years. Losses on personal use items, such as a home or car, are not deductible.

How does Minnesota tax capital gains income?

Minnesota includes all net capital gains income in taxable income and subjects it to the same tax rates as apply to other income: 5.35, 7.05, 7.85, and 9.85 percent. Minnesota recognizes the federal exclusions on the sale of the taxpayer's home and all or part of the gain on qualified small business stock.

How do other states tax capital gains income in tax year 2015?

- Nine states (**Arkansas, Arizona, Hawaii, Montana, New Mexico, North Dakota, South Carolina, Vermont,** and **Wisconsin**) exclude a portion of long-term capital gains income, provide a lower rate, or allow a credit
- 31 states, including Minnesota, do not provide general preferential treatment for capital gains income; many provide special treatment for capital gains income from specific types of assets:
  - 19 states and the **District of Columbia** have preferential treatment of long-term gains on certain types of asset sales, usually involving in-state properties. A California court invalidated its in-state restrictions under the Commerce Clause of the U.S. Constitution, while the Oklahoma Supreme Court rejected a similar challenge.
  - Seven states exclude gains on some or all federal, state, and local bonds
  - Three states allow exclusion of all or part of certain capital gains income under a more general exclusion for retirement income
  - Three states have loss deduction rules that differ from the federal rules

What are the income levels and filing types of people who have capital gains income?

In tax year 2014, about 19 percent of all returns filed by Minnesota residents reported some capital gain or loss. Married taxpayers filing joint returns reported 75 percent of capital gains income. Filers with incomes over $100,000 reported about 89 percent of capital gains income.

Federal adjusted gross income	$ of capital gains reported (millions)	% of all gains reported	% of income consisting of gains	Average gains per return
			returns with capital gains	
Less than $50,000	$445	4.7%	20.1%	$2,681
$50,000 to $99,999	$630	6.6%	6.0%	$4,461
$100,000 to $500,000	$2,775	29.2%	7.5%	$13,779
Over $500,000	$5,666	59.5%	22.9%	$317,890
All incomes	$9,515	100.0%	12.8%	$18,078

What are the ages of taxpayers who have capital gains income?

Over 40 percent of taxpayers aged 65 and older reported some capital gains income in tax year 2014. The table shows the percent of gains by age of taxpayer.

Taxpayer age	$ of capital gains reported (millions)	% of all gains reported	% of income consisting of gains	Average gains per return
			returns with capital gains	
Less than 25	$137	1.4%	21.3%	$4,349
25 to 39	$512	5.4%	6.4%	$7,563
40 to 64	$5,526	58.1%	11.7%	$22,721
65 or older	$3,341	35.1%	17.9%	$18,155
All ages	$9,515	100.0%	12.8%	$18,078

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn.

Christopher Kleman & Deborah Dyson Updated: December 2016

Subordinate Service Districts

Beginning in 1969, a few metropolitan area counties were authorized to establish "subordinate service districts" by special law. Since 1982, counties, other than the seven metropolitan counties and St. Louis County, have been able to establish subordinate service districts under general law (Minn. Stat. ch. 375B). Towns were authorized to establish subordinate service districts in 1989 (Minn. Stat. ch. 365A). Subordinate service districts are very similar to city special service districts.

What is a subordinate service district?

A subordinate service district is a geographic area within a county or town, smaller than the entire county or town, in which the county or town provides services at a higher level than are provided generally throughout the jurisdiction or provides services that are not provided at all in the jurisdiction. A county subordinate service district (but not a town's) must be a compact, contiguous area.

What services can be provided in a subordinate service district?

Any service that the county or the town is otherwise authorized by law to provide may be provided in a district. Op. Atty Gen. 125a (March 26, 1984). County and town subordinate service districts cannot overlap to provide the same service. Minn. Stat. § 365A.10. Anecdotally, the law has been used to pave a portion of town road, provide community sewage treatment systems in new developments and near lakes, and provide ambulance services. There is no comprehensive information on the number, location, purpose, or financing of subordinate service districts; counties and towns do not report on them to any state agency.

How are the services paid for?

The services are paid for by revenues from within the district. For both counties and towns, a service may be paid for through a property tax or service charge, or a combination of the two, against the users of the service. Counties and towns may issue general obligation bonds without an election for capital projects in subordinate service districts, payable primarily from the taxes or charges from the district but also ultimately backed by the general taxing power of the county or town. The taxes or fees supporting the bonds must continue to be imposed until the bonds are repaid, even if the district is dissolved. Minn. Stat. §§ 375B.09; 365A.08; 365A.095.

How is the way services are paid for different from other ways of paying for improvements or services?

If the county or town used general property tax levy revenues, the entire jurisdiction would pay for the improvement or service. A subordinate service district requires those benefitting from or using the improvements or services to pay for them. Assuming the county or town had authority to use special assessments for the particular purpose, special assessments typically are not for ongoing costs, and the amount charged must be substantially equal to the property's market value increase due to the improvement. In contrast, a subordinate service district can be used to pay for ongoing costs and does not require the charges to match the benefit.

How is a subordinate service district formed?

By board resolution. A county board may establish a district by resolution after a public hearing. The resolution must specify the service or services to be provided within the subordinate service district and the territorial boundaries of the district. Minn. Stat. § 375B.04.

By petition. In a county and in a town, a subordinate service district may be established by petition. In a county, the petition submitted to the county board must be signed by at least 10 percent of *voters* within the area proposed for the subordinate service district. In a town, it must be signed by at least 50 percent of the *property owners* in the area to be served. In both cases, the petition must describe the proposed district boundaries and services. Within 30 days, the county or town board must hold a public hearing and then approve, approve with modifications, or disapprove the request.

Whether created by board resolution or petition, creation of a subordinate service district is subject to reverse referendum. If 5 percent of voters in the district (for counties) or 25 percent of property owners in the district (for towns) petition for a referendum, a special election must be held. When this occurs, the district is not established unless approved by a majority of those voting on the question. Minn. Stat. §§ 365A.06; 375B.05.

Can a district be enlarged?

A county subordinate service district may be enlarged in the same manner for establishing a new district. Minn. Stat. § 375B.08. The statute specifies who can vote.

How is a district discontinued?

Both county and town subordinate service districts may be discontinued if a petition requesting it is approved. For counties, the petition must be signed by at least 10 percent of the voters in the area. Counties are not required to hold public hearings. A county board also may initiate discontinuing a district by adopting a resolution after publishing notice for between three and six months before the resolution is adopted. In a county, whether initiated by petition or board resolution, the county must hold a special election within the boundaries of the district not less than 30 nor more than 90 days after the resolution or receipt of the petition. The district is discontinued if a majority of those voting on the question favor discontinuance. For towns, the petition must be signed by at least 75 percent of the property owners in the area. Town boards must hold a public hearing before deciding whether to discontinue a subordinate service district, but no election is held. Minn. Stat. §§ 365A.095; 375B.10; 375B.11.

If revenues remain after a town subordinate service district is discontinued and all outstanding obligations have been paid, the town board may deposit the surplus revenues in the town general fund or refund them to the owners of property charged during the last year a tax or fee was imposed in the district. Minn. Stat. § 365A.095. The county subordinate service district law does not address this situation.

For more information: Contact legislative analyst Christopher Kleman at christopher.kleman@house.mn or Deborah Dyson at deborah.dyson@house.mn. Also see the House Research publication *City Special Service Districts*.

HOUSE RESEARCH | Short Subjects

Matt Burress

Updated: December 2016

Transit Systems in Minnesota

Public transit systems throughout Minnesota vary widely in size, geographic coverage area, and service offerings. The systems are operated at a local or regional level, and the state assists in funding and planning.

Forms of service

Public transportation systems vary in the service provided. The basic forms are:

- **Regular route bus** service, operating primarily in urban settings on fixed routes and standard schedules, and typically with frequent stops;
- **Bus rapid transit (BRT)**, with fewer stops compared to regular route buses and various amenities and service improvements;
- **Express bus** service, which generally follows longer routes with limited stops and is often oriented to commuters (e.g., to an urban core);
- **Rail transit**, which operates on railroad track and includes street cars, light rail transit (LRT), commuter rail, and intercity passenger rail;
- **Demand response or "dial-a-ride,"** in which riders can arrange for specific trips upon request (usually in areas not served by regular routes);
- **Route deviation**, typically offering bus service on regular schedules that follow fixed routes but with small deviations upon rider request; and
- **Paratransit**, providing door-to-door transport for people who are unable to use regular bus service (required under the federal Americans with Disabilities Act (ADA) to complement fixed route bus service areas).

Systems in Greater Minnesota

There are 56 transit systems throughout Greater Minnesota. Each one is classified under state law into one of four categories based on its location and characteristics, as summarized in the table below. Minn. Stat. § 174.24.

Class	Count	Forms of Service	Typical Service Area	Examples
Urbanized	7	Mainly regular route	One or a few cities	Duluth, Moorhead, St. Cloud
Small urban	7	Dial-a-ride, route deviation	One or a few cities	Hibbing, St. Peter, Winona
Rural	36	Dial-a-ride, route deviation	Various	Arrowhead, Brown, Wadena
Elderly/disabled	6	Paratransit	Matches urban regular route	E. Grand Forks, Rochester

Although there are commonalities (especially within each classification), the transit systems vary. Service is most often operated by cities and counties but some systems are run by other forms of local government or nonprofits. Fixed route service and paratransit are only found in more densely populated urban areas. Route deviation or dial-a-ride service, or both, are offered in small urban and rural settings. While transit systems in an urban area typically cover one or a couple of cities, rural systems can cover part of a county, run countywide, or extend across multiple counties. Frequency of service also varies; it usually covers the working day but can be limited in operating hours as well as in days of the week.

A number of counties lack countywide transit service, and there is no service in one county (Waseca). There are also privately operated intercity bus routes.

Systems in the Twin Cities metropolitan area

Transit service in the Twin Cities metropolitan area consists of:

- **Metro Transit**, encompassing an extensive regular route bus system as well as light rail transit, bus rapid transit, and commuter rail lines;
- **Metro Mobility** paratransit for those with disabilities or health conditions;
- **Transit Link dial-a-ride** service for the general public in parts of the metropolitan area that are not served by regular route transit;
- **"Opt-out"** systems consisting of suburban transit providers that replace Metro Transit service in several cities; and
- **Other operators** such as the University of Minnesota.

The Metropolitan Council

Service provided by the Metropolitan Council constitutes the single largest transit system in Minnesota, at about 81 percent of statewide ridership in 2015. The council includes Metro Transit and Metropolitan Transportation Services (MTS). Metro Transit is a transit provider while MTS manages contracts with public and private entities to operate (1) Metro Mobility, (2) Transit Link dial-a-ride service, and (3) other regular bus routes (mainly for commuter service). In addition, the Metropolitan Council maintains most transit park-and-ride lots and performs regional transportation planning and management.

Opt-outs

Suburban transit providers, or opt-outs, are operated by a range of agencies including counties and cities as well as nonprofits. The service replaces that offered by the Metropolitan Council (although there is some overlap in coverage due to commuter service to the central cities). Offerings vary, covering regular route circulator service within specific communities, dial-a-ride, and express buses.

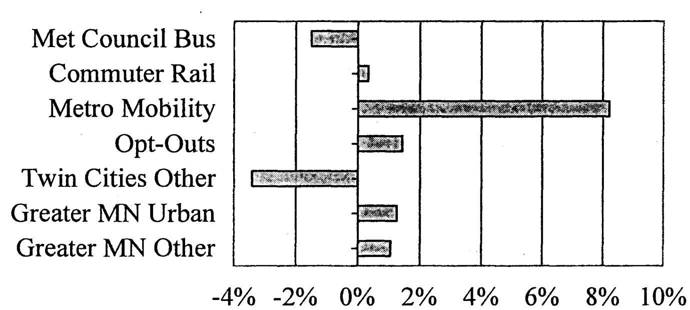
Ridership and growth

The charts below show ridership information. Overall ridership across the systems grew by an annual average of 1.6 percent for calendar years 2010 to 2015. Notable features include (1) a contraction in bus ridership that might, in part, reflect rider shifts to use light rail transit; and (2) the high growth rate for Metro Mobility.

Category	CY 2015 Ridership	Percent of Total
Met Council Bus	64.0	57.5%
BRT	0.3	0.2%
LRT	23.0	20.7%
Commuter Rail	0.7	0.7%
Metro Mobility	2.1	1.9%
Opt-Outs	5.1	4.6%
Twin Cities Other	3.8	3.5%
Greater MN Urban	8.0	7.2%
Greater MN Other	4.2	3.8%
Total	**111.0**	**100.0%**

Notes: Ridership amounts are in millions. Variance in total is due to rounding.

Change in Transit Ridership
5-yr. Annual Ave., CY 2010-15



Note: Chart excludes bus rapid transit and light rail transit (due to services commenced during this period).