

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 2323

**DATE:** April 19, 2009

**Version:** Delete-everything amendment (A09-0462)

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**Subject:** Omnibus Tax Bill

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Section

**Article 1: Income, Corporate, Estate and Gift Tax**

**Overview**

Conforms Minnesota's individual income tax and corporate franchise tax to most federal changes enacted in the 2009 federal stimulus law), except for deductions for deferral of income from discharge of indebtedness, motor vehicle sales taxes, and unemployment compensation.

Conforms Minnesota's individual and corporate income tax to the increased section 179 expensing amounts for tax year 2009.

Disallows the itemized deductions for real and personal property taxes, mortgage interest, and charitable contributions, and provides new credits for mortgage interest and charitable contributions.

Eliminates or repeals numerous subtractions from taxable income for individuals.

Imposes a new 9 percent income tax rate at \$300,000 of taxable income for married joint filers, adjusted for other filing statuses.

Repeals individual income tax credits for dependent care expenses, K-12 education expenses, long-term care insurance premiums, health insurance premiums of certain section 125 plan participants, bovine tuberculosis expenses, and the lower-income motor fuels credit. (Article 12 provides appropriations for bovine tuberculosis grants and for basic sliding fee child care.)

Provides a new refundable child credit of up to \$200 per child for parents with adjusted gross income over \$14,000, phased out for those with AGI over \$28,000.

Increases the research credit and extends it to individuals

Eliminates special rules for foreign operating corporations or FOCs, and the exclusion of 80% of foreign royalties.

Eliminates individual and corporate franchise tax preferences for JOBZ, Biotechnology and Health Science Industry Zones (BHSIZ), and International Economic Development Zones (IEDZ), with the exception of the JOBZ jobs credit.

Adds Minnesota development subsidies to corporate taxable income.

Expands the definition of domestic corporations to include tax havens.

Accelerates adoption of single sales factor apportionment to tax year 2009.

Indexes the corporate franchise tax minimum fee for inflation.

Modifies the estate tax for nonresidents who have ownership interests in pass-through entities that own real or tangible personal property in Minnesota.

Imposes a gift tax to complement or back up the Minnesota estate tax

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- 1 Update of administrative tax provisions.** Adopts federal tax administrative provisions made between December 31, 2008, and March 31, 2009, that Minnesota references for state tax administration purposes under chapter 289A. The 2009 federal stimulus law was the only federal law enacted in that time period, and did not change federal provisions that Minnesota provisions refer to in chapter 289A.

**Effective date:** day following final enactment
- 2 Tax due; failure to withhold from employee.** Provides that if an employer who is required to withhold taxes from the wages of an employee fails to do so as a result of treating the employee as not being an employee, the employer must pay withholding tax equal to three percent of the wages paid to the employee. The employer may not recover tax due under this section from the employee.
- 3 Domestic corporation definitions.** Expands the definition of domestic corporation for purposes of the corporate franchise tax to include the following foreign corporations (i.e., corporations or other entities organized under the laws of a foreign country):

  - ▶ Incorporated in a tax haven (defined in section 4),
  - ▶ Doing sufficient business in a tax haven to be subject to tax by the tax haven, or
  - ▶ With 20 percent or more of the average of their property, payroll, and sales in the United States.

Domestic corporations that are part of a unitary business must be included on the combined report. As a result, this will require the income and apportionment factors of these foreign corporations to be reflected in the combined report and will subject them to Minnesota corporate franchise tax. Present Minnesota law excludes all foreign corporations from the combined report, except foreign sales corporations.

**Effective date:** tax year 2009
- 4 Tax haven.** Defines “tax haven” as a list of foreign countries that have been publicly identified by both the Organization of Economic Opportunity and Cooperation (OECD) and by the Internal Revenue Services (based on federal court documents). The commissioner of revenue may add to or delete from this list by administrative rule. Countries qualify as tax havens by having both (1) nominal tax rates or no tax and (2) secrecy policies that restrict the ability of U.S. tax administrators to obtain tax information. The commissioner must remove countries from the list, if the United States enters into a tax treaty or similar agreement with the country that provides for sharing tax information with the Internal Revenue Service.

**Effective date:** tax year 2009
- 5 Update to federal definition of taxable income.** Adopts all of the federal changes to taxable income effective when the federal changes became effective, for tax year 2009 and following years. The one new federal law and important changes were:

**The American Recovery and Reinvestment Act of 2009**, Public Law 111-5, enacted February 17, 2009, made the following major changes:

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- ▶ Allows deferral of discharge of indebtedness income resulting from reacquisition of business indebtedness in 2009 and 2010. Instead of being recognized in the tax year in which it is received, the income is deferred and recognized in equal parts from 2014 to 2019 (*Minnesota would not conform to this deferral; instead additions to taxable income for individuals and corporations would be required under sections 6 and 8, and corresponding subtractions allowed under sections 7 and 9*).
- ▶ Allows deduction of the first \$2,400 of unemployment compensation (*Minnesota would not conform to this deduction; instead an addition to taxable income would be required under section 6*).
- ▶ Allows deduction of motor vehicle sales taxes as an itemized deduction for individuals who choose to deduct state income taxes, and as an additional standard deduction for non-itemizers, for purchases from February 17, 2009, through December 31, 2009 (*Minnesota would not conform to this deduction; instead an addition to taxable income would be required under section 6*).
- ▶ Extends 50 percent bonus depreciation amounts to tax year 2009 (*Minnesota would not conform to the extension of bonus depreciation but would retain its current law requirement that taxpayers add-back to taxable income 80 percent of the additional depreciation amount in the first tax year, and then subtract one-fifth of the amount added back in each of the five following tax years*).
- ▶ Extends the increased section 179 expensing amount and phase-out threshold to tax year 2009 (allows \$250,000 of property to be claimed as section 179 expensing, with the allowance phased out dollar-for-dollar for businesses that place more than \$800,000 of qualifying property in service during the tax year).
- ▶ Extends the carryback period for 2008 net-operating losses for businesses with gross receipts of \$15 million or less from two years to five years.
- ▶ Reduces the holding period for assets of S corporations that converted from C corporations from ten years to seven years, for tax years 2009 and 2010 only, allowing S corporations to sell assets held more than seven years without being taxed on built-in gains.
- ▶ Increases from 50 percent to 75 percent the exclusion for the gain on sale of qualified small business stock held for more than five years for stock acquired between February 18, 2009, and December 31, 2010.
- ▶ Extends the definition of qualified higher education expenses that can be paid from section 529 plans to include computer equipment and software for tax years 2009 and 2010 only (excludes software designed for sports, games, or hobbies unless it is predominantly educational in nature).
- ▶ Increases the maximum amount of benefit that an employer may exclude from gross income for employee transit and vanpool expenses to equal the amount allowed to be excluded for employee parking expenses, for tax years 2009 and 2010 only.
- ▶ Removes the limitation on net operating loss carryforwards and use of built-in losses in the case of an ownership change for manufacturing firms if the

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ownership change is required under a loan agreement or line of credit entered into with the Treasury Department under the Emergency Economic Stabilization Act of 2008.

- ▶ Expands availability of industrial development bonds and tribal economic development bonds, modifies rules relating to interest expenses of financial institutions for tax-exempt income, and exempts private activity bond interest from alternative minimum taxable income (generally for bonds issued in 2009 and 2010).
- ▶ Reverses IRS Notice 2008-83, which allowed an acquiring bank to use the built-in losses of an acquired bank to reduce its taxable income without regard to the limits in section 382 of the Internal Revenue Code.

## **6 Additions to federal taxable income (FTI) for individuals.** Requires the following items to be added to FTI, subjecting this income to Minnesota tax:

- ▶ Interest on Minnesota state and local government bonds that are not qualified bonds, as defined in section 13
- ▶ Real and personal property taxes deducted in computing FTI
- ▶ Qualified residence interest (home mortgage interest) deducted in computing FTI
- ▶ Charitable contributions deducted as itemized deductions in computing FTI
- ▶ Motor vehicle sales taxes allowed as an itemized deduction in computing FTI
- ▶ The additional standard deduction amount for motor vehicle sales tax
- ▶ Deferred income from the discharge of indebtedness resulting from reacquisition of business indebtedness
- ▶ The first \$2,400 of unemployment compensation

The additions for real and personal property taxes, home mortgage interest, charitable contributions and motor vehicle sales taxes would be limited to the amount that the sum of itemized deductions, less these deductions and the deduction for state income or sales tax, exceeds the standard deduction. Thus, the addition can not be more than total itemized deductions in excess of the standard deduction.

This section also ends the addition for the section 179 expensing deduction, conforming to the federal allowance for tax year 2009 and following years.

Also requires the new additional standard deduction amount for motor vehicle sales taxes to be added to taxable income. Modifies the definition of the standard deduction used in limiting the addition for state income or sales taxes deducted at the federal level to include the new additional amount for motor vehicle sales taxes.

**Effective date:** tax year 2009

## **7 Subtractions from FTI for individuals.** Eliminates the following subtractions from FTI:

- ▶ K-12 education expenses
- ▶ Elderly exclusion

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- Capital gains realized by an insolvent farmer and used to pay off debt
- Charitable contribution subtraction for nonitemizers
- Federal credit for small ethanol producers (obsolete)
- Foreign subnational taxes in excess of the federal foreign tax credit
- Income earned in a JOBZ (capital gain, rent, and business income)
- Organ donor expenses
- National service (AmeriCorps) education awards

Also allows subtraction of discharge of indebtedness income included in federal taxable income that was included in Minnesota taxable income in an earlier year as a result of the addition required in section 6, clause 16.

**Effective date:** tax year 2009

- 8 Additions to FTI for corporations.** Repeals the corporate franchise tax additions to federal taxable income for foreign operating corporations' (FOCs) deemed dividends and for section 179 expensing. This, in combination with the general update in section 5, will conform to the federal section 179 rules for corporations. Section 30 repeals FOCs. This provision eliminates the corresponding addition to income for the deemed dividend.

Also requires addition of deferred income from the discharge of indebtedness resulting from reacquisition of business indebtedness.

**Effective date:** tax year 2009

- 9 Subtractions from FTI for corporations.** Repeals the subtraction from federal taxable income for foreign royalties.

Also allows subtraction of discharge of indebtedness income included in federal taxable income that was included in Minnesota taxable income in an earlier year as a result of the addition required in section 8, clause 25.

**Effective date:** tax year 2009

- 10 Corporate exemptions for JOBZ, BHSIZ, and IEDZ; Minnesota development subsidies.** Repeals the corporate franchise exemptions for the JOBZ, BHSIZ, and IEDZ programs. In addition, it imposes the corporate franchise tax on Minnesota development subsidies (defined in section 12).

**Effective date:** tax year 2010

- 11 Update to other references to the Internal Revenue Code in chapter 290.** Adopts federal changes to federal adjusted gross income used for computing individual alternative minimum tax and determining withholding on wages. FAGI also is the starting point for calculating household income which is used to compute the dependent care and K-12 education credit for tax year 2009 and following years. The main changes to federal adjusted gross income are described in section 5.

- 12 Minnesota development subsidies.** Defines "Minnesota development subsidies" (added to

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Minnesota taxable income and to alternative minimum taxable income for corporate franchise tax purposes under sections 10 and 25). These amounts are defined as the greater of:

- ▶ One-half of payments that the taxpayer deducted in computing federal taxable income as business expenses attributable to property taxes or lease payments derived from property taxes (e.g., under a triple net lease that requires the lessee to pay the property taxes) on property that is in a TIF district or abatement project. The property must be subject to a development agreement (for TIF) or derive a benefit from the abatement to be included. (Simply paying property taxes on property located in a TIF district would not qualify, if the property owner or developer did not enter a development agreement related to the TIF district or if the property did not derive a direct benefit from the TIF or abatement expenditures.)
- ▶ The amount of payments directly received by the corporation under a development that is funded by tax increments or abatement, but excluding amounts that are reimbursements for pollution cleanup under a removal or remediation plan approved by PCA.

Tax increments for purposes of this definition exclude those from:

- ▶ Housing districts
- ▶ Soils districts
- ▶ Hazardous substance districts

**Effective date:** tax year 2010

**13      Qualified obligations.** Defines qualified obligations. Under section 6, interest on state and local obligations that are not qualified obligations will be subject to tax. Qualified obligations are comprised of two categories:

- ▶ Minnesota state and local bonds that were sold before July 1, 2009; and
- ▶ State general obligation bonds that the commissioner of finance determines could be issued at lower net state cost (taking into account the combined effects on tax collections and the interest rates) if they are issued exempt from state tax.

If the commissioner determines to issue bonds under this authority, the commissioner must provide written notice to the chairs of the legislative committees on capital investment and taxes within 15 days after selling the bonds, including the details on the cost estimates.

**14      Individual income tax, nexus rules.** Provides that for a single-member Limited Liability Company (LLC), which the owner has elected to disregard status for individual income tax purposes and which has income that is assigned to Minnesota, the income is taxed as though it was received directly by the individual, rather than by the LLC. This parallels the similar treatment of ownership interests in partnerships (which includes multi-member LLCs) and S corporations.

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**Effective date:** day following final enactment

- 15 Individual income tax rates.** Adds a new 9 percent rate at \$300,000 of taxable income for married joint filers, with the threshold adjusted for other filing statuses (\$150,000 for married separate filers, \$169,700 for single filers, and \$255,560 for head of household filers)

Also makes conforming changes to the calculation of the ratio used by nonresidents and part-year residents to apportion tax to Minnesota to reflect new additions and subtractions in response to federal changes, elimination of various subtractions and repeal of the exemptions for JOBZ and IEDZ income.

**Effective date:** tax year 2009

- 16 Inflation adjustment.** Re-sets the annual inflation adjustment of the income tax brackets to use the tax year 2009 amounts specified in section 15 as the base for future annual adjustments.

- 17 Mortgage interest credit.** Allows a nonrefundable individual income tax credit equal to 7 percent of up to \$6,000 of mortgage interest paid during the taxable year. The credit does not apply to the first \$4,000 of mortgage interest paid; thus, a taxpayer must pay at least \$10,000 in mortgage interest to qualify for the full credit. The credit applies to both acquisition indebtedness and home equity indebtedness. Because the current law deduction for mortgage interest is not allowed under the alternative minimum tax, the credit does not apply to alternative minimum tax.

**Effective date:** tax year 2009

- 18 Charitable contribution credit.** Allows an 8-percent nonrefundable individual income tax credit for charitable contributions made in excess of the greater of:

- \$500
- 2 percent of the taxpayer's adjusted gross income

Charitable contributions qualifying for the credit are subject to the same limitations as under federal law. The charitable contribution credit is allowed against both the regular tax and the alternative minimum tax.

**Effective date:** tax year 2009

- 19 Working family credit.** Eliminates references to the exemptions for JOBZ and IEDZ income and updates references to military pay subtractions in the working family credit statute.

**Effective date:** tax year 2009

- 20 Research credit.** Allows the research and development tax credit against the individual income tax and increases the first-tier rate from five to ten percent of the first \$2 million of qualifying expenditures. Present law limits the credit to corporate franchise tax liability.

**Background.** The credit applies principally to amounts expended for wages for qualifying research activities that exceed a base amount. When the research credit was first enacted in



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1982, it applied to both corporate franchise and individual income tax liability. In 1987 as part of elimination of several credits, the research credit was restricted to the corporate franchise tax. The federal research credit, on which the Minnesota is based, is available to both corporate and individual taxpayers. Under present law the credit equals five percent of the first \$2 million of qualifying expenditures, and 2.5 percent of expenditures over \$2 million. Qualifying expenditures are largely defined as personnel and other operating costs (e.g., they typically do not include outlays for capital equipment used in the research, although these can qualify for special expensing rules that apply to determine federal and Minnesota taxable income).

**21 Carryover; research credit.** Makes a conforming change to the carryover of the research credit among partners or shareholders of S corporations to reflect the allowance of the credit against the individual income tax.

**22 Allocation of research credit.** Makes a conforming change to the allocation of the research credit among partners or shareholders of S corporations to reflect the allowance of the credit against the individual income tax.

**23 Minnesota child credit.** Allows a credit against the individual income tax equal to the lesser of:

- ▶ \$200 per qualifying child (as defined for purposes of the federal child credit – generally a dependent child up to age 16); or
- ▶ 10 percent of adjusted gross income in excess of \$14,000.

The credit is reduced by 5 percent of adjusted gross income above \$28,000.

The dollar amounts of the credit, the \$14,000 phase-in floor, and the \$28,000 phase-out floor are annually adjusted for inflation.

**24 Alternative minimum tax; individuals.** Eliminates the subtraction of charitable contributions for alternative minimum taxable income, consistent with the disallowance of the itemized deduction in section 6 and the elimination of the subtraction for non-itemizers in section 7.

The new charitable contribution credit proposed in section 18 is allowed against the alternative minimum tax, replacing the subtraction for charitable contributions.

Also updates references to additions to and subtractions from alternative minimum taxable income, so that the disallowed deduction of unemployment compensation and the addition for deferred discharge of indebtedness income will be included in alternative minimum taxable income, and the subtraction for deferral of discharge of indebtedness income when included at the federal level in 2014 to 2019 is excluded from alternative minimum taxable income.

**25 Alternative minimum tax; corporations.** Includes Minnesota development subsidies in corporate alternative minimum taxable income, updates references to additions to and subtractions from alternative minimum taxable income, strikes references to tax preferences for JOBZ, Biotechnology and Health Science Industry Zones (BHSIZ), and International Economic Development Zones (IEDZ).

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- 26 Franchise tax minimum fee.** Increases the corporate minimum fee amounts and thresholds at which the fee amounts apply. The lowest fee under present law of \$100 is increased to \$170; the highest fee under present law of \$5,000 increases to \$8,320. The thresholds at which these fees apply increase from \$500,000 (for the \$100 fee) to \$830,000 and from \$20 million (for the \$5,000 fee) to \$33.3 million. These amounts are based on adjusting these amounts for inflation, as measured by the consumer price index, from the year in which the original fee amounts were set.
- Effective date:** tax year 2009
- 27 Minimum fee.** Eliminates the JOBZ, BHSIZ, and IEDZ program exemptions from the property and payroll factors used in computing the corporate minimum fee. These exemptions would be eliminated.
- Effective date:** tax year 2010
- 28 Inflation adjustment of fee amounts.** Directs the commissioner to annually adjust the dollar amounts under the franchise tax minimum fee for inflation.
- Effective date:** tax year 2010
- 29 Income tax, assignment or allocation rules.** Clarifies that capital gain realized on the sale of a single-member LLC that is disregarded for federal income tax purposes is allocated to Minnesota and taxed as if the LLC did not exist. This parallels the similar treatment of ownership interests in partnership (which includes multi-member LLCs) and S corporations.
- Effective date:** day following final enactment
- 30 FOC deemed dividends.** Eliminates the authority to exclude the income and apportionment factors of FOCs from the combined report and eliminates the deemed dividend deduction for 80 percent of FOC income.
- Effective date:** tax year 2009
- 31 Apportionment formula, general application.** Adopts single sales apportionment. Under present law, single sales apportionment is being phased in, effective for tax year 2014.
- Effective date:** tax year 2009
- 32 Apportionment formula, financial institutions.** Adopts single sales apportionment for financial institutions.
- Effective date:** tax year 2009
- 33 Update of references to Internal Revenue Code in the property tax refund chapter.** Adopts the federal changes that affect household income, which uses the definition of federal adjusted gross income as a starting point.
- 34 Household income; property tax refund.** Adds the disallowed deductions for unemployment compensation to the definition of household income used in calculating the

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homeowner and renter property tax refund.

**35 Estate tax; nonresidents, gifts in contemplation of death, and federal conformity.**

**Nonresidents.** Provides special situs rules under the estate tax for nonresidents who have ownership interests in pass-through entities that own real or tangible personal property in Minnesota. Pass-through entities are defined as:

- ▶ S corporations
- ▶ Partnerships
- ▶ Disregarded single-member LLCs
- ▶ Trusts

Under present law, ownership interests in these entities are treated as intangibles and would be assigned to the decedent's state of residence and, thus, would not be included in the Minnesota estate. This change assigns the situs of the real and tangible personal property as if the pass-through entity did not exist. Thus, it will include the Minnesota real and tangible personal property owned by the pass-through entity in the Minnesota estate of the decedent. If there are multiple owners of the entity, the property is assigned to the decedent based on his or her share of the capital interest in the entity.

**Effective date:** estates of decedents dying after December 31, 2009

**Gifts in contemplation of death.** Modifies the definition of Minnesota adjusted taxable estate so that taxable gifts, as defined under the Minnesota gift tax, made within three years of the decedent's date of death must be added in computing the Minnesota adjusted taxable estate. This will result in taxing these gifts at the potentially higher rate under the estate tax. Sections 36 and 43 allow a credit against the estate tax for the gift tax paid on these gifts.

**Effective date:** estates of decedents dying after December 31, 2009

**Federal conformity.** Also changes the date through which Minnesota incorporates the federal estate tax from December 31, 2008, to March 31, 2009. Since there have not been any federal changes to the estate tax since the last update, this change does not have any substantive effect.

**36 Conforming change.** Provides that any gift tax paid on a gift included in the taxable estate reduces the estate tax due.

**37 Definitions; gift tax.** Defines terms for purposes of the gift tax:

- ▶ Terms defined in the estate tax chapter apply to the gift tax.
- ▶ Taxable gifts are defined by reference to the federal gift tax. As result, gifts below the annual exemption amount (for calendar year 2009 \$13,000 per recipient, indexed for inflation) are excluded. Generation skipping gifts under federal law would not be treated as taxable gifts. Gifts to charities and spouses would also not be taxable, as under the federal gift tax.

**38 Gift tax imposition.** Imposes a 10 percent tax on taxable gifts. A lifetime credit of

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\$100,000 is allowed (the equivalent of a \$1 million exemption). The tax does not apply to transfers of tangible personal property or real property with a situs outside of Minnesota.

**39 Gift tax returns.** Requires an individual making a taxable gift during the taxable year to file a gift tax return in the form and manner prescribed by the commissioner. If the donor dies before filing, the personal representative must file the return. The return is to include:

- ▶ Each gift
- ▶ The deductions claimed
- ▶ Description of the gift, the donee's name, address, and Social Security number
- ▶ Fair market value of non-cash gifts
- ▶ Any other information the commissioner requires.

**40 Gift tax filing requirements.** Requires returns to be filed by April 15<sup>th</sup> after the close of the calendar year in which the gift was made. If the donor dies, the due date is the time for filing the federal gift tax return.

**41 Gift tax; appraisal of property.** Authorizes the commissioner to require the donor or donee to show the property subject to tax and to hire suitable persons to appraise the property. The donor is required to provide a statement that the return reflects all of the taxable gifts for the year.

**42 Gift tax; administrative provisions.** Imposes a payment date of April 15<sup>th</sup> following the calendar year in which the gift was made. If the donor dies, the time for payment of the federal gift tax applies. A 10-percent penalty (or \$100, if greater) applies to late payments. The commissioner can extend the time for filing upon written request, filing of a tentative return, and a showing of good cause. However, tentative tax must be paid with interest (if applicable).

The taxpayer must notify the commissioner of federal changes in the value of taxable gifts within 180 days of a final determination. If a federal amended gift tax return is filed, the taxpayer must file an amended Minnesota return within 180 days.

Various special federal valuation rules apply, such as those for transfers of interests in closely held corporations and trusts.

**43 Gift tax credit against estate tax.** Provides that the amount of gift tax paid is a credit against the Minnesota estate tax to extent that the gift is included in the Minnesota adjusted taxable estate.

**44 JOBZ tax incentives.** Repeals individual income and corporate franchise tax exemptions references in the list of tax incentives that are available under JOBZ. Section 47 repeals the substantive allowance of these exemptions.

**45 Amendment of JOBZ agreements.** Allows a business to withdraw from JOBZ or renegotiate its business subsidy agreement in light of the repeal of the income and corporate franchise tax exemptions. (The JOBZ program would retain the sales tax exemption, property tax exemption, and jobs credit.) A business has six months after enactment to take this action.

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**46 Revisor's instruction.** Directs the Revisor to identify and correct internal references affected by the repealer in section 47.

**47 Repealer.** Repeals the following provisions:

Section of Statutes of Laws	Description	Effective date
272.02, subd. 83	IEDZ property tax exemption	Tax year 2010
290.01 subd. 6b	Definition of FOC	Tax year 2009
290.06, subd. 24	Job credit for heavy maintenance base	Tax year 2010
290.06, subd. 28	Transit pass credit	Tax year 2010
290.06, subd. 30	BHSIZ job credit	Tax year 2010
290.06, subd. 31	BHSIZ research credit	Tax year 2010
290.06, subd. 32	IEDZ job credit	Tax year 2010
290.06, subd. 33	Bovine testing credit	Tax year 2009
290.06, subd. 34	Lower income motor fuels credit	Tax year 2009
290.067	Dependent care credit	Tax year 2009
290.0672	Long term care insurance credit	Tax year 2009
290.0674	Minnesota K-12 education credit	Tax year 2009
290.0679	Assignment of education credit	Tax year 2009
290.0802	Elderly exclusion	Tax year 2009
290.0921, subd. 7	Corporate AMT limitation for foreign operating corporations	Tax year 2009
290.191, subd. 4	Sales only apportionment for mail order businesses	Tax year 2009
290.491	Capital gain exclusion for insolvent farmers	Tax year 2009
297A.68, subd. 38	BHSIZ sales tax exemption	Tax year 2010
297A.68, subd. 41	IEDZ sales tax exemption	Tax year 2010
297A.815, subd. 3	Sales tax on motor vehicle lease offset to lower-income fuels credit	July 1, 2009
469.316	JOBZ individual income tax exemption	Tax year 2010
469.317	JOBZ corporate franchise tax exemption	Tax year 2010
469.321 – 469.329	IEDZ program and tax provision	Tax year 2010
469.330 – 469.339	BHSIZ program and tax provisions	Tax year 2010

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Laws 2009, ch. 3, section 1 Health insurance premiums credit

Tax year 2009

**Article 2: County Revenue Reform**

**Overview**

This article provides an option for counties to impose a ½-cent sales tax. Provides that if a county imposes a tax, other local sales taxes within the county are preempted and the county must fund the obligations related to those preempted taxes. Provides for a reduction in the county program aid in Pay 2010 and makes adjustments to that reduction if a county imposes a local sales tax, based on the sales tax revenue raised.

Repeals levy limits for cities but leaves them in place for Pay 2010 only for counties. Adjusts Pay 2010 levy limits for counties imposing a local sales tax so that aid reductions are replaced with the new sales tax revenue rather than with a property tax increase.

- 1 Local government unit.** Removes cities with a population of 2,500 or more from the application of levy limits.
- 2 Levy limit base.** Repeals the levy limits for taxes levied in 2010, payable in 2011 for counties.
- 3 Adjusted levy limit base.** Repeals the levy limits for taxes levied in 2010, payable in 2011 for counties.
- 4 Property tax levy limit.** Adjusts the county levy limits so that a county that imposes a local sales tax cannot “levy back” the county program aid reductions since the new sales tax revenue offsets the cuts.
- 5 Authorization, scope.** Provides a cross-reference to the new county sales tax authority in the general local sales tax statutes.
- 6 County local option sales tax.** Allows a county to impose a local sales tax of ½ of one percent, subject to a reverse referendum, with the money to go to the county’s general fund.

**Subd. 1. Authorization; rates.** Allows a county to impose a local sales tax of ½ of one percent on all sales taxable under chapters 297A (general) and a \$20 per vehicle excise tax on motor vehicle sales made by dealers in the county.

**Subd. 2. Application of election requirement.** The county is required to post a notice and hold a hearing on the intent to impose the tax. Voters have up to 30 days after the public hearing to petition for a reverse referendum on the issue. Signatures equal to the greater of (1) 500 or (2) ten percent of the votes cast at the last general election are needed to trigger the referendum. The referendum may be held at a general or special election and must pass before the tax would be imposed.

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**Subd. 3. Use of revenues.** The county must first use revenues to meet obligations for preempted local sales taxes under section 4, with the remainder deposited into the county general fund.

**Subd. 4. Administration, collection, and enforcement.** A tax imposed under this section is administered, collected, and enforced according to most of the general local sales tax statute.

**Subd. 5. Termination.** States that a county can only terminate a tax imposed under this section if all obligations for preempted local taxes have been met.

**7 Effect on existing local sales taxes; satisfaction of preexisting obligations.** Preempts most local sales taxes in a county imposing a sales tax under section 6 and requires the county to use its new sales tax revenue to meet obligations related to the preempted sales taxes.

**Subd. 1. Preemption of preexisting local sales taxes.** States that if a county imposes a local sales tax under section 6, that all other local sales taxes imposed in the county are preempted except for (1) a county transportation tax, (2) a local sales tax imposed by a city of the first class (Minneapolis, St. Paul, and Duluth), or (3) a city with a 2007 population of at least 100,000 (Rochester). To retain its separate local sales tax Rochester must pass a resolution to that effect within two months of the enactment of this provision and provide a copy of the resolution to the county and the commissioner of revenue.

**Subd. 2. County payment to cities; foregone revenue.** Requires a county imposing a local sales tax to pay a portion of that revenue to a county to fund obligations previously funded by any preempted city sales tax. The payments will be made within five business days of the state making quarterly payments to the county. The payments to cities are calculated under subdivisions 4 or 5.

**Subd. 3. Dedication of tax to fund county projects.** Requires a county to meet any obligations for a preempted county tax out of the revenues from the new sales tax. This only applies to the Hennepin County tax of 0.15% to fund the Twins stadium.

**Subd. 4. Calculation of foregone revenue in cities located entirely within a county.** Provides the mechanism to calculate the county payments to a city with a preempted sales tax. The payment in the first year are based on the collections from the previous year in the city, adjusted for the percent change in current state sales tax revenue collections over the previous year. In subsequent years the quarterly payments will be based on the quarterly payment in the previous year, adjusted for the percent change in the county sales tax revenue in the current quarter, compared to the same quarter in the previous year.

**Subd. 5. Calculation of foregone revenues in cities partially located within a county.** Provides the mechanism to calculate the county payments to a city with a preempted sales tax that is split between more than one county. There are two “split” cities with city sales taxes – Mankato and St. Cloud. The split of city existing sales tax revenue between the different county portions of the city shall be determined in a

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reasonable manner by the commissioner of revenue in consultation with the county and city, however, if no other option is agreed to the split will be made based on the share of the city's nonutility commercial and industrial property in each part of the city. A county's revenue payment to the city is then based on the same mechanism as in subdivision 4, but multiplied by the county share.

**Subd. 6. Establishment of special sales tax districts within certain cities.**

Provides for the case where a county tax is imposed in one part of a "split" city but not in another. A special taxing district is then established in the part of the city outside of a county imposing a sales tax. The special taxing district will impose the sales tax in the remaining portion of the city and used to pay for the obligations under the preempted city sales tax. This is necessary because the Streamlined Sales and Use tax Agreement (SSUTA) prohibits a city from imposing different rates in different parts of the city.

- 8 County program aid.** Freezes county program aid distribution at the Pay 2009 certified distribution and then reduces each county's aid in Pay 2010 and thereafter by one of the following amounts:
- ▶ If a county does not impose a local sales tax its aid is reduced by an amount equal to 3.58 percent of its 2009 levy plus aid amount.
  - ▶ If a county does impose a local sales tax its aid is not reduced for the first \$7 per capita or \$70,000 in revenue, whichever is greater. Aid is reduced by an amount equal to 50% of its net sales tax revenue over \$7 per capita, or 470,000, whichever is greater, and an additional 25% of its net sales tax revenue in excess of \$17 dollars per capita or \$170,000, whichever is greater. "Net sale tax revenue" is the revenue raised by a sales tax under section 6 minus the revenues used to fund obligations under section 7.
- 9 Counties (appropriation).** Eliminates the cap on the county program aid appropriation beginning in Pay 2010, since this amount is determined under section 8. Provides for continued payment of money for public defenders and local impact notes currently paid from the county program aid appropriation. The commissioner of finance shall annually use a portion of the appropriation to contract with the representative associations for counties, cities, towns, and school districts for preparing local impact notes that provide information to the legislature.
- 10 Repealer.** Paragraph (a) repeals the formulas for the different portions of county program aid. Paragraph (b) repeals the existing authorization for Cook County to impose a local sales tax of one percent to fund a number of recreational projects. The county has not yet imposed this tax.



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**Article 3: Property Tax Reform, Accountability, Value and Efficiency Provisions**

**Overview**

This article contains the working group recommendations.

- Sections 1 and 2 embody the work of the Local Government Performance Measurement and Improvement Program Work Group. Section 1 creates the Council on Local Results and Innovation which establishes a standard set of performance measures, and minimum standards for comprehensive performance measurement systems, for counties and cities that want to use them. The council is also to serve as a statewide resource for the development, promotion, and implementation of local government performance measurement systems.
- Section 2 provides that counties and cities that choose to participate in the reporting of standard measures are eligible for cost reimbursement payments from the state. Counties and cities that choose to implement comprehensive performance measurement systems that meet the minimum standards established by the council are exempt from levy limits (if in effect) and from truth-in-taxation hearing requirements (if in effect).
- Sections 3, 4, and 8 result from the Working Group on Local Government Mandate Relief. These sections include the maintenance of effort provisions. Sections 5 and 9 also contain provisions related to the health and human services maintenance of effort reform that came from H.F. 2076.
- Section 7 embodies the work of the Working Group on State Property Tax Benchmarks, Critical Indicators and Principals for Legislators to Use when Evaluating Property Tax Proposals. It establishes a property tax working group and requires the house and senate tax committees to prepare a resolution on targets and benchmarks for use during the biennium.

**1 Council on local results and innovation.**

**Subd. 1. Creation.** Creates the council with 11 members, including the state auditor, eight persons who are not legislators appointed by the chair and minority leads of the house and senate committees with jurisdiction over property taxes, and one person each appointed by the Association of Minnesota Counties and the League of Minnesota Cities. Specifies four-year, staggered terms, desired knowledge, and experience of appointees. Provides that after the initial appointments, the eight appointments by legislators must be made by the council.

**Subd. 2. Duties.** (a) By February 15, 2010, requires the council to develop approximately ten standard performance measures for counties and ten for cities aimed at measuring the efficiency and effectiveness of counties and cities in providing

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services.

(b) By February 15, 2011, requires the council to develop minimum standards for comprehensive performance measurement systems, which may vary by size and type of jurisdiction.

(c) Requires the council to serve as a statewide resource to aid in the development, promotion, and implementation of local government performance measurement systems.

**Subd. 3. Reports.** Requires the council to report its initial set of county and city standard performance measures to the property tax committees of the house and senate by February 28, 2010. Requires an annual report by February 1 in subsequent years. Permits the state auditor to make the reports instead of the council if agreed by both the state auditor and the council.

**Subd. 4. Operation of council.** Directs the state auditor to convene the first council meeting; provides for the chair to be elected by and from among the council members for two-year terms; provides that council members serve without compensation; provides that council members are to rotate and share administrative support responsibilities; exempts the council from the open meeting law but requires it to conduct open meetings; and requires meeting notices to be published on the state auditor's web site.

**Subd. 5. Termination.** Provides that the council expires January 1, 2019.

Effective upon enactment.

## **2 Local performance measurement and reporting.**

**Subd. 1. Reports of local performance measures.** Requires a county or city that participates in the standard measures program to report results to its citizens annually and to file a report with the state auditor by July 1.

Describes two levels of participation. A city or county participating in the standard measures program must report on results for the standard set of performance measures. In 2011, a city or county participating in the comprehensive performance measurement program must submit a resolution indicating it either has implemented or is in the process of implementing a local performance measurement system meeting the minimum standards. In 2012 and thereafter, comprehensive performance measurement system participants must affirm that they have implemented a local performance measurement system meeting the minimum standards.

**Subd. 2. Benefits of participation.** (a) A participant in 2010 may receive a per capita reimbursement of 25 cents, up to \$25,000, and is exempt from levy limits and truth in taxation hearing requirements for taxes payable in 2011.

(b) A participant in the standard measures program in 2011 may receive a per capita reimbursement of 25 cents, up to \$25,000. A participant in the comprehensive

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performance measurement program in 2011 is exempt from levy limits and truth in taxation hearing requirements for taxes payable in 2012.

(c) A participant in the standard measures program in 2012 or any year thereafter may receive a per capita reimbursement of 25 cents, up to \$25,000. A participant in the comprehensive performance measurement program in 2012 or any year thereafter is exempt from levy limits and truth in taxation hearing requirements for taxes payable in the following year.

**Subd. 3. Certification of participation.** Directs the state auditor to certify participation to the commissioner of revenue. Provides for the commissioner of revenue to make the per capita reimbursements and notify each city and county that is exempt from levy limits.

**Subd. 4. Appropriation.** Establishes a standing appropriation from the general fund for payments made under this section.

Effective December 31, 2009.

- 3 Local support levels.** Paragraph (a) modifies the existing formula for calculating the minimum library maintenance of effort (MOE) to be based on the average of adjusted net tax capacity (ANTC) for the second, third and fourth preceding years. Currently this is based on the ANTC from the second preceding year. Effective beginning with calendar year 2011.

Paragraph (b) requires that counties and cities notify the regional library system, which will notify the Department of Education, if they want to reduce their MOE for aid cuts under section 4.

- 4 Regional libraries, maintenance of effort (MOE).** This section makes three changes.

(a) Changes the minimum MOE for each county and city to be its lowest library spending in the second or third preceding year. Under current law, a county or city has to spend at least the amount it spent two years ago which means that if a city or county increases its library spending it must maintain that higher levy of spending every other year in perpetuity.

(b) and (c) Allow a city or county to reduce its library MOE if general purpose county or city state aids and credits are cut. The allowed reduction is the lesser of (1) 10 percent of its current MOE, or (2) a percent equal to percent of its aid and credit cut to its levy plus general purpose aids. The percent in clause (2) is based on the certified aid and levy amounts for the current year for cuts that occur after the current year's levies have been set, and on the paid amount of levy plus aids in the previous year for proposed future cuts. Requires that the Pay 2009 reductions be based on both 2008 unallotments and 2009 aid and credit cuts. The commissioner of revenue is required to calculate the MOE reductions for calendar year 2009 and in future years must certify the percentage used in calculating reductions under paragraph (c) to the commissioner of education by August 1 of the year prior to the year in which the reduced aids are paid.

(d) States that regardless of the allowed cuts in paragraphs (a) to (c), no city or county MOE can go below the minimum required effort currently in law. Also states that if a county

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imposes a local option tax under the provisions of article 1, they may not reduce their MOE under paragraphs (b) or (c).

Effective for support in calendar year 2009 and thereafter for library grants paid in fiscal year 2010 and thereafter, except that changes in paragraph (a) are effective for support in calendar year 2010 and thereafter.

## **5 Equitable funding health and human service services reform.** Consolidates and changes the county funding of local health and human service programs beginning in calendar year 2012.

**Subd. 1. Reform.** Enumerates the goals that are to be achieved by this change in funding mechanism for health and human service programs.

**Subd. 2. Consolidated program funding.** Provides that each county will have a local health and human service MOE equal to a uniform percentage of its adjusted net tax capacity, subject to some limits on increases. The percentage is set at a rate so that the total MOE amount for all counties is equal to the sum of the existing required local spending for health and human services.

Paragraph (a) requires the commissioner of health and human services do whatever collection and/or allocation of all or a portion of the total county MOEs necessary to meet federal matching requirements. Any part of a county's MOE not needed for federal matching may be spent at the discretion of the county.

Paragraphs (b) and (c) explain how the MOE is calculated.

Paragraph (d) limits the increase in the MOE in any year to one percent of a county's property tax levy in the previous year, unless the increase is due to tax base growth. This allows counties that spend below the average to gradually increase toward the spending level, as a share of tax base.

**Subd. 3. County discretionary spending.** States that a county may spend more than the amount required under this section on health and human services but they may not be required to maintain the higher spending level into the future.

## **6 Property tax system benchmarks and critical indicators.**

**Subd. 1. Purpose.** States that state policy makers should be provided with the tools to create a more accountable and efficient property tax system. This section contains the principals and the available tools necessary to work toward achieving that goal.

**Subd. 2. Property tax principles.** Contains the basic property tax principals that should be taken into consideration in evaluating the various property tax proposals that come before the legislature. The principals are:

1. Transparent and understandable;
2. Simple and efficient;

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3. Equitable;
4. Stable and predictable;
5. Compliance and accountability;
6. Competitive, both nationally and globally; and
7. Responsive to economic conditions.

**Subd. 3. Major indicators.** Provides that there are many different types of indicators available to legislators to evaluate tax legislation, each has its own limitations. Contains the following list of the available major indicators:

1. Property tax principles scale (components are listed in subdivision 2) relate to the property tax system features;
2. Price of government report;
3. Tax incidence report;
4. Tax expenditure budget and report;
5. State tax rankings;
6. Property tax levy plus aid data, and market value and net tax capacity data by taxing district;
7. Effective tax rate and equalized effective tax rate;
8. Assessment sales ratio study;
9. “Voss” data base, which matches homeowner property taxes and household income;
10. Revenue estimates and state fiscal notes; and
11. Local impact notes, with improved local analysis as described in subdivision 7.

**Subd. 4. Property tax working group.** Establishes a working group. The goals of the working group are: to investigate ways to simplify the property tax system, to reexamine the property tax calendar, and to determine the cost versus the benefits of the various property tax components.

Provides for the working group to have 12 members appointed as follows:

- ▶ two house members, one from the majority caucus and one from the minority caucus, both appointed by the tax committee chair
- ▶ two senators, one from the majority caucus and one from the minority caucus, both appointed by the tax committee chair
- ▶ the commissioner of revenue or the commissioner’s designee

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- ▶ one person from each: appointed by the Association of Minnesota Counties, the League of Minnesota Cities, the Minnesota Association of Townships, the Minnesota Chamber of Commerce, and the Minnesota Association of Assessing Officers
- ▶ two homeowners, one under 65 and one over 65, appointed by the commissioner of revenue.

Provides for the commissioner of revenue to convene the first meeting and then for the working group to elect a chair. The working group meets at the call of the chair and members serve without compensation.

Requires the working group to make its advisory recommendations to the chairs of the house and senate tax committees on or before February 1, 2011, at which time the working group is finished (and this subdivision expires).

**Subd. 5. Tax committee review and resolution.** Requires that on or before March 1, 2011, and every two years thereafter, the house and senate tax committees must review the major indicators (as contained in subdivision 3) and ascertain the accountability and efficiency of the property tax system. Requires each committee to prepare a resolution on targets and benchmarks for use during the current biennium.

**Subd. 6. Department of Revenue; revenue estimates.** Requires that beginning with the 2010 legislative session, the revenue estimates prepared by the Department of Revenue must also identify how the property tax principles (contained in subdivision 2) apply to the proposed changes. Requires the commissioner to develop a scale for measuring the appropriate principles for each proposed change. If possible, requires the department to quantify the effects, or at a minimum identify the relevant factors so that legislators are aware of possible outcomes, including administrative difficulties and cost. The interaction of property tax shifting should be identified.

**Subd. 7. Local impact notes.** Seeks more participation from political subdivisions for the local impact note process. Creates a local impact network of political subdivisions consisting of at least one representative association from Minnesota counties, cities, towns, and school districts, and other members as needed. Requires them to work with the legislature and the commissioner of finance to analyze changes in local government tax revenues and expenditures and incidences of tax shifting. For tax bills, the local impact network shall rate the impact on the tax system using the tax principles contained in subdivision 2. Some of the cost for preparing these local impact notes shall be provided under section 2.

Effective the day following final enactment.

- 7 **Reimbursement reductions.** Provides for minor reductions in market value credit reimbursements each year to fund per capita payments for counties and cities participating in the local performance measurement program in section 2, and for certain administrative costs related to the commission on local results and improvement (sections 1 and 2), the property tax working group (section 6), and the computation of library MOE support levels (section 3).
- 8 **Temporary suspension of new or increased maintenance of effort and matching fund**

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**requirements.** Imposes a two-year moratorium on the implementation of new or increased MOE or matching fund requirements. This should give the Legislative Commission on Mandate Reform, established in another article of the bill, time to study and make recommendations on any new proposals. To avoid causing a problem with the new federal stimulus bill that may require some increased spending, the counties and cities will remain responsible if the city or county is currently providing the federal MOE or match and the federal government increases those requirements. Effective the day after enactment.

- 9 **Repealer.** Repeals all health and human service maintenance of effort and matching fund requirements in law. Effective January 1, 2012.

## **Article 4: Local Government Flexibility and Mandate Reduction Provisions**

### **Overview**

This article contains the local government flexibility provisions of H.F. 1195, which resulted from the working group on local government mandate relief of the property tax division.

- 1 **Objections to rules.** Adds the Legislative Commission on Mandate Reform, established below, to the law that authorizes the Legislative Coordinating Commission or a house or senate committee with jurisdiction over administrative rules to file an objection to a rule with the secretary of state, which has the effect of placing the burden of proving the validity of the rule on the agency in any proceeding for judicial review or enforcement of the rule. Also permits the commission to petition for declaratory judgment as to the validity of a rule objected to and to intervene in litigation.
- 2 **Public hearings by state agencies.** Adds the Legislative Commission on Mandate Reform, established below, to the law that authorizes the Legislative Coordinating Commission to request an agency to hold a public hearing on rules to which the commission objects.
- 3 **Legislative Commission on Mandate Reform; established.**

#### **Subd. 1. Established.**

**Subd. 2. Membership.** Four senators appointed by the senate subcommittee on committees and three senators appointed by the senate minority leader; four house members appointed by the speaker and three appointed by the house minority leader.

**Subd. 3. Terms; vacancies.** Two-year terms. Vacancies must be filled so as to preserve the representation established in this section.

**Subd. 4. Chair.** Elected by and from among the members for two years. Must alternate between house and senate.

**Subd. 5. Compensation.** May be reimbursed for reasonable expenses as members of the legislature.

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**Subd. 6. Staff.** Direct the Legislative Coordinating Commission to provide administrative support.

**Subd. 7. Meetings; procedures; tie votes.** Meetings at the call of the chair. Action requires votes in favor by at least four house members and four senators.

**Subd. 8. Funding.** Directs the commission to bill the commissioner of revenue for costs of administrative support and grants, up to \$100,000 per year. Provides for one half the costs to come from state aid to counties and one half to come from state aid to cities.

- 4 Legislative Commission on Mandate Reform; review and recommendations to legislature.** Directs the commission to solicit from local governments information on laws and rules that are problematic mandates and then to determine why each was enacted or adopted, if that reason still exists, costs to comply, and whether it can be repealed or modified. Requires the commission to submit a bill with mandate reform each session.
- 5 Legislative Commission on Mandate Reform; grants.** Provides for the commission to make recommendations to the commissioner of revenue to make grants to local government associations, the University of Minnesota, MnSCU, or other accredited postsecondary institutions to research and make recommendations on mandate reform.
- 6 Expiration.** The commission expires June 30, 2013.
- 7 Effective date for rules requiring local implementation.** Provides two set times a year for rules to take effect if they would require a local government to make a plan or ordinance change.
- Subd. 1. Determination.** Requires a state agency to determine if a local government (city county, town) will be required to adopt or amend a local regulation to comply with a proposed rule. Provides for the administrative law judge (ALJ) to approve or disapprove.
- Subd. 2. Effective dates.** Provides that a rule becomes effective the next July 1 or January 1, or a later date provided by the law or rule, after final adoption if it does require a new or amended local regulation.
- Subd. 3. Exceptions.** Provides that the effective dates in subdivision 2 do not apply when the good cause exemption, expedited rulemaking process, or process for repealing obsolete rules apply, or when any other law specifies that the rulemaking process in chapter 14 do not apply; if federal law requires an effective date before the dates in subdivision 2; or the governor waives application of subdivision 2.
- 8 Best value contracting.** Strikes the limit on the number of contracts per year for all entities.
- 9 Abandonment; end of operation as cemetery.** Permits a county that has taken over an abandoned cemetery to prohibit further burials in the cemetery.
- 10 Compensation of (fence) viewers.** Strikes the \$60 cap on compensation for fence viewers



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and allows a town board to recover all costs. The language is based on the damages provision in the law governing establishment of cartways.

- 11 Public burial ground is town's after ten years.** Permits a town that has assumed ownership of a cemetery to prohibit further burials in it.
- 12 Plans and specifications, advertisement for bids.** Updates the threshold amounts for contracts and day labor under the special assessment statute by providing a cross-reference to the Uniform Municipal Contracting Law (UMCL).
- 13 Contracts; day labor.** Same as section 12.
- 14 Letting of contracts; performance bonds (HRA).** Same as sections 13 and 14.
- 15 Fee.** Strikes the \$10 cap on booking fees and allows a county to recover actual costs of booking.
- 16 Legislative Commission on Mandate Reform; first meeting.** Requires a first meeting of the Legislative Commission on Mandate Reform, established in section 3, as soon as practicable after all appointments are made. Provides for the speaker of the house to designate a commission member to convene the first meeting.

**Article 5: Truth in Taxation**

**Overview**

This article eliminates the truth in taxation (TnT) public hearing and the newspaper notice effective for taxes payable in 2010 and thereafter.

It also advances the various dates necessary to allow the proposed truth in taxation notices to be prepared and mailed between October 15-24. (They are currently mailed between November 10-24.) Effective for taxes payable in 2011 and thereafter.

- 1 Budgets; form of notification (TnT).** Conforming change related to eliminating the truth in taxation hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 2 Proposed levy.** Advances the dates for each taxing authority certifying their proposed levy to the county auditor. Effective for taxes payable in 2011 and thereafter.
- 3 Overlapping jurisdictions.** Advances the dates for certifying the proposed levy and the proposed tax rate to the other county auditors when taxing authorities lie in two or more counties. Effective for taxes payable in 2011 and thereafter.
- 4 Levy; shared, merged, consolidated services.** Advancing the dates for certifying proposed levies when two or more taxing authorities are in the process of negotiating an agreement for sharing, merging, or consolidating services. Effective for taxes payable in 2011 and thereafter.

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- 5 Notice of proposed property taxes.** Advances the date for mailing the proposed truth in taxation notices from November 10-24 to October 15-24. Many of the dates that are advanced in other sections of this article are to allow for the necessary information to be available to the county auditor so that the TnT notices can be mailed out earlier. Effective for taxes payable in 2011 and thereafter.
- Also includes the requirement that since the truth in taxation hearings have been eliminated, the taxing authorities must provide the county auditor with information on when their regularly scheduled meetings (which occur after the notice has been mailed) at which the budget and levy will be discussed. Effective for taxes payable in 2010 and thereafter.
- 6 Adoption of budget and levy (TnT).** Strikes the language prescribing the TnT hearing. Effective for taxes payable in 2010 and thereafter.
- 7 Certification of levy.** Advances the dates for the taxing authorities to certify their final levy to the county auditor. Effective for taxes payable in 2011 and thereafter.
- 8 Report to commissioner.** Advances the dates for the county auditor to report to the commissioner of revenue the proposed levies of the various taxing authorities in the county. Effective for taxes payable in 2011 and thereafter.
- 9 Determination of county tax rate (TnT).** Conforming change related to eliminating the truth in taxation hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 10 Duties (TnT).** Conforming change related to eliminating the truth in taxation hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 11 Tax levy for repayment (TnT).** Conforming change related to eliminating the truth in taxation hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 12 Application of other laws (TnT).** Conforming change related to eliminating the truth in taxation hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 13 Budget (TnT).** Conforming change related to eliminating the truth in taxation hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 14 Repealer.** Repeals the provisions related to the truth in taxation hearing and newspaper notice. Effective for taxes payable in 2010 and thereafter.

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**Article 6: Property Tax**

**Overview**

- Clarifies eligibility for the property tax exemption for institutions of public charity; requires the commissioner of revenue to provide guidance to the assessors in determining eligibility for the exemption.
- Authorizes municipalities to establish street improvement districts.
- Creates a new program to preserve public waters by providing a property tax reduction to agricultural land adjoining public waters that is maintained in a natural state. (Effective taxes payable 2012)
- Expands eligibility for the senior deferral program slightly, including increasing the income limit.
- Provides a temporary, partial, valuation exclusion for homesteads damaged in a natural disaster and subsequently reconstructed.
- Provides that land enrolled in “Green Acres” and other agricultural tax preference programs will be terminated for violations of agricultural chemical or water protection laws. (Effective taxes payable 2012)
- Changes the distribution of the wind energy production tax.
- Authorizes counties to temporarily use certain proceeds from the tax-forfeited lands to offset aid cuts and unallotments.
- Provides for a reduced class rate for seasonal inns with less than 20 residential units in municipalities of less than 2,500 population.
- Allows the surviving spouse of a disabled veteran to continue to qualify for the disabled veterans valuation exclusion for five years after the death of the veteran.
- Subjects property at the MSP International Airport and the St. Paul Intermediate airport to the state general levy.
- Reduces payments under the sustainable forest incentive program.

- 1**      **Agricultural preserve; eligibility.** Terminates participation in the agricultural land preservation program if the owner is subject to a final enforcement action for a violation of agricultural chemical or water protection laws occurring on the property. Requires any deferred special assessments to be paid, plus back-taxes equal to the difference between taxes actually paid and taxes that would have been paid if property taxes had been levied upon full market value, times the lesser of five years or the number of years the property has been

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enrolled under the current ownership. Does not affect the covenant restricting use of the land. Prohibits reenrollment for a period of three years. Effective for payable 2011 and thereafter.

**2 Institutions of public charity.** (a) Provides that institutions of purely public charity that are exempt from federal income taxes under section 501(c)(3) are exempt from property tax if they meet the requirements of this subdivision. When determining whether the real property is exempt, the following factors must be considered, which are a general codification of the “North Star” factors:

1. Whether the stated purpose of the undertaking is to be helpful without immediate expectation of material reward;
2. Whether the institution of public charity is supported by material donations, gifts, or government grants for services to the public in whole or in part;
3. Whether a material number of the recipients of the charity receive benefits or services at reduced or no cost, or whether the organization provides services to the public that alleviate burdens or responsibilities that would otherwise borne by the government;
4. Whether the income received, including material gifts and donations, produces a profit to the institution that is distributed to private interests;
5. Whether the beneficiaries of the charity are restricted or unrestricted, and if restricted, whether the class of persons to whom the charity is made available is one having reasonable relationship to the charitable objectives; and
6. Whether dividends, in form or substance, or assets upon dissolution, are available to private interests.

For a property to be exempt under this subdivision, the charitable organization must satisfy the factors in clauses (1) to (6), unless there is a reasonable justification for missing the factors in (2), (3), or (5). If there is a reasonable justification for failing to meet the factors in clauses (2), (3), or (5), an organization is a public charity without meeting those factors. An exemption properly granted under this subdivision will remain in effect unless there is a material change in the facts.

(b) Defines “grants” as a written instrument or electronic document defining a legal relationship between a granting agency and a grantee when its principal purpose is to transfer cash or something of value to the grantee to support a public purpose authorized in law in a general manner, instead of acquiring by professional or technical contract, purchase, lease, or barter property or services for the direct benefit or use of the granting agency.

This section is effective for taxes payable in 2010 and thereafter.

**3 Nursing homes.** Provides a separate property tax exemption for a nonprofit nursing home or boarding care facility that is certified to participate in the medical assistance programs or that certify to the commissioner of revenue that it does not discharge residents due to their

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inability to pay. Effective for taxes payable in 2010 and thereafter.

**4 Railroad wye connections.** Exempts any portion of a railroad wye connection including the track, ties, ballast, switch gear, and related equipment if it meets all of the following:

1. is publicly owned;
2. is funded, in whole or in part, by state grants;
3. is located within the metropolitan area;
4. includes a single track segment that is no longer than 2,500 feet in length;
5. connects intersecting rail lines; and
6. is constructed after January 1, 2009.

This section is effective for assessment year 2009 and thereafter, for taxes payable in 2010 and thereafter.

**5 Electric generation facility; personal property.** Exempts attached machinery and other personal property which is part of an electric generation facility that meets certain conditions from property taxes. Some of the conditions are that the facility:

- has installed capacity between 150 and 780 megawatts;
- is designed to utilize natural gas as a primary fuel;
- is owned by an entity other than a public utility;
- is located near existing interstate natural gas pipelines and an electric transmission substation;
- is subject to a development agreement with the county board adopted by a two-thirds vote of the county board;
- is subject to a development agreement with the township board adopted by a two-thirds vote of the township board; and
- is to be constructed starting sometime after March 1, 2010, and before March 1, 2014.

Effective the day following final enactment.

**6 Distribution of revenues.** Modifies the formula for distribution of revenues from the wind energy production tax for 2010 and thereafter, so that 80 percent of the revenues are distributed to the county and 20 percent to the city or township. Under current law, the distribution is 80 percent to the county, 14 percent to the city or township, and 6 percent to the school district.

**7 Cross-compliance with applicable laws.** Terminates participation in Green Acres if the owner is subject to a final enforcement action for a violation of agricultural chemical or water protection laws occurring on the property. Requires any deferred special assessments to be paid, plus back-taxes equal to the difference between taxes actually paid and taxes that would have been paid if property taxes had been levied upon full market value, for the lesser

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of five years or the number of years the property has been enrolled under the current ownership. Prohibits reenrollment for a period of three years. Effective for taxes payable in 2011 and thereafter.

**8 Preservation of riparian buffers.**

**Subdivision 1. Definitions.** Defines the following terms:

- (b) “Riparian buffer” means a strip of original or restored native vegetation adjacent to public waters that must extend a minimum of 50 and a maximum of 100 feet from the ordinary high water level.
- (c) “Public waters” has the same meaning as defined in section 103G.005, excluding wetlands.
- (d) “Ordinary high water level.”
- (e) “Buffer maintenance” means repairing or reseeding eroded or damaged areas, preventing or addressing soil compaction, controlling weeds, managing livestock, and refraining from applying fertilizers, pesticides or animal waste to the buffer area.

**Subd. 2. Requirements.**

- (a) Provides that land classified as 2a or adjacent to land classified as 2a can be enrolled in the program, provided that a covenant has been filed with the county assessor.
- (b) Provides that the covenant must state that the buffer will be maintained in a natural state, and that annual buffer maintenance will be performed. Provides that the property owner must file an affidavit every three years stating that the buffer has been maintained. Provides that if an affidavit is not filed within 90 days of receiving a warning, the land shall immediately be withdrawn from the program, and all tax benefits received during the current owner’s time of ownership must be repaid.
- (c) Provides that property enrolled in the program will be liable for taxes based on the reduced valuation prescribed in subdivision 3, and that all special assessments against the property shall be deferred until the property is withdrawn or becomes ineligible.
- (d) Provides that land enrolled under this program may not be enrolled in Green Acres, the “open space” property tax law, the rural preserve program, or section 273.117 which allows values to be reduced for land under a conservation restriction or easement. Also provides that land being removed from the “Green Acres” program and enrolled in this program is not subject to the normal “Green Acres” back-tax obligation.

**Subd. 3. Determination of value.**

- (a) Provides that land enrolled in this program under an irrevocable covenant must be valued at 25 percent of the average value of class 2b (rural vacant) land in the surrounding area.

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(b) Provides that land enrolled in this program under a revocable covenant must be valued at 75 percent of the average value of class 2b (rural vacant) land in the surrounding area, provided that the covenant does not allow for termination until at least 20 years from the date the covenant takes effect.

(c) Provides that “surrounding area” means the city or township where the property is located, unless there are not at least ten other parcels containing class 2b land in the city or town, in which case “surrounding area” means the city or township and all adjoining cities or townships within the county.

**Subd. 4. Separate determination of market value and tax.** Provides that the assessor shall each year make a separate determination of the tax on the parcel based on its “highest and best use” value.

**Subd. 5. Application and covenant agreement.** Provides that the owner must file an application with the assessor for enrollment under this section, and that the owner must record a covenant agreement with the county recorder. Provides that if the covenant is revocable, it must require a 4-year advance notice of termination of the covenant agreement, which may not be given until the covenant has been in effect for at least 16 years. Provides that the covenant must be binding on the owner or the owner’s successor, and that it runs with the land. Also provides that once a revocable covenant has been terminated, the property may not be enrolled unless sold or transferred to a different owner.

**Subd. 6. Additional taxes.** Provides that when a covenant is terminated for a property enrolled under this section, the property shall be subject to back-taxes equal to the difference between the tax based on the “highest and best use” value and the tax based on the reduced value for the past seven years.

**Subd. 7. Cross-compliance with agricultural chemical and water laws.** Terminates participation in the program if the owner is subject to a final enforcement action for a violation of agricultural chemical or water protection laws occurring on the property. Requires any deferred special assessments to be paid, plus back-taxes equal to the difference between taxes actually paid and taxes that would have been paid if property taxes had been levied upon full market value, for the lesser of seven years or the number of years the property has been enrolled under the current ownership. Does not affect the covenant restricting use of the land. Prohibits reenrollment for a period of three years.

**Subd. 8. Lien.** Provides that the additional taxes imposed under subdivisions 6 and 7 constitute a lien on the property.

**Effective date:** Provides that the bill is effective for taxes payable in 2012 and thereafter.

9      **Applicability.** Technical change relating to disaster-damaged homes provision in section 11.

10     **Reassessments required.** Technical change relating to disaster-damaged homes provision in section 11.

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- 11 Disaster-damaged homes; partial valuation exclusion.** (a) Provides for a valuation exclusion for a home that:
- sustained sufficient damage in a disaster to reduce its value by at least \$15,000,
  - was restored or rebuilt by the end of the year after the disaster,
  - has a gross living area after reconstruction that does not exceed 130 percent of its pre-disaster gross living area, and
  - has an estimated market value after reconstruction that exceeds its pre-disaster value by at least \$25,000.
- (b) Provides that the assessor shall compute the difference between the post-reconstruction value and the pre-disaster value.
- (c) Provides that the difference in value will be excluded in the first assessment year following reconstruction, and one-half of the difference will be excluded in the second assessment year following reconstruction.
- (d) Defines “gross living area” to include only above-grade living area.
- (e) Requires owner to file an application for the valuation exclusion by January 2 of the year following the year in which the restoration or reconstruction was substantially completed.
- Effective for assessment year 2009 and thereafter (extends application deadline to June 30, 2009, for restoration or reconstruction occurring in 2008).
- 12 General rule (new relative homestead prohibition).** Prohibits any new properties from qualifying for relative homestead classification after July 1, 2009 (does not affect agricultural properties).
- 13 Class 4 (commercial-seasonal classification for small inns).** Extends the 4c property classification to property that contains 20 or fewer rental units, is devoted to temporary residential occupancy, and is located in a city or township outside the seven-county metropolitan area with a population of 2,500 or less. Subjects the property to a class rate of 1 percent on the first \$500,000 of market value and 1.25 percent on the value in excess of \$500,000, and to the seasonal-recreational state general tax rate.
- Under current law, this property is classified as class 3a with class rates of 1.5 percent on the first \$150,000 of value and 2.0 percent on the value in excess of \$150,000, and is subject to the commercial-industrial state general tax rate.
- Effective for assessment year 2009, taxes payable in 2010, and thereafter. For assessment year 2009, the January 15 application deadline is extended to July 1, 2009.
- 14 Homestead of disabled veteran.** Extends the time period from one year to five years that the surviving spouse of a deceased disabled veteran can continue to qualify for the disabled veteran homestead market value exclusion, provided the spouse remains in the house and



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does not remarry. Effective for taxes payable in 2010 and thereafter.

- 15 Computation of net property taxes.** Deletes the bovine tuberculosis credit from the list of property tax credits (the property tax credit is transformed to a state grant program in article 12, section 1).

- 16 State general tax rate.** Provides that in setting the rate of the state general tax on commercial/industrial property, the commissioner is to ignore the tax capacity of the airport property added to the base in section 17.

**Effective date:** property taxes payable in 2010

- 17 State general tax; airport exemption.** Eliminates the exemption for metropolitan airport commission property from the state general tax. This will subject property at the Minneapolis St. Paul International Airport and the St. Paul airport (Holman Field) to the state general tax. The area of these airports will remain “detached” and the property on the grounds will not be subject to city or school district property taxes.

**Effective date:** property taxes payable in 2010

- 18 Contents of tax statements.** Stipulates that in prescribing the form of the property tax statement, the statement must not state or imply that property tax credits are paid by the state.

- 19 Publication corrected.** Provides that if the county auditor discovers an error in the delinquent tax list as published in the newspaper, the auditor does not have to republish the entire delinquent list, but is required to only republish that information which needs to be corrected.

The other changes made in the section are not substantive, but rather to simply make it easier to read.

Effective the day following final enactment.

- 20 Apportionment of proceeds to taxing districts.** Authorizes counties to use a portion of their proceeds from the sale or rental of tax-forfeited lands to replace all or a portion of their county program aid or market value credit reimbursement cuts or unallotments. Provides that if a county board decides to use some of these funds, they must pass a resolution within six months of the actual aid or credit reimbursement loss. The amount of the transfer from a county’s tax-forfeited fund to its general fund cannot exceed the aid or credit reimbursement loss. Authority expires January 1, 2012.

Effective the day following final enactment.

- 21 Senior citizen property tax deferral program; qualifications.** Makes two changes to the list of qualifications for the senior citizen property tax deferral program:

- Changes the age requirement so that at the time deferral is initially granted, only one spouse must be at least 65 years old. Requires the other spouse to be at least 62 years old. Under present law both spouses must be at least 65 years old for a married couple to qualify for the deferral.

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- Increases the maximum household income allowable for program participation from the \$60,000 under current law to \$75,000.

Effective July 1, 2009.

- 22 Senior deferral; Excess income certification by homeowner.** Increases the income level that triggers the requirement for the homeowner to notify the commissioner of “excess income” from \$60,000 to \$75,000. As under present law, homeowners are required to notify the commissioner when their household income for the previous year exceeds the maximum eligible for program participation; they are then suspended from program participation.
- 23 Senior deferral; Resumption of eligibility.** Changes the income level that triggers eligibility for a homeowner to resume program participation from income under \$60,000 to income under \$75,000. This applies to homeowners who became ineligible due to having income over the maximum being allowed to resume participation in the deferral program if their household income falls below the maximum in a subsequent year.
- 24 Senior deferral; Determination by commissioner.** Increases the maximum household income level at which program participation is allowed from \$60,000 to \$75,000.
- 25 Sustainable forests; calculation of incentive payment.** Reduces the annual payment for the sustainable forest incentive program to a maximum of \$6 per acre, and caps the maximum annual payment per claimant at \$400,000. Effective for payments in 2010 and thereafter.
- 26 Special service districts; deadline for establishing.** Extends the sunset date for establishing special service districts without special legislation from June 30, 2009, to June 30, 2013. (The sunset of the general law does not affect districts established prior to the sunset date.)
- 27 Housing improvement districts; deadline for establishing.** Extends the sunset date for establishing housing improvement districts without special legislation from June 30, 2009, to June 30, 2012. (The sunset of the general law does not affect districts established prior to the sunset date.)
- 28 Municipality; certain counties (abatement authorization).** Allows counties to use special assessments to abate nuisances and to correct environmental, wetland, or land use violations. This section, along with the changes made in section 29, allow a county to clean-up nuisances that are violations of environmental, wetland, or land use regulations, and charge the owner for those costs. Effective the day following final enactment.
- 29 Improvements authorized.** Authorizes cities and counties to make improvements for the purpose of correcting environmental, wetland, or land use violations. Effective the day following final enactment.
- 30 Municipal street improvement districts.**

**Subd. 1. Definitions.** Defines “class of property” (classes 1 through 5 without regard to subclasses, exempt property may be subject to fee as additional class); “governing body” (city council); “improvements” (“essentially any type of street

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improvement); “maintenance;” “municipal street;” “municipality” (home rule charter or statutory city); and “street improvement district.”

**Subd. 2. Authorization.** Authorizes a city to establish municipal street improvement districts by ordinance to finance street improvements and maintenance by apportioning the costs to properties in the district. When establishing boundaries, a city may not exclude from district or fee, any class or parcel that is served by the municipal street on an equal basis with other classes or parcels in the district, except this limitation does not apply to tax exempt property.

**Subd. 3. Uniformity.** (a) Requires the costs to be apportioned to all parcels or land in the district on a uniform basis within each class of property; separate methods could be used for different classes of property (e.g., residential versus commercial).

(b) Requires that method of apportioning costs must not apportion costs to any class of property at a ratio of more than 2 to 1, relative to rate for the property in any other class. Provides the limit does not apply to fees that municipality elects to impose on tax exempt property.

**Subd. 4. Adoption of plan.** (a) Requires the city, before adopting a street improvement ordinance or authorizing a fee, to (1) identify and estimate costs for the proposed improvements for the life of the district; (2) identify the location of the district, limiting included properties to those that will be served by the improvements; and (3) specifies how costs will be apportioned.

(b) Requires notice and a public hearing. Notice must be given by mail to all affected landowners and notice must include description of manner in which fees would be imposed and illustrative examples of amount of fees for average parcels for each class of property in district.

**Subd. 5. Use of fees.** Requires a separate account for the fees collected and that fees be used only for projects in the district and identified in the plan.

**Subd. 6. Collection; up to ten years.** (a) Permits collection of fees on a monthly, quarterly or other basis. Provides that governing body may collect fees within a district for up to a maximum of ten years, which is the maximum length of a district.

(b) Provides that fees that as of October 15 of each year, have remain unpaid for at least 30 days may be certified to the county for collection as property taxes payable in the following year on affected property.

**Subd. 7. Notice; hearing.** (a) Provides the ordinance establishing the district cannot be adopted until a public hearing is held. After the adoption of the ordinance, a summary must be mailed to each property owner in the district that would be subject to the fee. Effective date of ordinance must be at least 45 days after it is adopted.

(b) Requires that within five days after adoption of ordinance, summary of ordinance must be mailed to owner of each parcel in district. Mailing must include (1) notice that owners subject to fee have right to petition for referendum vote; and (2) the

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estimated amount of the fee that would be imposed on owner's parcel in first year that fee is imposed, and an estimate of the maximum annual amount that may be imposed on the owner's parcel during the duration of the project.

**Subd. 8. Reverse referendum.** Provides 35 percent of the owners in the district can trigger a referendum on the ordinance by filing objections within 45 days after the ordinance is adopted. The election will be conducted by mail ballot and each parcel of property is entitled to one vote.

**Subd. 9. Not exclusive means of financing improvements.** Provides that the city may use other measures to pay the costs of local street improvements except that the city cannot also impose special assessments for the projects funded with fees under this section and must recognize credits allowed in any previously negotiated development agreements.

- 31 Termination of eligibility (Metro Ag preserves).** Terminates participation in the metro ag preserves program if the owner is subject to a final enforcement action for a violation of agricultural chemical or water protection laws occurring on the property. Requires any deferred special assessments to be paid, plus back-taxes equal to the difference between taxes actually paid and taxes that would have been paid if property taxes had been levied upon full market value, times the lesser of five years or the number of years the property has been enrolled under the current ownership. Does not affect the covenant restricting use of the land. Prohibits reenrollment for a period of three years. Effective for taxes payable in 2011 and thereafter.
- 32 Application date (Metro Ag preserves).** Extends the deadline for application to the Metropolitan Agricultural Preserve program from March 1 to June 1 for taxes payable in the following year. This is not an annual application, but is done only when initially applying for enrollment in the program.
- Effective the day following final enactment, except that in 2009 the application date is extended to August 1.
- 33 Extends date; Emergency medical service districts.** Extends the date for establishing emergency medical (EMS) services special taxing districts for three additional years. These EMS taxing districts primarily support volunteer ambulance providers and other emergency responders in rural Minnesota.
- 34 Effective date.** Clarifies that the change made to the metropolitan area plat law in the 2008 omnibus tax law requiring land to be brought to full value upon sale or transfer only affects land platted after the 2008 omnibus tax law was passed.
- 35 Effective date.** Clarifies that the change made to the non-metropolitan area plat law in the 2008 omnibus tax law requiring land to be brought to full value upon sale or transfer only affects land platted after the 2008 omnibus tax law was passed.
- 36 Purpose: commissioner of revenue guidance.** States that the purpose of section 1 is not to contract or expand the definition of "institutions of purely public charity" but to provide clear standards that can be applied uniformly to determine eligibility for exemption from property

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taxation. Requires the commissioner of revenue to prepare a bulletin providing guidance to assessors as to the commissioner's interpretation of section 2. Effective day following final enactment.

- 37 Report by administrative auditor.** Requires the administrative auditor of the fiscal disparities program (currently Anoka County), in cooperation with the other metro county auditors, to develop a working model of the revisions in fiscal disparities contained in this bill to determine what problems there might be in its implementation, and to report their findings to the House and Senate Tax committees by February 1, 2012, along with any recommendations for changes in the law that would be necessary to complete its implementation.
- 38 Minneapolis Convention Center; lease; property tax exemption.** Exempts real or personal property at the Minneapolis Convention Center that is subject to a lease or use agreement made between the city of Minneapolis and a private entity for purposes of providing food and beverage services. Effective for assessment year 2009 and thereafter, for taxes payable in 2010 and thereafter
- 39 Repealer.** Repeals the bovine tuberculosis credit, effective for taxes payable in 2010 and thereafter (the property tax credit is transformed to a state grant program in article 12, section 1).

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**Article 7: Aids and Credits**

**Overview**

Reduces the market value homestead credit slightly and uses the savings to increase funding of the homeowner property tax refund program.

Eliminates the growth in the LGA and county program aid (CPA) appropriations in current law.

Reduces city LGA and market value credits from pay 2009 certified levels by:

- \$50 million in pay 2009, and
- \$68.2 million in pay 2010.

Freezes city LGA at certified 2009 aid levels for pay 2011 and thereafter.

Reduces CPA from pay 2009 certified amount by \$15.7 million in pay 2009. Reductions in future years are determined in article 1.

Reduces disparity reduction aid by approximately \$5 million per year.

Provides an extra \$225,000 of aid to the city of Coon Rapids in pay 2010 only.

Provides an extra \$100,000 per year in the city aid base for the city of Mayer for Pay 2011 through Pay 2015.

Provides for a permanent 20 percent reduction in payments in lieu of taxes (PILT) on natural resource lands beginning with calendar year 2009.

- 1 Residential homestead market value credit.** Reduces the maximum credit from \$304 to \$300. Increases the phase-out rate from \$9 per \$10,000 in value to \$10 per \$10,000 in value. These two changes have the effect of reducing the value above which homes no longer qualify for any credit from \$414,000 to \$375,000.
- 2 Payment.** Provides that the reductions in city market value credit reimbursements determined in section 7 for pay 2010 will continue for reimbursements in pay 2011 and pay 2012.
- 3 Additional adjustment (disparity reduction aid).** Reduces disparity reduction aid to certain areas by cutting off aid when a unique taxing area's tax rate is reduced to 113% of tax capacity. Under current law, the aid is cut off only when an area's tax rate has been reduced to 90% of tax capacity.
- 4 Homeowner property tax refund.** Expands the current law homeowner property tax refund program ("circuit breaker") by:
  - providing a 10 percent larger maximum refund for all incomes
  - reducing the percentage of income threshold for homeowners with incomes from

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\$18,120 to \$67,909

The maximum refund for refunds based on taxes payable in 2010 will increase from \$2,340 under current law to \$2,570. (The maximums appearing in the statute are in 2001 dollars; the amounts that will be in effect for payable 2010 are the statutory amounts adjusted for inflation to 2010).

The income threshold percentage for homeowners with household income from \$18,120 to \$67,909 will decrease from the percentages in current law (ranging from 2.1 percent to 3.2 percent) toward 2 percent. The threshold will equal 2 percent for homeowners with household income from \$18,210 to \$24,149, and will increase for higher income brackets, reaching 3.0 percent for homeowners with household income from \$60,360 to \$67,909.

The table below shows the proposed thresholds compared to the current law thresholds.

Household income range	Current law threshold	Proposed threshold
\$18,120 to \$21,139	2.1%	2.0%
\$21,140 to \$22,639	2.2%	2.0%
\$22,640 to \$24,149	2.3%	2.0%
\$24,150 to \$25,659	2.4%	2.1%
\$25,660 to \$31,699	2.5%	2.2%
\$31,700 to \$36,219	2.6%	2.3%
\$36,220 to \$45,269	2.7%	2.5%
\$45,270 to \$52,809	2.8%	2.6%
\$52,810 to \$60,359	3.0%	2.8%
\$60,360 to \$67,909	3.2%	3.0%

Homeowners in the affected income ranges will be eligible for a refund if their property taxes exceed the new, lower percentage thresholds of household income. This will make more homeowners eligible, and will result in a larger portion of property taxes qualifying for a refund for homeowners in that income range who have property taxes in excess of the current law threshold percentages.

The maximum refund amounts and the income brackets in the schedule will continue to be adjusted annually for inflation.

- 5 City aid base.** Provides an increase in the city aid base for four years of \$100,000 from Pay 2011 to Pay 2015, for a city located in the metropolitan area with a 2006 population less than 2,000 and a population growth rate of at least 200% between 1996 and 2006. The city of Mayer is the only city that qualifies.

Also provides for an increase in the city aid base of \$225,000 for aids payable in 2010 only for the city of Coon Rapids. Coon Rapids was specifically designated for a \$450,000

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payment in CY 2008, half of which was lost through the Governor's unallotment. States that the payment under this paragraph cannot be reduced through aid reduction or any future unallotment.

- 6      **City aid distribution.** Provides that for Pay 2010 only a city's LGA amount is equal to its Pay 2009 certified amount minus the subtraction in section 7. LGA will be based on the formula in Pay 2011 and thereafter.
- 7      **2010 city aid.** Reduces the Pay 2010 city LGA and market values credit payments from the Pay 2009 certified amounts by an amount equal to 1.8889 percent of each city's adjusted net tax capacity. The reduction is first taken from LGA payments, and then, if necessary, from market value credit reimbursements. States that the reduction cannot be applied to Coon Rapids's onetime 2010 city aid base adjustment.
- 8      **2009 city and county aid reductions.** Reduces Pay 2009 city LGA and market value credit payments from the Pay 2009 certified amounts by an amount equal to 1.2111 percent of each city's adjusted net tax capacity. The reduction is first taken from LGA payments, and then, if necessary, from market value credit reimbursements. Reduces Pay 2009 county program aid payments from the Pay 2009 certified amounts by an amount equal to 0.2308 percent of each county's adjusted net tax capacity.
- 9      **Cities.** Adjusts the appropriation limit on city LGA payments. The Pay 2010 payments are equal to the 2009 payments less the adjustments in section 7, plus a slight adjustment to accommodate the additional aid to Coon Rapids in section 5. For Pay 2011 and thereafter, the total LGA appropriation is equal to the original appropriation for aids certified for 2009.
- 10     **Types of land; payments (PILT).** Permanently reduces the state payments in lieu of taxes (PILT) on natural resources land to 80 percent of the payments authorized in current law. Effective beginning with payments in calendar year 2009.
- 11     **General distribution (PILT).** Permanently reduces the allocations of state payments in lieu of taxes (PILT) on natural resources land to the various types of local government proportionately to reflect the overall reduction in payments under section 10. Effective beginning with payments in calendar year 2009.
- 12     **Appropriation; fiscal stabilization account.** Appropriates \$6.14 million from the fiscal stabilization account in the federal fund to the commissioner of revenue to pay a portion of the city LGA in calendar year 2009.
- 13     **Repealer.** Repeals the appropriation increases for LGA and CPA of 2 percent in Pay 2010 and another 4 percent in Pay 2011.



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**Article 8: Seasonal Recreational Property Tax Deferral Program**

**Overview**

This article establishes a property tax deferral program for owners of seasonal-recreational property, which would defer 50 percent of the property tax amount in excess of the tax amount in the year of application for the program. The deferred tax is payable upon transfer of the property or the death of the owner. Effective for applications filed July 1, 2009, and thereafter.

**1 Seasonal recreational property tax deferral program.** Establishes the “seasonal recreational property tax deferral program” (sections 2 to 9).

**2 Terms.**

**Subd. 1. Terms.** Defines the terms used in this section.

**Subd. 2. Primary property owner.** “Primary property owner” means a person (1) who has been the owner, or one of the owners, of the eligible property for at least 15 years prior to filing the application to be in the program; and (2) applies for the deferral of the property taxes.

**Subd. 3. Secondary property owner.** “Secondary property owner” means any person, other than the primary property owner, who has been an owner of the eligible property for at least 15 years prior to the year the initial application is filed for deferral of property taxes.

**Subd. 4. Eligible property.** “Eligible property” means a parcel of property or contiguous parcels of property under the same ownership and classified as noncommercial seasonal residential recreational property (i.e., cabins).

**Subd. 5. Base property tax amount.** “Base property tax amount” means the total property taxes levied by all taxing jurisdictions, including special assessments, on the eligible property in the year prior to the year that the initial application is approved and payable in the year of that application.

**Subd. 6. Special assessments.** “Special assessments” mean any assessment, fee, or other charge that may be made by law, and that appears on the property tax statement for the property for collection under the laws and enforcement of real estate taxes.

**Subd. 7. Commissioner.** “Commissioner” means the commissioner of revenue.

**3 Qualifications for deferral.** Defines the criteria needed for a property to qualify for deferral:

(1) the property must have been owned by the primary owner for at least 15 years prior to enrolling in the deferral program.

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- (2) there can be no state or federal tax liens or judgment liens on the property;
- (3) there can be no mortgages or other liens on the property except for those subject to the credit limits under clause (4); and
- (4) the total amount of secured debt on the property, including mortgages and other liens, delinquent special assessments, and delinquent property taxes, but not including the current year's property taxes, may not exceed 60 percent of the property's estimated market value.

## **4 Application for deferral.**

**Subdivision 1. Initial application.** (a) Requires an owner of a qualified property to file an application on or before July 1 of any year in order for property taxes payable in the forthcoming year to qualify for deferral. The application must include:

- (1) the name, address and social security number of the primary owner and any secondary owners;
- (2) a copy of the current year's property tax statement;
- (3) the initial year of ownership of the primary owner and any secondary owners;
- (4) information on all loans secured by mortgages or other liens on the property; and
- (5) the signature of the primary owner and all other owners, stating that they agree to having the property enrolled in the program.

The application must state that program participation is voluntary, including authorization for the annual deferred amount. Provides that the deferred tax amount is public data.

- (b) Allows the commissioner of revenue to ask for a report by a licensed abstracter in the case of abstract property seeking enrollment in the deferral program.

**Subd. 2. Approval; recording.** Requires the commissioner of revenue to notify applicants of enrollment prior to December 1 for taxes payable in the following year, and to file a notice of qualification for deferral with the county recorder.

**Subd. 3. Penalty for failure; investigations.** Requires the commissioner to assess a penalty equal to 20 percent of the deferred tax in the case of a false application, or 50 percent in the case of the taxpayer knowingly filing a false application.

**Subd. 4. Annual certification to commissioner.** Requires the primary property owner to certify annually by July 1 that the property continues to qualify for the program. Requires that if the primary owner has died or has transferred the property, the primary owner's spouse or a secondary owner may make the certification, and in that case that person will become the primary owner. Provides that if neither the primary owner, the primary owner's spouse nor a secondary owner are eligible to file the annual certification, the property's participation in the program will terminate and payment of the deferred taxes must be made.

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**Subd. 5. Annual notice to primary owner.** Requires the commissioner of revenue to annually notify the primary owner of the total amount of deferred taxes for each participating property.

**5 Deferred property tax amount.**

**Subd. 1. Calculation of deferred property tax amount.** Provides that the deferred tax amount for a qualifying property each year is 50 percent of the amount by which the current year's property tax (including special assessments) exceeds the property taxes in the base year (year of application). Provides that any tax attributable to improvements made to the property since the base year are not subject to deferral. Also provides that the deferred tax amount is to be shown on the tax statement.

**Subd. 2. Certification to commissioner.** Provides that the county auditor shall annually by April 15 certify the amount of deferred taxes to the commissioner of revenue for each qualifying property.

**Subd. 3. Limitation on amount of deferred taxes.** Provides that the total amount of deferred taxes on a property, when added to any unpaid special assessments and/or property taxes and the balance owed on any mortgages at the time of application and the amount of other secured liens at the time of application, must not exceed 60 percent of the property's estimated market value.

**6 Lien; deferred portion.** (a) Provides that interest on the deferred taxes will accrue at a rate not to exceed two percent more than the interest rate on deferred taxes under the senior deferral program in chapter 290B.

(b) Provides that the deferred taxes become a lien on the property. Contains standard language pertaining to what happens when the property taxes are not paid on the property participating in the program.

**7 Termination of deferral; payment of deferred taxes.**

**Subdivision 1. Termination.** (a) Provides for program termination whenever:

(1) the eligible property is transferred to someone other than the primary owner's spouse or a secondary owner;

(2) the primary owner dies, or in the case of a married couple both spouses die, provided that there is not a secondary owner eligible to become a primary owner;

(3) the owners notify the commissioner of revenue that they no longer wish to participate in the program; or

(4) the property no longer qualifies under section 3.

(b) Provides that a property is not terminated from the program just because no taxes are deferred in any given year.

(c) Provides that if an eligible property becomes the homestead of one of the owners,

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and if the homeowner qualifies for the senior deferral program, the deferred tax under the seasonal-recreational deferral program will be rolled-over to the senior deferral program.

**Subd. 2. Payment upon termination.** Provides that the deferred taxes become due and payable within 90 days of termination if the primary owner dies or transfers the property, or within one year if the owners opt-out of the program or if the property ceases to remain eligible.

**8 State reimbursement.** Provides that the state will pay the deferred tax amount to each county treasurer by August 31 of each taxes payable year. The county treasurer shall distribute the dollars as part of the regular October settlement. Appropriates to the commissioner of revenue annually a sum sufficient to pay the deferred tax amounts.

**9 Effective date.** Provides that sections 10 to 17 are effective for applications filed July 1, 2009, and thereafter.

## **Article 9: Special Taxes**

### **Overview**

This article increases the rate of the gross receipts tax on alcoholic beverages from 2.5 percent to 5 percent and raises the alcoholic beverage excise tax rates by an amount approximately equal to 1 cent per drink. It increases the cigarette excise tax by \$.54 cents per pack of 20 and converts the tobacco products tax on moist snuff to a per ounce tax (at \$.91 per ounce rate). This rate will be adjusted for inflation in the future.

**1 Liquor gross receipts tax.** Increases the rate on the retail gross receipt tax on the sales of alcoholic beverages from 2.5 percent to 5 percent.

**Effective date:** July 1, 2009

**2 Definition of moist snuff.** Modifies the definition of tobacco products under the excise tax to explicitly refer to moist snuff. This definition excludes discrete single use tablets, lozenges, pouches, and other single use units.

**3 Tobacco products definitions.** Excludes “snuff flour” from the definition of tobacco products.

**4 Cigarette excise tax rate.** Increases the cigarette excise tax rate from 48 cents/pack of 20 to \$1.02 cents. In combination with the Health Impact Fee of 75 cents per pack this will raise the total tax/fee burden in Minnesota to \$1.77 (excluding the sales tax).

**Effective date:** July 1, 2009

**5 Tobacco products rate.** Provides a separate tobacco products excise tax for moist snuff equal to \$.91 per ounce. The health impact fee doubles this rate, so that the combined tax

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and fee rate for moist snuff would be \$1.82 per ounce. The tax on fractions of an ounce would be computed proportionately, but rounded up to the nearest tenth of a percent.

A combined minimum tax and fee of \$2.18 per container of snuff would apply. This is the equivalent of a tax on a 1.2-ounce can of snuff. Smaller cans or other containers would pay this minimum amount.

All other tobacco products (chewing tobacco, dry snuff, cigars, and pipe tobacco) would continue to be taxed at 70 percent of the wholesale price.

**Effective date:** July 1, 2009, but does not apply product in the inventory

- 6 Use tax.** Makes a conforming change in the tobacco products use tax rate to be consistent with the changes in section 5.

- 7 Inflation adjustment.** Annually adjusts the excise tax rate applied to moist snuff for inflation.

**Effective date:** Calendar year 2012

- 8 Alcoholic beverage excise tax rates.** Increases the rates under the alcohol beverage excise rates by the amounts shown in the table. These increases approximate 1 cent per drink for wine and cider and 3 cents for distilled spirits.

Beverage type	Present law	Proposed tax	Increase
Distilled spirits	\$1.33/liter	\$2.01/liter	\$.68/liter
Wine $\leq$ 14% alcohol	\$.08/liter	\$.15/liter	\$.07/liter
Wine $>$ 14% and $\leq$ 21%	\$.25/liter	\$.32/liter	\$.07/liter
Wine $>$ 21% and $\leq$ 24%	\$.48/liter	\$.55/liter	\$.07/liter
Wine $>$ 24%	\$.93/liter	\$1.00/liter	\$.07/liter
Sparkling wine	\$.48/liter	\$.55/liter	\$.07/liter
Cider	\$.04/liter	\$.11/liter	\$.07/liter

- 9 Beer tax.** Increases the rate of the beer tax, as shown in the table. These increases approximate 1 cent per drink.

Beverage type	Present law	Proposed tax	Increase
Beer $\leq$ 3.2% alcohol	\$2.40/barrel	\$5.71/barrel	\$3.31/barrel
Beer $>$ 3.2% alcohol	\$4.60/barrel	\$7.91/barrel	\$3.31/barrel

This section also proportionately increases the dollar amounts of the brewers' credit to reflect the higher tax rates.

- 10 Floor stocks tax.** Imposes a floor stocks tax on cigarettes equal to the \$.54 increase under section 4 for the amount of product in inventory on July 1, 2009. This tax is due by July 15<sup>th</sup>

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with the return to be filed by August 14, 2009.

**Effective date:** July 1, 2009

- 11**      **Adjustment of cigarette sales tax rate.** Directs the commissioner of revenue to adjust the per pack cigarette sales tax rate on July 1, 2009, to reflect the effects on prices of the tax increase under section 4.

**Effective date:** Day following final enactment

**Article 10: Sales and Use Tax**

**Overview**

Expands the sales tax to digital products and makes conforming changes.

Eliminates the isolated and occasional sales exemption for private sales of boats, snowmobiles and all-terrain vehicles.

Limits the partial-year exemption of electricity and natural gas used for residential heating to a certain quantity of use per dwelling during the period.

Defines solicitor for sales tax nexus purposes to include persons that direct sales to internet sites through electronic links.

Modifies the application of short term motor vehicle lease fees as they apply to car-sharing organizations.

Clarifies the interaction of the new constitutionally dedicated 3/8ths sales tax with existing law.

Makes some changes to use and duration of a number of existing local sales and lodging taxes. Adds new local taxes for the city of Rochester.

Makes other minor changes to sales and use tax administrative provisions.

- 1**      **Proof of sales tax payments; used snowmobiles.** Requires all purchasers of a used snowmobile to either provide proof that the sales tax has been paid or provide the necessary information so the sales tax can be calculated and paid at the time that the purchaser registers the snowmobile. Effective for sales and purchases made after June 30, 2009.
- 2**      **Proof of sales tax payments; all-terrain vehicles.** Requires all purchasers of a used all-terrain vehicle to either provide proof that the sales tax has been paid or provide the necessary information so the sales tax can be calculated and paid at the time that the purchaser applies for transfer of the registration. Effective for sales and purchases made after June 30, 2009.

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- 3**        **Proof of sales tax payments; used boats.** Requires all purchasers of a used boat to either provide proof that the sales tax has been paid or provide the necessary information so the sales tax can be calculated and paid at the time that the purchaser applies for a boat license. Effective for sales and purchases made after June 30, 2009.
- 4**        **Notification requirements.** Requires the Department of Revenue to establish a “listserv” to electronically notify persons holding a sales tax permit of changes in the sales tax law and the issuance of new rules, notices, and fact sheets or similar information related to sales tax. The requirement only applies if the permit holder has provided an email address. A permit holder can request to not be included in the notification. The notification must begin by December 31, 2009.
- 5**        **Return required.** Allows a person prohibited due to religious beliefs from using electronics to file a sales tax return by mail without additional fees. Effective for returns filed after June 30, 2009.
- 6**        **Sales and use tax (remittance).** Allows a person prohibited due to religious beliefs from using electronics to remit sales taxes by mail without additional fees. The payment must be postmarked at least two business days before the day it is due. Effective for sales taxes remitted after June 30, 2009.
- 7**        **Sales and purchase.** Adds specified digital products and other digital products to the definition of taxable sales. Paragraph (1) adds the right to access or use digital products for a consideration, whether on a temporary or permanent basis, to the definition of a taxable sale.
- 8**        **Retail sale.** Adds a number of cross-references to specified digital products and other digital products to the existing definition of retail sales. Clarifies that retail sales includes temporary access to specified digital products or other digital products. Clarifies that the purchase of a digital code to access digital products is retail sales and subsequent access to digital products using the code are not retail sales.
- 9**        **Storage.** Adds a cross-reference to specified digital products and other digital products to the existing definition of storage.
- 10**       **Use.** Adds a cross-reference to specified digital products and other digital products to the existing definition of use.
- 11**       **Tangible personal property.** Clarifies that the electronic delivery of computer software is still included in the definition of tangible personal property although other digital products are not tangible personal property.
- 12**       **Lease or rental.** Adds a cross-reference to specified digital products and other digital products to the existing definition of lease or rental.
- 13**       **Delivered electronically.** Clarifies that computer software is not “delivered electronically” and does not apply to computer software if the purchaser only has access to the software.
- 14**       **Normal course of business.** Adds a cross-reference to specified digital products and other digital products to the existing definition of normal course of business.

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- 15 Bundled transaction.** Adds a cross-reference to specified digital products and other digital products to the existing law related to bundled transactions.
- 16 Digital audio visual work.** Defines “digital audio visual work” using the SSUTA required definition and expands on it to list specific items included such as movies, music videos, and live events, and items that are excluded such as video greeting cards, which are included in the definition of “other digital products.” Includes digital codes or subscriptions used to access these works.
- 17 Digital audio work.** Defines “digital audio work” using the SSUTA required definition and expands on it to list specific items included such as music, voice recordings, and ring tones, and items excluded such as audio greeting cards which are included in the definition of “other digital products.” Includes digital codes or subscriptions used to access these works.
- 18 Digital book.** Defines “digital book” using the SSUTA required definition and expands on it to list specific items included such as fiction, non-fiction, and short stories, and items excluded such as magazines and newspapers. Includes digital codes or subscriptions used to access these works.
- 19 Digital code.** Defines “digital code” as a code that allows a purchaser to access digital products, regardless of how the code is transmitted to the purchaser. Digital codes do not include gift card or gift certificates.
- 20 Specified digital products.** Defined as the digital products currently defined in the SSUTA. These include digital audio-visual works, digital audio works, and digital books.
- 21 Transferred electronically.** Adopts the SSUTA definition of “transferred electronically” and clarifies that the purchaser does not have to be given a copy of the product; they just need to have access to the digital product.
- 22 Other digital products.** Defines other digital products for sales tax purposes to be digital greeting cards, digital artwork, and video or electronic games. These items are currently taxable in Minnesota in tangible form but SSUTA has currently not adopted definitions for these products.
- 23 Constitutionally required additional sales tax.** Adds a subdivision with the 0.375 percent rate increase required under the constitution to the sales tax rate statute so that the total state rate is easily identified.
- 24 Use tax imposed; rates.** Adds a number of cross-references to specified digital products and other digital products to the existing law related to use tax.
- 25 Fee imposed (short term motor vehicle rental).** Exempts nonprofit car sharing organizations from the special car rental fee that applies in lieu of the motor vehicle registration tax and makes them subject to the motor vehicle registration tax. Only nonprofit corporation that charges persons or group oh an hourly basis to use the vehicles qualify and they must
- ▶ Use unstaffed self-service locations that are available any time of the day;



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- ▶ Provide vehicle maintenance, insurance, and fuel; and
- ▶ Not provide discounts or lower rates for increased use.

- 26 Definitions (retailer in this state).** Adds a cross-reference to specified digital products and other digital products to the existing definition of a “retailer maintaining a place of business in this state.”
- 27 Solicitor.** Defines a “solicitor” as a person who enters into a contract to directly or indirectly refer potential customers to a business or the Web site of the business. States that a business is presumed to have a solicitor in this state, and therefore has a duty to collect the state sales tax, if it has at least \$10,000 annually of sales into Minnesota based on referrals from residents of this state or businesses with a physical presence in the state. Provides for a rebuttal of that presumption. Effective beginning with sales made after June 30, 2009.
- 28 Sales tax exemption; home heating fuels.** Currently, natural gas and electricity for residential heating are exempt from the sales tax for the months of November through April. This section would limit the exemptions for natural gas to the first 750 hundred cubic feet (CCF) per residential unit during the 6 month period and the exemption for electricity to the first 3,000 kilo-watt hours per dwelling unit during the six-month period. Effective for sales and purchases made after June 30, 2009.
- 29 Occasional sales.** Excludes the sale of a used snowmobile, all-terrain vehicle, or boat from the isolated and occasional sale exemption. Effective for sales and purchases made after June 30, 2009. Also adds a cross-reference to specified digital products and other digital products to the existing exemption for occasional sales. Effective for sales and purchases after June 30, 2009.
- 30 Quarterly transfer of sales tax on motor vehicle leases.** Eliminates the dedication of revenues from the sales tax on motor vehicle leases to the lower income motor fuels credit. This credit is repealed in article 1. The dedicated portion of the revenue from the sales tax on these leases will now be split 50-50 between the greater Minnesota transit account and the county state-aid highway fund. Allows the commissioner to estimate the revenue collected from the sales tax on motor vehicle leases and deposit into those accounts on a quarterly basis. Effective July 1, 2009.
- 31 Commissioner’s discretion.** Adds a cross-reference to specified digital products and other digital products to the existing law regarding whom the commissioner regards as a retailer.
- 32 Deposit of revenues.** Clarifies that the statutorily dedicated portions of the current sales tax do not include any revenue raised by the imposition of the constitutionally dedicated 0.375 percent tax increase. The main dedications are revenues from motor vehicle leases to transportation, and the revenue from the in lieu tax on lottery tickets.
- 33 Use tax.** Adds a cross-reference to specified digital products and other digital products to the existing local sales tax law.
- 34 Rate (motor vehicle sales).** Removes the link on tax rates between the general sales tax and the motor vehicle sales tax. The motor vehicles sales tax rate will remain at 6.5 percent.

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- 35 Temporary use of lodging tax revenues.** Authorizes cities to use lodging tax revenues for any permitted municipal purpose, through December 31, 2012. The authorization is limited to lodging tax revenues from facilities located within the city boundaries, and does not apply to lodging tax revenues pledged to pay bonds or other debt.
- 36 Minneapolis downtown taxing area.** Modifies the area in which the special Minneapolis convention center tax applies to exclude properties that are zoned under chapter 546 of the Minneapolis zoning code (this is the chapter that zones residential uses) and contain a restaurant or bar. Effective for sales after July 31, 2012, and provides that the taxes collected between July 1, 2009, and July 31, 2012, from that area shall be deposited in the state general fund to recover taxes paid to the city that the state never collected.
- 37 Mankato local sales tax - use of revenues.** Amends the allowed uses of the Mankato local sales tax revenue by deleting the requirement that the performing arts center and a women's hockey arena must be attached to the Mankato Civic Center. The amount allowed to be raised by the local sales tax remains unchanged.
- 38 St. Paul local sales tax - use of revenues.** Extends the city of St. Paul's authority to use up to \$3.5 million annually of its sales tax revenue to pay for bonds for capital projects related to cultural and economic development projects. Currently this authority ends after this year; the bill extends the authority to 2014.
- 39 St. Paul local sales tax - unexpended funds and interest.** Limits the use of interest on loan repayments and returned funds from revenues allocated to the residential, cultural, commercial, and economic development capital projects to other capital projects authorized under the same provision.
- 40 Little Falls food and beverage tax.** Allows the city of Little Falls to extend its local food and beverage tax for an additional 15 years and allows it to expand the tax base to include alcoholic as well as non-alcoholic beverages.
- 41 St. Paul local sales tax - requirement.** Amends the citizen review process for the expenditure of St. Paul sales tax revenues dedicated to neighborhood investments to explicitly state that the review process must be open, fair, and competitive and that all proposals must be reviewed before the panel makes a proposal to the city council.
- 42 Rochester lodging tax.** Increases the existing Rochester lodging tax of 1 percent by another 1 percent. The revenues from the increased tax must be used to pay for renovation and expansion of the Mayo Civic Center Complex and related bonds. The tax may only be increased if the state appropriates money for this project and the city approves a total financing package. The authority for the increased tax expires when revenues raised are sufficient to fund the project and pay associated bonds, or earlier if the city desires.
- 43 Owatonna local sales tax – use of revenues.** Modifies the allowed uses of revenue generated by the city of Owatonna's local sales tax. Currently the city is allowed to use up to \$4.5 million for transportation projects listed in the 2004 U.S. Highway 14-Owatonna Beltline study. This allows the city to use up to \$1.5 million of the \$4.5 million for another road project in the city. The change in use would not require a local referendum. The

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amount allowed to be raised by the local sales tax remains unchanged.

- 44 Mankato local restaurant and entertainment taxes - use of revenues.** Makes a conforming change to the change in section 37.
- 45 Sales and local lodging taxes collection; Department of Revenue.** Requires the Department of Revenue to make efforts to collect any unpaid sales and local lodging taxes from online travel companies on the total rent paid for the lodging. Currently these travel companies are paying taxes on the amount they pay to the hotel or motel for the right to make reservations on behalf of their customers. The companies then re-sell the use of these rooms to their customers at a higher rate. No taxes are currently being paid on the difference between the travel company's cost and the final amount paid by the customer. A city must specifically request that the Department take action to collect the lost revenue from the lodging tax on their behalf and the commissioner of revenue may request that the attorney general conduct legal proceedings to enforce collection of this underpaid tax.
- 46 Rochester food and beverage tax.** Allows the city of Rochester to impose a food and beverage tax of 1 percent. The revenues from the tax must be used to pay for renovation and expansion of the Mayo Civic Center Complex and related bonds. The tax may only be imposed if the state appropriates money for this project and the city approves a total financing package. The tax expires when revenues raised are sufficient to fund the project and pay associated bonds, or earlier if the city desires.
- 47 Repealer.** Repeals the existing definition of ring tone, which is now included in the definition of digital audio works.

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**Article 11: Local Development**

**Overview**

This article extends the five-year rule to eight years for tax increment financing (TIF) districts certified between January 1, 2004, and July 1, 2010, and extends the four-year knockdown rule for districts certified between January 1, 2005, and July 1, 2010. This expanded authority is intended to give cities more flexibility to respond to the recession and the slowdown in real estate development.

The authority to finance tourism projects with economic development districts is extended to region 7E counties. Cities would be allowed to transfer surplus tax increments to the general fund to offset cuts in LGA and state credit reimbursements. TIF plan requirements and financial reporting is focused on and limited to tax increments, deleting the requirement to budget and report on the TIF forms use of other sources of funding, such as grants or payments from other authority money.

Special law exceptions were provided for the following cities:

- ▶ Brooklyn Park is authorized to use the housing replacement district law.
- ▶ Crystal, Fridley and Columbia Heights were given authority to use the housing replacement district law for 50 additional parcels.
- ▶ Saint Paul is reauthorized to use the housing replacement district law.
- ▶ Oakdale
- ▶ South Saint Paul
- ▶ Minnetonka (duration extension)
- ▶ Arden Hills
- ▶ Sauk Rapids
- ▶ Seaway Port Authority of Duluth
- ▶ Mankato
- ▶ Faribault (JOBZ district extension)

- 1 TIF for tourism projects.** Expands the authority to use economic development TIF districts for tourism projects to include counties in Region 7E. This will add the counties of Chisago, Isanti, Mille Lacs, Kanabec, and Pine to those now allowed to use this authority. To qualify, projects must also be located in counties with incomes that are no more than 85 percent of the state median income and can not be in a city with a population of over 20,000.

The following counties are located in regions that now qualify to use the authority:

Counties in Development Regions 2, 3, 4, and 5			
Aitkin	Cook	Koochiching	St. Louis
Becker	Crow Wing	Lake of the Woods	Stevens

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Beltrami	Douglas	Mahnomen	Todd
Carlton	Grant	Morrison	Traverse
Cass	Hubbard	Otter Tail	Wadena
Clay	Itasca	Pope	Wilkin
Clearwater			

- 2 TIF plan requirement.** Makes the following changes in the required contents of the TIF plan:
- ▶ Eliminates the requirement that the TIF plan include references to the portion of the development or redevelopment that will be financed with non-TIF revenues.
  - ▶ Limits the total authorized costs to an estimate of the increments that will be generated by the expected development of the district.
- Effective date:** TIF plans approved after June 30, 2009
- 3 TIF annual financial reporting.** Eliminates references in the annual TIF financial report to non-TIF funds, such as special assessments, grants, and transfers from other funds. References to public park and social and recreational facilities are eliminated, since these are no longer purposes for which increments generally may be spent. References to revenue bonds and pay-as-you-go notes are combined, since these are legally indistinguishable.
- Effective date:** TIF reports due after December 31, 2009
- 4 TIF administrative costs.** Clarifies that the county's cost of administration are not counted against the 10-percent limit on TIF administrative expenses.
- Effective date:** All districts, regardless of when the request for certification was made
- 5 TIF transfers to offset state aid reductions.** Allows cities with aid reductions to transfer surplus or excess tax increments to their general funds to offset state aid cuts. To use this authority, the development authority (HRA, EDA, etc.) must authorize the transfer by resolution on the request of the city.
- Permitted amount of transfer.** The transfer cannot exceed the lesser of:
1. The amount of increment the district has available, less the amount the district is obligated to pay in bonds or binding contracts during the calendar year and the next six months plus any transfers to offset deficits caused by the 1997 – 2001 property tax changes; or
  2. The cuts in state aids and credits that the city experiences for the calendar year. This could include reductions in LGA and market value credit reimbursements, whether as a result of an unallotment or a legislatively enacted reduction. It does not include aid cuts that the city opts to levy back under the special levy for

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unallotments.

**Effect of election on future use of TIF district's increments.** If the city and development authority elect to use this authority, they may only use increments from the TIF district in the future for the following purposes:

- Paying bonds and contracts that were outstanding when the election was made,
- Making transfers to other districts to offset deficits caused by the 1997 – 2001 property tax changes,
- Paying its administrative expenses,
- Making the transfers to the general fund permitted by the bill.

In other words, the TIF district could no longer be used to finance new developments or improvements.

Cities with more 12 percent or more of their tax capacity in TIF would not be permitted to use this authority.

**Expiration.** The authority to make these transfers expires on December 31, 2010.

**6 Four-year knock-down rule.** Extends the four-year knockdown rule to six years for TIF districts that were certified between 1/1/2005 and 7/1/2010. The knockdown rule requires development activity to take place on a parcel (qualifying activities include the installation of public infrastructure improvements adjacent to the parcel) within four years after certification. Failing this, the parcel is dropped from the TIF district and is only recertified (with its then tax value) as part of the district when the requisite activity takes place.

**7 Additional pooling for housing.** Expands the permitted purposes for using the additional pooling percentage for housing to include purposes that mirror the permitted uses of increments for special law housing replacement districts. Present law allows a city to increase the permitted pooling percentages (i.e., the amount of a TIF district's increment that may be spent outside of the area of the TIF district) by 10 percentage points and to use the money for low-income housing (i.e., housing that meets the federal law tests for occupancy by low-income families and rent affordability). This section expands those purposes to allow use for purposes taken from the special laws allowing housing replacement districts. This would allow use for owner-occupied housing that does not exceed 150 percent of the average market value of housing in the city. The money could be used to acquire the houses, demolish or relocate them, rehab them, do site preparation, or pollution cleanup. To qualify, the sites or housing must meet one of the following conditions:

- Be a one to four unit dwelling that has been vacant for at least three months
- Be a one to four unit dwelling that is structurally substandard
- Be in foreclosure
- Consist of vacant land, if the parcel would be used to develop or redevelop housing meeting one of the other three conditions

This authority expires on December 31, 2015.

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**Effective date:** Applies to all TIF districts subject to the pooling rules

- 8**      **Five-year rule.** Extends the five-year rule to eight years for districts certified on or after 1/1/2004 and before 7/1/2010. The five-year rule requires the development authority to complete the district's in-district activities within five years after certification of the district.

- 9**      **Interfund loans.** Provides that the interest rates on interfund loans are set at the time when the loans are authorized, not when they are made.

**Effective date:** Interfund loans made after June 30, 2009

- 10**      **Brooklyn Park, housing replacement authority.** Provides a definition of "authority" for the city of Brooklyn Park's exercise of housing replacement district authority. Section 11 grants Brooklyn Park housing replacement district authority.

**Effective date:** Final enactment

- 11**      **Housing replacement districts, local contribution.** Grants the city of Brooklyn Park authority to exercise housing replacement district powers.

**Effective date:** Final enactment

- 12**      **Oakdale TIF.** Corrects an error in the 2008 special TIF law for the city of Oakdale. It adds references to property tax PINs for two of the parcels, which the city intended to include in one of the TIF districts, but which were not included in the 2008 law.

**Effective date:** Upon local approval by the city of Oakdale.

- 13**      **South St. Paul; TIF.** Authorizes the city of South St. Paul to establish a new redevelopment TIF district with the same area and original tax capacity as its Concord Street TIF district, a pre-1979 TIF district. As a condition for establishing the district, the city must enter an agreement with Dakota County providing for transfer of the increment attributable to the county's tax rate to the county. The increments from the district would be used to pay the convention center bonds. The district terminates in 2024.

Because this is a new district, it would contribute to the fiscal disparities pool, unlike pre-1979 HRA districts. To prevent the district from affecting local government aid, county program aid, or school aid the captured net tax capacity of the district is included in adjusted net tax capacity for those programs.

- 14**      **City of Minnetonka; TIF.** Authorizes the city of Minnetonka to extend the Glenhaven TIF district by up to seven years. To exercise this authority, the city must find that the area, at the time of the original approval of the plan, would have qualified to be certified as a redevelopment district. This is a renewal and renovation district, which under general law is allowed a duration of 15 years after the receipt of the first increment. Thus, this would extend the duration to a maximum of 22 years after the receipt of the first increment.

**Effective date:** Local approval by the city, county, and school district

- 15**      **Arden Hills TIF; authorization.** Authorizes the city of Arden Hills to establish a TIF

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district on the TCAAP site.

This district will be exempt from several general law TIF rules:

- ▶ It is deemed to be a redevelopment district without meeting the blight test.
- ▶ The five-year rule is extended to ten years.
- ▶ The duration limit of the district is increased from 25 years to 30 years.
- ▶ The city may elect to delay receipt of the first increment (which starts the duration limit running) by up to six years. Under general law, the authority to do this is limited to four years.

The authority to create a district under the special law expires on December 31, 2019.

- 16 St. Paul, housing replacement powers.** Re-authorizes the city of St. Paul to exercise housing replacement district powers. This power was granted to the city under a 1995 special law, but the city did not approve the law and so it lost the authority to do so in 1997. This would reinstate that authority (not subject to local approval). The city of Richfield is in a similar situation (i.e., it received authority, but did not approve the law).

**Effective date:** Final enactment

- 17 City of Sauk Rapids; TIF.** Authorizes the city of Sauk Rapids to use special rules in meeting the blight test for redevelopment districts by extending the time allowed to certify parcels with previously demolished substandard buildings on them.

### **Background**

To qualify as a redevelopment district, 70 percent of the parcels of an area must be occupied by buildings or other improvements and 50 percent of the buildings must be “substandard.” The development authority can treat a vacant parcel as being occupied by a substandard parcel if four conditions are met:

1. The parcel was occupied by a substandard building three years before the district was certified.
2. The substandard building was removed by the authority or by the developer under a development agreement with the authority.
3. The authority made findings, by resolution, that the building was substandard and that it intended to include the parcel in a redevelopment district.
4. The authority notifies the county auditor that the original tax capacity of the district must include the value of the parcel with the building, if this is greater than the bare land value.

### **Changes Made by this Section**

The bill extends the time period, as described under item #1 above, so that it runs until at least December 31, 2012, even if the demolition occurred more than three years before that date.



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- 18 Duluth Port Authority; five-year rule.** Allows the Seaway Port Authority to create one or more TIF districts in a defined area that would qualify for special treatment under the five-year rule. The five-year rule requires the development authority to complete the district's in-district activities within five years after certification of the district.

Under this section, the five-year rule would begin to run for the listed parcels from the later of (1) the rule under general law (i.e., from certification of the district) or (2) when all of the qualifying parcels in the district are delisted (i.e., cleaned up).

- 19 City of Mankato; special TIF authority.** Provides exemptions from the general law rules under the TIF act for a district in the city of Mankato. These exceptions include:

- ▶ **Pooling limitations.** The city is permitted to use revenues from the district to construct street and roadway improvements located within 500 feet or less of the TIF district boundaries, notwithstanding the percentage limits on pooling under general law.
- ▶ **Five-year rule.** The five-year rule is extended to 11 years. The five-year rule requires the development authority to complete the district's in-district activities within five years after certification of the district.

**Effective date:** Upon local approval by the city.

- 20 Faribault; JOBZ extension.** Allows the city of Faribault, with approval of the commissioner of the department of employment and economic development (DEED), to extend the duration of JOBZ tax benefits for one site in the city by five years. (This will allow the benefits to be provided through 2021, rather than 2016.) This authority only applies, if the city enters a business subsidy agreement with a firm that produces products to increase the efficiency of the use of energy resources. This authority expires on January 1, 2011.

**Effective date:** Day following final enactment.

## Article 12: Miscellaneous

### Overview

Makes various miscellaneous changes, including:

- ▶ Authorizes two new grant programs related to bovine tuberculosis, replacing the current law income tax and property tax credits
- ▶ Modifies disclosure requirements for refund anticipation loans and refund anticipation checks, prohibits actions for tax preparers, and modifies penalties and civil damages for violations by tax preparers
- ▶ Establishes a procedure for filing claims for refunds of payments made under the law that imposes personal liability on responsible officers and directors for unpaid taxes of a business entity
- ▶ Allows for levy recertification in the case of December unallotments
- ▶ Provides for some additional special levies outside of levy limits and amends the levy limit calculation
- ▶ Expands local governments' ability to issue emergency certificates of indebtedness
- ▶ Transfers \$250 million to the budget reserve
- ▶ Makes appropriations for bovine tuberculosis grants, and for basic sliding fee child care

- 1 **Bovine tuberculosis grants.** Authorizes two grant programs to replace the income tax credit for bovine tuberculosis testing expenses repealed in article 1 and the property tax credit for owners of cows, bison, and goats in the bovine tuberculosis modified accredited zone repealed in article 6. Grants would be administered by the commissioner of agriculture, and would compensate cattle owners for bovine tuberculosis testing expenses.

The grant replacing the income tax credit would mirror the repealed tax credit – i.e., 25 percent of the testing costs for corporations and 50 percent for all others. Grant payments would be made annually by March 31 for testing costs incurred in the previous calendar year.

The grant replacing the property tax credit equals \$25 for each animal tested in the largest whole-herd test performed on cattle, bison, and goats in the modified accredited zone in 2006 through 2008. The grant is paid annually between July 1 and July 15, beginning in 2010 and is available until the year following the year in which the Board of Animal Health declares Minnesota to be free of bovine tuberculosis.

The appropriations for the grants are in section 13 and are ongoing.

- 2 **Income tax microdata coordinating committee.** Exempts the income tax microdata coordinating committee from the general sunset on commissions and similar groups.

- 3 **Tax preparation services.**

**Subdivision 1. Scope.** Provides within the scope that the statute governing tax preparation does not apply to:

- ▶ a person who provides services to fewer than ten clients per year;
- ▶ a person who provides services only to immediate family members;
- ▶ an employee who prepares the employer's return as part of his job;
- ▶ a fiduciary acting on behalf of an estate;
- ▶ nonprofit organizations providing services under IRS volunteer tax assistance

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programs.

With the exception of the nonprofit organizations, these individuals are exempt under current law under subdivision 8 of this section, relating to exemptions from the statute. The changes to this subdivision move these exemptions to the scope subdivision, and increase the number of clients an individual may provide services for while remaining exempt from fewer than six to fewer than ten. [Note: since “tax preparation services” is defined as services for a fee or other consideration, nonprofit organizations participating in IRS volunteer programs are exempt under current law since they do not charge for their services.]

**Subd. 2. Definitions.** Adds definitions necessary for the disclosure requirements of this section to apply to refund anticipation checks and for the proposed requirement that disclosures be made in the client’s primary language, if the preparer advertises in that language. Current law imposes disclosure requirements on refund anticipation loans.

**Subd. 3. Standards of conduct.** Prohibits tax preparers from:

- ▶ Establishing an account to receive a client’s refund solely in the preparer’s name (makes an exception consistent with statute allowing taxpayers to assign K-12 credits to another party);
- ▶ Failing to act in the client’s best interests;
- ▶ Failing to safeguard and account for any money handled for the client;
- ▶ Failing to disclose material facts;
- ▶ Taking any action prohibited for collection agencies;
- ▶ Including in any agreement to provide tax preparation services a hold harmless clause, confession of judgment, waiver of a right to a jury trial, assignment of wages for services, provision preventing the client from asserting claims, waiver of any provision of statute relating to tax preparers, or waiver of the client’s right to relief;
- ▶ Failing to provide disclosures required under the federal Truth in Lending Act as part of offering refund anticipation loans.

**Subd. 3a. Written agreements required; refund anticipation loans and checks.** Requires refund anticipation loan and check agreements to be in writing and prohibits the loans and checks from requiring payment of any item other than tax preparation fees or other related fees and the anticipated refund amount that is advanced via the loan or check. If a RAL or RAC agreement includes a mandatory arbitration clause, requires a separate written notice that arbitration is the only means of dispute resolution, that the client has 30 days to opt out of the arbitration clause, and that the arbitration clause does not apply if the client’s dispute involves a violation on the part of the tax preparer or if the client pursues a civil action as provided in subdivision 7. Requires the preparer to notify the client orally and in writing of how to opt out of the arbitration clause.

**Subd. 4. Required disclosures.** Restructures the current subdivision 4, which requires disclosures for refund anticipation loans, to instead specify the format for disclosures for refund anticipation loans (which are provided in the proposed

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subdivision 4a) and disclosures for refund anticipation checks (which are provided in the proposed subdivision 4b). Disclosures for both kinds of advance payments of refunds must be in writing on a single sheet of paper, and signed and dated by both the client and the tax preparer. These requirements are in current law with regard to refund anticipation loans; the changes to this section and the proposed subdivision 4b would extend the same requirements to refund anticipation checks. Also requires disclosures to be provided in the client's primary language, if the tax preparer advertises in that language.

**Subd. 4a. Refund anticipation loan disclosures.** Restates the disclosure requirements for refund anticipation loans that are stricken in subdivision 4 in the proposed subdivision 4a, with the following additions:

- Requires an explicit statement that the RAL is not the client's tax refund;
- Notifies the client of the right to cancel the RAL by returning the loan check or the amount of the loan in cash to the preparer within one business day.

**Subd. 4b. Refund anticipation check disclosures.** Provides disclosure requirements for refund anticipation checks, different from the requirements for refund anticipation loans. Statements required on the disclosure:

- The client is not required to purchase a RAC in order to get their tax refund
- The IRS can direct deposit the refund to the client's account within 8 to 15 days
- Clients who purchase a RAC will have access to their tax refund within 8 to 15 days
- the RAC is not a loan
- the cost of the RAC
- the option to the client of paying for the RAC at the time of filing or having it withheld from the refund
- that the cost of return preparation does not change if the client purchases a RAC

Also provides that preparers who offer products that meet the definition of a refund anticipation check but use a different product name must substitute the product name for the term 'RAC' in the required disclosure.

**Subd. 5. Itemized bill required.** Adds fees associated with a refund anticipation check to the list of items required to be itemized on the bill for tax preparation services.

**Subd. 5b. Right to rescind refund anticipation loan.** Authorizes clients to rescind a refund anticipation loan within one business day of entering an agreement by providing written notification to the preparer and either returning the check or conveying the same amount in cash to the preparer. Allows a tax preparer to charge a fee for rescinding a loan only if the preparer established an account at a financial institution to receive the refund and limits the fee to the amount the financial institution charged to open the account.

**Subd. 6. Enforcement; penalties.** Applies the existing \$1,000 administrative penalty in current law to violations of the new written agreement requirement and right to rescind loans proposed in subdivisions 3a and 5b. Provides that the administrative penalty does not apply if the conduct is also subject to civil penalties under section

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289A.60, including termination of the preparer's authorization to submit returns electronically.

**Subds. 6a to 6c. Exchange of data.** Extends the requirement that the commissioner of revenue, the State Board of Accountancy, and the Lawyers Board of Professional Responsibility exchange information about complaints they receive about accountants and lawyers who are preparers to apply to violations of proposed subdivisions 3a, 4a, and 5b.

**Subd. 7. Enforcement; civil actions.** Provides that an action taken by the attorney general to enforce this section of statute is in the public interest. Also expands the amount a court finding for a plaintiff must award to include statutory damages equal to tax preparation fees, interest and fees for refund anticipation loan, times two. Under present law, plaintiffs are awarded actual damages, attorney fees, court costs, and any other relief the court finds reasonable.

**Subd. 8. Limited exemptions.** Strikes exemptions for various classes of individuals who will still be exempt as a result of changes to subdivision 1. Provides that the proposed written agreement requirement in subdivision 3a and the proposed right to rescind refund anticipation loans in subdivision 5b apply to attorneys, certified public accountants, and enrolled agents. Provides a new exemption for employees and supervisors who assist people exempt under this subdivision in preparing returns.

- 4 Time for filing.** Establishes a procedure for filing claims for refunds of payments made under the law that imposes personal liability on responsible officers and directors for unpaid taxes of a business entity. The personal liability statute generally applies to individuals who are responsible (by themselves or with others) for filing and paying the specified taxes on behalf of the business. This liability most frequently arises with regard to sales tax and withholding tax, but also applies to some other tax types. If the business fails to pay, the Department of Revenue (DOR) issues an order assessing personal liability for the tax against the director or officer.

Authorizes individuals, subject to personal liability assessments, to file claims for refunds (which will enable them to appeal administratively or file a lawsuit), if they do so within 120 days of making a payment and if this is no more than 3½ years after DOR issued the assessment. The ability to claim a refund applies to both voluntary payments and to amounts collected by DOR (e.g., by garnishing wages or levying on a bank account). It does not require paying the full assessment to file a claim for a refund.

**Background.** Under present law, directors and officer have 60 days to appeal the DOR order. If they fail to appeal within the 60-day period, they lose their right to contest the liability (e.g., by claiming that they are not “responsible” within the meaning of the statute). Although it is somewhat unclear, the law does not provide the authority for an assessed individual to pay the liability and, then, seek a refund as an alternative method of contesting their liability. (Taxpayers can contest most other tax liabilities in two ways – either by appealing before payment or by paying and seeking a refund.)

Effective for personal liability assessments issued after the day following final enactment.

- 5 Recertification of levy due to unallotment.** Allows local governments to recertify their levy by January 15 of the year in which the levy is paid if it has a reduction in its December

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property tax aid and credit payments due to a governor's unallotment. If the recertification is not reported to the county auditor within two business days of January 15, the original levy certification stands.

- 6 Special levies.** Provides for the following changes to special levies outside of levy limits:
- ▶ puts the existing limit on the special levy for animal shelters into this section since the limit in the cross reference was eliminated in another bill;
  - ▶ expands the existing special levy for aid and credit reductions due to unallotments to include (1) aid losses that occur in the previous year, after a city or county has certified its levy; and (2) reductions in market values credits;
  - ▶ adds a special levy to pay for the state share of the costs of confining sex offenders undergoing the civil commitment process to the extent the state does not fund its share; and
  - ▶ adds a special levy for counties to pay the first year costs of maintaining and operating a new public safety and courts facility that was funded prior to the imposition of levy limits in 2008. This amount is rolled into the county's levy limit base in subsequent years.
- 7 Adjusted levy limit base.** Clarifies that the inflation adjustment for the levy limit can not be less than a 2 percent increase.
- 8 Net debt limit.** Eliminates the exception from the net debt limit for bonds issued to fund other postemployment employee benefits (OPEB) liabilities. These are typically health benefits provided to retired employees.
- Effective date:** day following final enactment
- 9 Authority to issue OPEB bonds.** Eliminates the authority of municipalities (schools, cities, counties, and towns) to issue bonds to fund actuarial liabilities for OPEB. Present law defines these liabilities by reference to Governmental Accounting Standard Board (GASB) Statement No. 45.
- Effective date:** day following final enactment
- 10 Referendum exemption.** Eliminates the exemption from the election requirement for OPEB bonds. This exemption was enacted in 2008, and authorized municipalities (including schools) to issues bonds, without holding referenda, to pay for other postemployment employee benefits
- Effective date:** day following final enactment
- 11 Emergency certificates of indebtedness.** Emergency debt certificates. Authorizes a city, county, or town to issue emergency debt certificates if both of the following occur in a fiscal year:
- ▶ The governmental unit's current year revenues are expected to be reduced below their budgeted amounts (i.e., the amount set in the budget used to set the property tax levy)
  - ▶ The reduction is so large that current year expenses will exceed current year

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receipts.

This authority, for example, could be triggered by a mid-year reduction in state payments of aids or credits, by an unexpectedly high level of property tax delinquencies or a drop in receipts from fees for issuing building permits and similar.

The maximum amount of certificates that may be issued is limited to the expected reduction in receipts, plus the costs of issuance. The certificates must mature (be paid off) within two years of the end of the fiscal year in which they were issued. The certificates are excluded from net debt limits.

A governmental unit issuing emergency debt certificates is adjusted to prohibit it from exercising special levy authority (outside levy limits) for amounts funded with the certificates. Since levies to repay bonded debt (including the emergency debt certificates) are special levies, this prevents a city or county from both receiving an additional direct levy for the same aid reduction.

- 12 Budget Reserve.** Directs the commissioner of finance to transfer \$250 million to the budget reserve account in fiscal year 2010. In order for the transfer to be in compliance with the requirements of the 2009 federal stimulus law, the transfer is made from revenues resulting from legislation enacted in 2009.

**13 Appropriations.**

**Bovine tuberculosis grants.** Appropriates \$360,000 each year from the general fund to the commissioner of agriculture to make grants for bovine tuberculosis testing expenses to replace the current income tax credit. Appropriates \$400,000 each year from the general fund to the commissioner of agriculture to make grants to owners of cattle, bison, and goats in the modified accredited bovine tuberculosis zone to replace the current property tax credit. Both appropriations are ongoing and added to the budget base, but the authority for the grants to replace the property tax credit ends when the state is declared free of bovine tuberculosis. Effective beginning in fiscal year 2010.

**Basic sliding fee child care.** Appropriates \$5 million each year from the general fund for FY 2010 and FY 2011 to the commissioner of human services for the basic sliding fee child care program. This is in addition to other appropriations for this purpose and would be added to the budget base. Article 1 repeals the dependent care credit.