

# HOUSE RESEARCH

## Bill Summary

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## Article 1: Income and Franchise Taxes

### Overview

Allows income tax subtractions for

- up to \$10,000 of travel and lodging expenses, and lost wages related to live organ donation for human transplantation of all or part of specified organs.
- compensation of members of the Minnesota national guard and U.S. military reserves for active service performed in Minnesota, excluding compensation for regular training and drill.
- compensation for military service performed outside Minnesota

Phases in single-factor sales apportionment for the corporate franchise tax over an eight-year period.

Increases the alternative minimum tax (AMT) exemption amount to \$44,000 (married joint filers) by 2006 and phases out the adjusted gross income threshold on AMT deduction of charitable contributions.

Provides that for purposes of the Minnesota corporate franchise tax, losses from lease-in/lease-out (LILO) or sale-in/lease-out (SILO) tax shelter type transactions cannot be used to reduce a corporation's other income, such as its operating or investment income.

Exempts publicly traded partnerships from the requirement that the partnership withhold Minnesota tax on the nonresident partners' distributions.

- 1 Filing requirements; military personnel. Provides that military compensation qualifying for the new subtraction under section 0 is ignored in determining the filing requirement. Thus, a member of the military whose other Minnesota source income—beside military pay that qualifies for the subtraction—is below the filing requirement would not be required to file a Minnesota return. This will avoid requiring these individuals to file a tax return as a result of the subtraction.
- 2 Tax refund or return preparer; definition. Excludes nonprofit charitable organizations and individuals hired by such organizations for the purpose of preparing tax returns from the definition of tax refund or return preparer. Tax preparers who prepared more than 100 returns in the previous calendar year are required to file all current-year returns electronically, and are subject to a \$5 filing fee for each paper return filed. The definition change proposed would exempt nonprofit charitable organizations from the electronic filing requirement and the paper filing fee. Effective beginning with tax year 2004 returns.
- 3 Nonresident. Removes military personnel in active service outside Minnesota from the definition of nonresident. These individuals are provided with a subtraction in place of nonresident treatment in section 0.
- 4 Subtractions from federal taxable income. Allows three new income tax subtractions and

modifies an existing subtraction.

Organ donor subtraction. Allows an income tax subtraction of up to \$10,000 for travel, lodging, and lost wages (net of sick pay) related to human organ donation for transplantation by a living donor. Allows the subtraction for donation of all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow.

Limits the proposed subtraction to expenses not deducted under the federal medical expense deduction, which flows through to Minnesota taxable income. The federal medical expense deduction is only allowed for expenses that exceed 7.5 percent of an individual's adjusted gross income. Clarifies that organ donation expenses are considered to be the first expenses counted in determining the amount allowed under the federal deduction, as a result maximizing the amount of expenses that may be claimed under the proposed state subtraction. Effective beginning in tax year 2004.

Military pay subtraction - service in Minnesota. Allows an income tax subtraction to members of the national guard or reserves for compensation paid while on active service in Minnesota, whether funded by the state or federal government. The subtraction does not apply to regular training or drill pay. Effective beginning in tax year 2004.

Military pay subtraction - service outside of Minnesota. Allows an income tax subtraction for members of the military in active service outside Minnesota. This subtraction replaces current law treatment of these individuals, which deems them to be nonresidents during the time they are outside Minnesota.

Bonus depreciation subtraction. Allows an S corporation that converts from a C corporation to claim the subtraction for a bonus depreciation add-back in the five years following the add-back. Current law allows both C and S corporations to subtract the amount added back in the five years following the year of the add-back, but does not provide for the subtraction to follow a C corporation that converts to an S corporation.

5 Corporation add-back. Requires corporations to add to federal taxable income for corporate franchise tax purposes the excess of the deductions over income from lease-in/lease-out (LILO) or sale-in/lease-out (SILO) transactions.

These LILO or SILO arrangements typically involve simultaneous lease transactions (or sale and lease transactions) between a taxable entity and a tax exempt entity (such as a local transit system or city water system). The properties that are involved are already owned by the tax exempt entity and the legal and financial arrangements provide it will continue to operate and maintain the property largely as it has in the past for a substantial period of time. The taxable lessor typically takes on few, if any, real risks of equity ownership of the property. In return for engaging in the transaction, the tax exempt entity receives a fee that represents a small part of the financial benefits of the tax benefits to the private, taxable entities.

6 Corporate subtraction. Allows a carryover subtraction for disallowed deductions in prior years from LILO and SILO transactions to the extent the properties generate income for the taxpayer.

7 K-12 education credit. Allows taxpayers to distribute the benefits of the \$2,000 family cap under the K-12 education credit among their children. Thus, a family with two qualifying children and expenditures of \$1,500 on one child and \$300 on the other child, could claim a credit for the full \$1,800 in expenditures. Under present law, the credit would be limited to

\$1,300 (\$1,000 for the one child and \$300 for the second).

8 Tax exempt property; limits on tax benefits. Defines terms:

- Tax exempt use property means property that is subject to the special lease rules under the Internal Revenue Code (often referred to as the Pickle rules) where a tax exempt entity is the lessee, plus the exemptions from these rules for (1) foreign persons and (2) high technology equipment do not apply. Generally, this category includes property that is leased to a tax exempt entity (e.g., a political subdivision or a 501(c)(3) corporation) that doesn't pay tax and, therefore, cannot benefit from the depreciation or other tax benefits associated with the property.
- Taxpayer means a corporation subject to the Minnesota corporate franchise tax that is claiming the deduction on the federal income tax return and any member of its unitary group.

A taxpayer is required to add back the amount (for the taxable year) that its deductions from tax exempt use property exceed its income from tax exempt use properties (e.g., the payments under the lease). This approach, in essence, imposes a passive loss limitation type rule: for example, it would not allow a corporation to use depreciation deductions from property leased to a local government (that qualifies under the Pickle rules as tax exempt property) to reduce its operating income (e.g., the profit it makes from manufacturing and selling widgets).

These disallowed deductions are not "lost" but are carried over to later taxable years, when the corporation has sufficient income from tax exempt use property. However, if a property stops being tax exempt use property, the carryover deductions for that property are limited to the income from it (e.g., gain realized on the sale or other payments). Any amount that cannot be used is, then, lost (i.e., it cannot be used to offset income from other tax exempt use properties). In general, the taxpayer can use the carryover deductions to reduce the gain on the sale tax exempt use property. These changes are effective for tax year 2004 and apply to leases entered into after the February 5, 2004.

9 Alternative minimum tax subtraction. Makes two changes

Phases out the adjusted gross income (AGI) threshold for subtraction of charitable contributions over three years, with contributions in excess of 0.25% of AGI in tax year 2004 allowed as a subtraction from alternative minimum taxable income, and contributions in excess of 0.1% allowed as a subtraction in tax year 2005. In tax year 2006 and following years the full amount of charitable contributions will be allowed as a subtraction. Under current law, subtractions in excess of 1% of AGI may be subtracted.

Provides an alternative minimum tax (AMT) subtraction equal to the subtractions for organ donor expenses, national guard pay, and military pay for service outside of Minnesota in section 0. This prevents individuals claiming these subtractions from shifting from the regular tax to the AMT.

10 Alternative minimum tax exemption amount. Increases the AMT exemption amount over a three-year period. The exemption for married joint filers would increase to \$41,000 in tax year 2004, and \$42,000 in tax year 2005, and \$44,000 in tax year 2006 under the proposal, with the exemption amounts for other filing statuses adjusted accordingly. Provides for the

exemption to be indexed annually for inflation beginning in tax year 2007. Under current law the exemption equals \$40,000 for married joint filers, \$20,000 for married separate filers, and \$30,000 for unmarried filers.

11 Foreign operating corporations (FOC). Provides the commissioner of revenue with explicit power to disqualify a foreign operating corporations because:

- It has no substantial business purpose other than the reduction of tax
- It has a significant number of transactions that lack economic substance
- Its income, on a multi-year basis, is predominantly from domestic operations and sources

In addition, the commissioner can disallow individual transactions involving an FOC on the basis of lack of economic substance or lack of a substantial business purpose, other than the reduction of taxes.

A 15-percent surtax applies to the increased tax resulting from orders under this authority. Since this is a surtax, additional penalties and interest (from the date of the order) would apply to it. The commissioner's authority is effective 1/1/2005 and applies beginning for tax year 2004. The appropriations section of the miscellaneous article appropriates \$800,000 per year to the Department of Revenue to administer and enforce this provision.

12 Phase-in of single sales apportionment. Replaces the present weighted apportionment formula with single sales apportionment over an 8-year period. The table below shows the phase-in.

<b>Tax year</b>	<b>Sales factor</b>	<b>Property factor</b>	<b>Payroll factor</b>
<b>Present law</b>	75%	12.5%	12.5%
<b>2005</b>	78%	11%	11%
<b>2006</b>	81%	9.5%	9.5%
<b>2007</b>	84%	8%	8%
<b>2008</b>	87%	6.5%	6.5%
<b>2009</b>	90%	5%	5%
<b>2010</b>	93%	3.5%	3.5%
<b>2011</b>	96%	2%	2%
<b>2012 and later</b>	100%	0	0

13 Apportionment, financial institutions. Adopts the same phase-in formula of single sales for financial institutions as is provided under section 0.

14 Sales factor; corporate franchise tax. Excludes from Minnesota sales any lease payments received for tax exempt property under lease-in/lease-out (LILO) or sale-in/lease-out (SILO) transactions.

15 Receipt factor; corporate franchise tax; financial institutions. Excludes from Minnesota receipts any lease payments received for tax exempt property under lease-in/lease-out (LILO) or sale-in/lease-out (SILO) transactions.

16 Property factor; corporate franchise tax. Excludes from Minnesota property tax exempt held under a lease-in/lease-out (LILO) or sale-in/lease-out (SILO) transaction.

17 Property factor; corporate franchise tax; financial institutions. Excludes from Minnesota property factor, tax exempt property held under a lease-in/lease-out (LILO) or sale-in/lease-out (SILO) transaction.

18 Withholding by partnerships. Exempts publicly traded partnerships from the requirement that

the partnership withhold Minnesota income tax on income shares distributed to nonresident partners when the amount assignable to Minnesota exceeds \$1,000. Publicly traded partnerships are defined by reference to federal law, which defines them as partnerships whose interests trade on an established securities market (e.g., the New York Stock Exchange or the NASDAQ) or are readily tradable on a secondary market. Under federal law, many of these entities are taxed as corporations (i.e., they are subject to an entity level tax, not flow through taxation of the partners), not as partnerships. This exemption would not affect entities taxed as corporations, since the withholding requirement applies only to entities taxed as partnerships.

Effective date : Beginning for tax year 2004.

- 19 Apportionment, occupation tax nonferrous metals. Provides that the occupation tax on non-iron ores will continue to be apportioned using the 75%-12.5%-12.5% apportionment formula.
- 20 Apportionment, occupation tax on taconite and iron ore. Provides that the occupation tax on taconite and iron ores will continue to be apportioned using the 75%-12.5%-12.5% apportionment formula. Since all of these sales are non-Minnesota sales (i.e., the steel plants are all located outside of Minnesota), single sales apportionment would effectively eliminate the occupation tax.
- 21 Refunds IRA and pension distributions. Authorizes the commissioner of revenue to pay refunds to taxpayers who paid Minnesota tax on their early 1980s IRA, Keogh, SEP, or pension contributions, but were not residents of Minnesota in the two tax years (2000 and 2001) in which these contributions were allowed to be deducted. The commissioner may pay refunds equal to the tax paid on the distributions in tax years 2002-04 that would have qualified for the subtraction, if the individual had been a resident in 2001.

## Article 2: Federal Update

### Overview

Updates references to Internal Revenue Code for purposes of the income and franchise taxes, property tax refund, and general tax administration to adopt federal changes made in the Military Family Tax Relief Act of 2003 and the health savings accounts provisions of the Medicare Prescription Drug, Improvement and Modernization Act of 2003. These changes were enacted since the last update to June 15, 2003, which occurred in chapter 21 of the 2003 special session.

Changes to the Internal Revenue Code that affect Minnesota are:

- various exclusions for benefits to members of the military and their survivors; and
- exclusion of contributions to health savings accounts (HSAs) and also of HSA distributions used for medical expenses

Provides an addition to taxable income and alternative minimum taxable income for both individuals and corporations for federal subsidies paid to employers who provide medical coverage for retirees. These subsidies are excluded at the federal level under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and are first scheduled to be paid beginning in 2006.

- 1 Federal update; administrative. Updates the administrative chapter Internal Revenue Code reference to federal changes through April 10, 2004.
- 2 Net income. Conforms to federal changes to the definition of net income. Three federal laws enacted since the 2003 legislative session affected the definition of net income.

The Military Family Tax Relief Act of 2003 :

- Increases the exclusion from taxable income of the death gratuity benefit paid to survivors of member of the military who is killed in the line of duty that is excluded from \$3,000 to \$12,000 (also increased the benefit from \$6,000 to \$12,000). Effective for deaths after September 10, 2001.
- Excludes from taxable income the cost of dependent care assistance provided by the military to a service member. Effective beginning in tax year 2003.
- Excludes from taxable income payments from the Department of Defense Homeowner Assistance program to members of the military to offset the adverse effects of military base closings on housing values. Effective for payments made after November 11, 2003.
- Suspends the running of the five-year period for purposes of meeting the two out of five year "use of house as principal residence" test used to qualify for the exclusion of the gain on sale of the residence for up to 10 years for members of the military on official extended duty. Effective for sales after May 6, 1997.

- Provides a deduction for unreimbursed travel, meal, and lodging expenses of members of the national guard and reserves when they travel at least 100 miles and must stay overnight to attend a guard or reserve meeting. Effective beginning in tax year 2003.
- Exempts astronauts who lose their life on a space mission from income tax. Effective for deaths after December 31, 2002.

The Medicare Prescription Drug, Improvement and Modernization Act of 2003:

- Allows the deduction of contributions to a health savings account for individuals with high-deductible medical health plan coverage. The maximum deduction is \$2,250 for individuals with self-only coverage and \$4,500 for individuals with family coverage. The maximum deduction is \$500 higher for individuals age 55 or older, and is increased by an additional \$100 per year until tax year 2009, when it will be \$1,000 higher than the maximum deduction for individuals under age 55. "High-deductible" plan is defined as having an annual deductible of at least \$1,000 for self-only coverage and \$2,000 for family coverage, and having a maximum combined deductible and out-of-pocket expense requirement of at most \$5,000 for self-only coverage and \$10,000 for family coverage. Earnings on amounts contributed to HSAs are tax-exempt. Distributions from HSAs are tax-exempt if used for medical expenses. Effective beginning in tax year 2004.
- Exempts federal subsidies paid to employers who provide medical coverage for retirees. Provides for federal subsidies to be paid beginning in 2006.

PL108-218, amending the Employee Retirement Income Security Act (ERISA) of 1974:

- Temporarily reduces pension plan funding requirements for certain employers
- 3 Additions to taxable income; individuals. Provides an individual income tax addition for federal subsidies paid to employers who provide medical coverage for retirees. These subsidies are excluded at the federal level under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and are first scheduled to be paid beginning in 2006.
- 4 Subtractions from taxable income. Allows a subtraction for military pay received by members of the military stationed in Minnesota but domiciled in another state. Current law provides for these individuals to calculate their tax based on total taxable income and then apportion the result based on the ratio of Minnesota source income to taxable income. Public Law 108-189 revised the Soldiers' and Sailors' Civil Relief Act of 1940 to require states to allow a subtraction for nonresident active service members of the military rather than apportioning tax. The Department of Revenue is complying with this change to federal law.
- 5 Additions to taxable income; corporations. Provides a corporate franchise tax addition for federal subsidies paid to employers who provide medical coverage for retirees. These subsidies are excluded at the federal level under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and are first scheduled to be paid beginning in 2006.

- 6 Income tax definitions. Updates the income tax chapter Internal Revenue Code reference to federal changes made through April 10, 2004. The effect of this would be to allow the exclusion of all the Military Family Tax Relief Act items and HSA contributions as well as distributions used for medical expenses from Minnesota's alternative minimum tax, and to allow the deduction of national guard and reserve travel expenses and HSA contributions from household income used to determine eligibility for the dependent care credit, and K-12 education credit. The remaining Military Family Tax Relief Act items and distributions from HSAs would be included in household income.
- 7 Nonresident ratio. Adjusts the nonresident ratio used in apportioning tax to Minnesota for the subtraction for military pay received by members of the military stationed in Minnesota but domiciled in another state that is required under federal law.
- 8 Alternative minimum taxable income; individuals. Includes in individual alternative minimum taxable income federal subsidies paid to employers who provide medical coverage for retirees. These subsidies are excluded at the federal level under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and are first scheduled to be paid beginning in 2006.
- 9 Alternative minimum taxable income; corporations. Includes in corporate alternative minimum taxable income federal subsidies paid to employers who provide medical coverage for retirees. These subsidies are excluded at the federal level under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 and are first scheduled to be paid beginning in 2006.
- 10 Federal update; property tax refund. Updates the property tax refund chapter Internal Revenue Code reference to federal changes through April 10, 2004. This conforms the property tax refund to changes in the definition of net income. The effect is to exclude national guard and reserve travel expenses and HSA contributions from household income used to determine eligibility for the property tax refund for homeowners and renters. The remaining Military Family Tax Relief Act items and distributions from HSAs would be included in household income.
- 11 Federal update; estate tax. Conforms Minnesota's estate tax to a federal change exempting the estate of astronauts who die on a space mission. Effective for deaths after January 31, 2003.

## Article 3: Property Taxes

### Overview

Makes various property tax changes and clarifications, grants certain property tax exemptions, and requires a PTR study. They include:

- providing a property tax exemption for the homestead of a military veteran with a total and permanent service-connected disability, or the veterans surviving spouse;
- increasing payments in lieu of taxes for land utilization project (LUP) land and providing a PILT on land owned by a state agency for military purposes (Camp Ripley);
- providing a property tax exemption for several specific new or expanded electric generation facilities, and a general exemption for all future new generation facilities and expansions of existing facilities, with local approval;
- extending limited market value (LMV) to class 1c resort property;
- providing for a study of property taxes as a percentage of rent paid, for purposes of the property tax refund program; and
- increasing the agricultural production income requirement for property to qualify for the Green Acres program. Effective for assessment year 2005, payable 2006 and thereafter.

- 1 PILT payment; game refuge. Provides an annual PILT payment for land owned by another state agency for military purposes and managed by the commissioner of natural resources as a game refuge. The only qualifying game refuge is the property at Camp Ripley (Morrison County). The calculation for determining the payment is 50 percent of the amount for acquired natural resource property. For aids paid in 2005 (fiscal year 2006), the amount will be about \$1.96 per acre. Effective for aids paid in calendar year 2005 and thereafter.
- 2 Emergency medical services special taxing district. Delays by one year, the required reports by the emergency medical services special taxing district. The date for the first report changes from March 15, 2005, to March 15, 2006. The date for the second report changes from March 15, 2007, to March 15, 2008.
- 3 Wind energy conversion systems. Provides that the value of the land on which the wind energy system (i.e., tower) is located, shall be valued in the same manner as the surrounding land. Further provides that the land shall be classified based on the most probable use of the property if it were not improved with a wind energy conversion system. Effective for the 2004 assessment, taxes payable in 2005 and thereafter.
- 4 Electric generation facility exemption; poultry litter biomass facility; Benson. Extends the time limit for beginning construction of a poultry litter biomass generation facility from December 31, 2003, to December 31, 2004. The personal property exemption for this poultry litter biomass generation facility was originally enacted in 2001, with a December 31, 2002, time limit. In 2003 that limit was extended to December 31, 2003. Effective for taxes levied

in 2004, payable in 2005, and thereafter.

5 Electric generation facility personal property; Mankato. Modifies a 2003 law granting an exemption for the attached machinery and other personal property of a proposed generation facility in Mankato by (a) decreasing the output requirement of the proposed facility from 550 megawatts to 300 megawatts, and (b) providing that personal property resulting from a future expansion of the facility will also be exempt, without regard to when the expansion occurs. The 2003 law did not address any expansion of the facility. Effective for taxes levied in 2005, payable in 2006, and thereafter.

6 Electric generation facility personal property; Shakopee. (a) Exempts attached machinery and other personal property which is part of a simple-cycle, combustion-turbine electric generation facility that exceeds 300 megawatts of installed capacity, that at the time of construction:

- is designed to utilize natural gas as a primary fuel;
- is owned by a public utility as defined in section 216B.02, subd. 4, and be located at or interconnected with an existing generating plant of the utility;
- is designed to provide peaking, emergency backup, or contingency services;
- satisfies a resource need identified in an approved integrated resource plan filed under section 216B.2422 (renewable energy);and
- has received approval from city and county.

(b) Provides that construction of the facility must commence between January 1, 2004, and January 1, 2006. The exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. Effective for assessment year 2005, taxes payable in 2006, and thereafter.

7 Electric generation facility personal property; Cannon Falls. (a) Exempts attached machinery and other personal property which is part of a proposed simple-cycle combustion-turbine electric generation facility that exceeds 290 megawatts of installed capacity, that at the time of construction:

- is designed to utilize natural gas as a primary fuel;
- is not owned by a public utility as defined in section 216B.02, subd. 4;
- is located within five miles of an existing natural gas pipeline and within five miles of an existing electrical transmission substation;
- is located outside of the seven county metropolitan area;
- is designed to provide peaking capacity energy and ancillary services and have satisfied the certificate of need requirements; and
- has received the approval from county, city, and school district.

(b) Provides that construction of the facility must commence between January 1, 2005, and

January 1, 2009. The exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. Effective for assessment year 2006, taxes payable in 2007, and thereafter.

8 Electric generation facility personal property; Faribault. (a) Exempts attached machinery and other personal property which is part of an electric generation facility that exceeds 150 megawatts of installed capacity, that at the time of construction, is:

- designed to utilize natural gas as a primary fuel;
- owned and operated by a municipal power agency as defined in section 453.52, subdivision 8;
- has received the certificate of need under section 216B.243;
- located outside the seven county metropolitan area; and
- designed to be a combined-cycle facility, although initially the facility will be operated as a simple-cycle combustion turbine.

(b) Provides that to qualify for the exemption, an agreement must be negotiated between the municipal power agency and the host city for a payment in lieu of property taxes to the host city.

(c) Provides that construction of the facility must commence between January 1, 2004, and January 1, 2006. The exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. Effective for assessment year 2005, taxes payable in 2006, and thereafter.

9 Electric generation facility personal property; Minneapolis. (a) Exempts attached machinery and other personal property which is part of an electric generation facility of up to 30 megawatts of installed capacity, that, at the time of construction:

- is designed to utilize a minimum 90 percent waste biomass as fuel;
- is not owned by a public utility as defined in section 216B.02, subd. 4;
- is located in a city of the first class and its primary location will be at a former garbage transfer station; and
- is designed to have capability to provide baseload energy and district heating.

(b) Provides that construction of facility must commence between January 1, 2004, and January 1, 2008. The exemption does not include electric transmission lines and interconnections or gas pipelines and interconnections appurtenant to the property or the facility. Effective for assessment year 2005, taxes payable in 2006, and thereafter.

10 Electric generation facility personal property; Cottage Grove. (a) Exempts the attached machinery and other personal property which is part of either (i) a simple-cycle, combustion-turbine electric generation facility that produces at least 150 megawatts of power, or (ii) a combined-cycle, combustion-turbine electric generation facility that produces at least 225

megawatts of power, and that, at the time of construction, is:

- (1) designed to utilize natural gas as a primary fuel;
- (2) not owned by a public utility;
- (3) located in a metro county with a population between 190,000 and 225,000, and within one mile of both an existing natural gas pipeline and an existing electrical transmission substation; and
- (4) designed to provide energy and ancillary services and has received a certificate of need under section 216B.243.

The proposal would exempt an expansion of the current Cogentrix plant in the City of Cottage Grove, Washington County.

(b) Construction of the facility must commence between January 1, 2005, and January 1, 2008. Property eligible for this exemption does not include electric transmission lines and interconnections appurtenant to the property or the facility. Effective for assessment year 2005, taxes payable in 2006, and thereafter.

- 11 Homestead of disabled veteran or surviving spouse; exemption. Provides a total property tax exemption for the homestead of a military veteran who has sustained a total and permanent service-connected disability. Provides that the exemption shall carry over to the spouse if the disabled veteran predeceases her/him, as long as the spouse continues to homestead the property and does not remarry. Effective for assessment year 2004, taxes payable in 2005, and thereafter.
- 12 Border cities development zone. Provides that the property tax exemption for a property in a border cities development zone may be for a period less than the duration of the zone designation. Effective for development agreements approved the day following final enactment.
- 13 Border cities; may limit benefits. Provides that a city may limit the property tax exemption for a property in a border cities development zone to (a) a time period less than the duration of the zone designation, or (b) a portion of the property tax, or both. Effective for development agreements approved the day following final enactment.
- 14 Personal property tax exemption; electric generating plants.

Subd. 1. New electric generating plants. Exempts personal property of electric generating plants built after January 1, 2004, if a siting agreement signed by the utility and the host county and city or town is filed with the commissioner.

Subd. 2. Existing plants with increase in nameplate capacity. Provides a partial exemption for existing electric generating plants that increase nameplate capacity after final enactment. Requires a siting agreement signed by the utility and the host county and city or town to be filed with the commissioner. The exemption amount is calculated by multiplying the personal property value of the plant by the ratio of the increase in capacity to its total capacity.

Subd. 3. In-lieu payments; limitation. Provides that if in-lieu payments or service fees have been negotiated between the facility and the host county, city or town, the payment or fee may not exceed the amount of property tax revenue that the jurisdiction

would have derived from the facility if it were not exempt.

Subd. 4. Definitions. Defines "personal property" as tools, implements, and machinery of the generating plant. The exemption does not apply to transformers, transmission lines, distribution lines, and substations.

- 15 Reports; wind energy conversion systems. Advances the date by one month by which each owner of a wind energy conversion system must file an annual report detailing wind energy production from March 1 to February 1. Also advances the date from March 31 to February 28, by which the commissioner of revenue must notify the owners of the wind energy conversion systems of the amount of tax due to each county, and notify each county of the amount of tax due from each of the wind property owners in their county. Effective for taxes payable in 2005 and thereafter.
- 16 Distribution of revenues; wind energy production tax. Provides that the auditor/treasurer will distribute the wind energy production tax amounts based on the previous year's local tax rates, rather than on the current year's local tax rates. Also clarifies that the distribution is to be made only to local taxing districts (i.e., not to the state). Effective for taxes payable in 2004 and thereafter.
- 17 Limited market value; class 1c resorts. Extends limited market value (LMV) to class 1c resort property, and provides that in the initial year (i.e., assessment year 2004) the method of calculating the LMV of the resort property uses a modified formula as provided in section 0.

Defines class 1c resort property as the portion of the property that is classified 1a or 1b homestead, the portion of the property classified 1c, plus any remaining portion of the resort that is classified as 4c (this excludes any portion of the resort that is classified commercial, such as the gift shop, restaurant, etc.). Effective for assessment year 2004 through 2006, taxes payable 2005 through 2007.

- 18 Class 1c resorts; LMV 2004 assessment. Provides that for assessment year 2004 (taxes payable in 2005), the valuation increase on class 1c resort property shall not exceed the greater of (1) 15 percent of the value of its 2002 assessment, or (2) 25 percent of the difference in value between its 2004 assessment and its 2002 assessment.

This one-year modification of the schedule allows resort property that increased significantly between the 2002 and 2003 assessment to get relief from some of that increase when determining limited market value for 2004.

- 19 Agricultural production income; "green acres" law. Increases the agricultural production income requirement for property to be eligible for "green acres" treatment, from a total agricultural production income, including rental income, of \$300 plus \$10 per acre to \$500 plus \$50 per acre. Effective for assessment year 2005, taxes payable in 2006 and thereafter.
- 20 Residential property; day care. Provides that if day care is provided on residential property that is the permanent residence of the operator of the day care service, the day care use must be disregarded in determining the classification of the property. Defines day care to mean licensed family day care or adult family day care, or certain day care lawfully provided without a license. Effective for assessment year 2004, taxes payable in 2005 and thereafter.
- 21 Class 1. Provides that the homestead of a permanently and totally disabled veteran will no longer qualify for the reduced class rate under class 1b, since those homesteads are totally exempted in section 0.
- 22 Vacant commercial-industrial properties; border cities. Authorizes cities to establish programs to revoke the eligibility of certain commercial-industrial properties to receive disparity reduction credit (the credit is only available to properties in the cities of

Breckenridge, Dilworth, East Grand Forks, and Moorhead).

Subd. 1. Authority. Authorizes a city to establish, by ordinance, a program to encourage redevelopment, provide for better utilization of commercial or industrial property, and eliminate blighting influences by revoking a commercial or industrial property's eligibility to receive disparity reduction credit. Provides that a property's eligibility may be revoked under the program only if the property has been vacant, as defined in subdivision 3, clauses (1) to (3), for three or more years prior to the current assessment year, or under subdivision 3, clause (4), for five or more consecutive years prior to the current assessment year.

Subd. 2. Minimum requirements. Requires the program to provide:

- standards for determining whether a property is vacant;
- written assessment notice by the city or county to the property owner informing the owner that the property's credit eligibility will be revoked,
- opportunity for the property owner to appeal the revocation to the board of equalization;
- timely notice to the county assessor that the property's eligibility has been revoked, if a city assessor is responsible for the revocation; and
- any other provisions that the city determines are necessary or appropriate to the operation of the program to achieve its purposes.

Subd. 3. Definition of vacant. Provides that a program established under this section may treat a property as vacant, if for 5 or more years the property is:

- (1) condemned, dangerous, or having multiple building code violations;
- (2) condemned and illegally occupied;
- (3) either occupied or unoccupied, during which time the enforcement officer for the municipality has issued multiple orders to correct nuisance conditions; or
- (4) unoccupied and not utilized for a commercial or industrial purpose.

Subd. 4. Notice to property owner. The municipality shall give notice to the property owner requiring that any of the conditions in subdivision 3, clauses (1) to (3), be remedied, and that the property must be occupied and used for a commercial or industrial purpose for at least 180 days during the next 12-month period, or the property's eligibility for the disparity reduction credit may be revoked. Effective for taxes payable in 2006 and thereafter.

Homestead market value credit; fractional homesteads. Provides that in the case of partial homesteads where one or more of the owners does not reside on the property, the homestead market value credit cannot be greater than the credit that would be determined if the property was fully homesteaded. Effective for taxes payable in 2005 and thereafter.

- 24 Local boards of appeal and equalization; documentation of annual quorum and training requirements. Provides that any city or town that conducts local boards must notify the county assessor by December 1, 2005, and each year thereafter that they are in compliance with the training requirement. Also, clarifies that the proofs of compliance with annual quorum and training requirements that local boards must provide in December of each year, beginning in 2006, refer to compliance in the current year, rather than to compliance in the prior year. Effective the day following final enactment.
- 25 Proposed notices (TnT); Ramsey County library levy. Allows Ramsey County to list the amount of the library levy separately from the remaining county levy on the proposed property tax notices (TnT).
- Sections 0and 0were adopted by the 2003 House/Senate Tax Working Group, but were inadvertently omitted from the legislation enacted. Effective for TnT notices for property taxes levied in 2004, payable in 2005 and thereafter.
- 26 Property tax statements; Ramsey County library levy. Provides that if Ramsey County levies for public library service, the amount attributable for that purpose may be listed separately from the remaining county levy amount on the property tax statement. Effective for property tax statements for taxes payable in 2005 and thereafter.
- 27 Property taxes payable. Provides that the definition of "property taxes payable," for purposes of calculating the homeowner property tax refund ("circuit breaker") and the special property tax refund ("targeting"), includes fees or charges for police and fire services. Specifies that "property taxes payable" does not include charges for capital expenditures related to police and fire services or nuisance charges. Effective for refunds based on taxes payable in 2005 and following years.
- 28 Early payment; property tax refund E-File claims. Provides that the commissioner of revenue may pay a property tax refund claim up to 30 days earlier than the date under current law if the claim was submitted by electronic means. Effective the day following final enactment.
- 29 Total revenue defined. Defines "total revenue" for town spending purposes as property taxes payable in that year as well as revenue from other sources and amounts carried forward from previous years. Clarifies that a town must not spend more than its total revenue without a vote by the electors, rather than its total property taxes.
- 30 Amount voted at town meeting is tax limit. Allows a town to impose a tax as authorized by other laws in addition to those voted on at the annual town meeting (e.g., subordinate service districts, special assessments, etc.).
- 31 Recategorizes land utilization project land. Takes land utilization project (LUP) land out of the "other natural resources land" category. (see next section)
- 32 Land utilization project land. Establishes "land utilization project land" as a separate category.
- 33 PILT payments; LUP land. Increases the PILT for LUP lands to 75 cents/acre, adjusted for inflation. Currently, LUP lands are classified as commissioner-administered "other natural resources land" with in lieu payments of 37.5 cents/acre, adjusted for inflation. For aids paid in calendar year 2005 (the effective date of this change), LUP lands will be receiving about 98.2 cents/acre.
- 34 Certification; LUP land. Requires the Commissioner of Natural Resources to certify to the Commissioner of Revenue each year the number of acres in each county of LUP land.
- 35 General distribution; LUP land. Treats LUP land like "other natural resources land" in determining distribution of payments by the county to organized townships.
- 36 Special assessments; Caponi art park. Provides that if ownership of the Caponi art park property is transferred, any special assessments that have been deferred by the city on the property must be paid in full or a payment agreement may be approved by the city. Requires

that a payment for any special assessments or a payment agreement must be made within 60 days of the transfer of ownership.

37 Recapture; Caponi art park. Allows the Caponi art park property to be transferred to one or more nonprofit foundations or corporations and one or more local governments without paying any of the deferred/additional taxes.

Further provides that if the portion of the property transferred to the nonprofit foundation or corporation is not used as an art park providing the required services for the full 10 years (as required by the legislation granting them the benefits of the "green acres" tax deferral), the county board, with the approval of the city council, shall determine the amount of additional taxes due on that portion of the property no longer utilized as an art park. No interest and penalties may be imposed on these additional taxes provided that they are paid within 30 days of the county's notice.

38 Township levy adjustment for wind production tax; payable 2004 only. Provides that notwithstanding the normal township levy deadlines, towns located in Lincoln and Pipestone county may adjust their payable 2004 levy for all or a portion of their estimated wind energy production tax amounts for 2004, as computed by the commissioner of revenue. The Lincoln and Pipestone county auditors are authorized to make the necessary adjustments for those towns that have recertified their levies by March 15, 2004.

39 Sauk River Watershed District; levy increase. Authorizes the Sauk River Watershed District to levy for its general fund an additional \$100,000 each year, above the basic levy limitation for watershed district's general fund levy. Effective, without local approval, for taxes levied in 2004, payable 2005 and thereafter.

40 Prinsburg school district; special levy authority.

Subd. 1. Board approval. Allows the district to continue to operate provided that: (1) the board adopts an annual resolution by May 1 declaring its intent to operate for the following school year; (2) the board adopts an annual budget showing that after 2005 it will not return to statutory operating debt; and (3) the district has passed a referendum levy for the coming school year.

Subd. 2. Determination of outstanding obligations. Provides that prior to exercising levy authority under this section, the boards of the Prinsburg district and the MACCRAY district must mutually agree to the amount of outstanding tuition owed by Prinsburg to MACCRAY. If the districts are unable to reach agreement, the commissioner of education shall determine the amount owed.

Subd. 3. Statutory operating debt. Allows the Prinsburg district to levy the amount necessary to eliminate its negative fund balance over three years, from payable 2005 to payable 2007.

Subd. 4. Annual levy authority. Establishes procedures for the district to approve a referendum levy. The duration of the levy may not exceed five years. The amount approved shall be the amount necessary to eliminate each year's deficit. This levy would not be subject to the property tax recognition shift.

Subd. 5. FY 2005 only. Allows the district to operate in FY 2005 upon passage of the referendum levy required under subdivision 4, without regard to the other requirements of this section.

41 Study; property tax as a percent of rent paid. Directs the commissioner to study and report on

the percent of rent that actually constitutes property tax throughout the state. The study must be based on a survey of rents and property taxes on different classes of property in specified areas of the state. The study must make recommendations on:

- if the percent of rent considered property tax used in determining the renter property tax refund should be changed to more accurately reflect actual rent constituting property tax
- if different percentages should be used for different regions of the state
- if the percentage of rent should be changed to reporting of actual property taxes paid on rental units
- a method for the commissioner to regularly recommend changes in the percentage
- statutory language authorizing the commissioner to regularly adjust the percentage based on survey research.

An appropriation of \$50,000 to the Department of Revenue for this study is in article 9, section 22, subdivision 2.

## **Article 4: Sales and Use Taxes**

### **Overview**

Makes a number of changes to the state sales tax law. The most significant changes include:

- requiring that the total sales tax on certain leased motor vehicles be paid at the start of the lease, rather than at the time of each lease payment;
- expanding the sales tax exemption for the public safety radio communications system to include additional phases over a larger geographic area; and
- changing the definition of industrial production to exclude pipeline transportation from both the inputs to industrial production and the capital equipment exemptions.

It also requires that, beginning in 2005, state agencies and the legislature only contract with vendors and affiliates that are registered to collect the Minnesota sales tax.

- 1 Contracts with foreign vendors. Requires state agencies and the legislature to only contract for goods and services from a vendor, or its affiliate, that is registered to collect the Minnesota sales tax. Purchases by state colleges and universities, the courts, and agencies of the judicial branch are not subject to this provision. Beginning January 1, 2005, sellers offered a purchase contract must certify that they are registered to collect the state sales tax and a contract may be declared void if the certification is false. Purchases by a state agency

or the legislature are exempted from this provision in an emergency or if the vendor is the sole source of the good or service.

2 Retail sale. Excludes leases of motor vehicle with a gross weight rate of 10,000 or less from the provision that treats each lease payment as a separate retail sale. This exclusion does not apply to vehicle rentals of no more than 28 days. The total amount of sales tax owed on a motor vehicle lease would be calculated and due at the time the lease is consummated under section 0 or when the vehicle is registered in Minnesota under section 0. Effective for leases entered into after June 30, 2004.

3 Motor vehicle lease price. States that the sales tax on the total lease of a motor vehicle is due at the time the lease is consummated, or if the lease is assigned to a third party, at the time the lease is assigned. The tax is calculated based on the total amount to be paid under the lease, but excludes title and registration fees and insurance which are currently excluded from the tax when paid upfront at the beginning of a lease. It also excluded interest paid on the tax if the tax is capitalized into the lease payment. If certain payment amounts under the lease agreement are not known at the time the lease is signed, the sales tax on those payments is due when the amounts are billed. For open-ended leases the payment is due upfront on the amount paid under the initial term of the lease, with additional payments due for the entire renewal period at the start of each renewal. Effective for leases entered into after June 30, 2004.

4 Sales tax, definition of PRT. Defines "personal rapid transit system" to mean a system:

- using computer controlled vehicles, providing on-demand, nonstop service for 1 to 3 passengers on a network of elevated guideways;
- providing service to the public on a regular and continuing basis; and
- operated without government subsidies, except for reduced borrowing or capital costs, due to government bonds, direct loans, or similar financial assistance provided by a state or local government.

This definition applies to the tax exemptions authorized in sections 0 and 0 and is effective for sales and purchases after June 30, 2004.

5 Lease of motor vehicles. Provides that when a leased motor vehicle that is subject to the upfront sales tax payment, is brought into the state and required to be registered in Minnesota in mid-lease, the total sales tax on the remaining lease payments is due at the time of registration. A credit is provided for any taxes already paid on these lease amounts to another state. Effective for vehicles registering in Minnesota after June 30, 2004

6 Cigarettes. Exempts cigarettes from the retail sales tax. The equivalent tax will now be collected at the wholesale level under Article 5. Effective beginning with purchases made after July 31, 2004.

7 Materials consumed in industrial production. States that for purpose of this exemption, industrial production does not include transportation, transmission, or distribution of petroleum, gas, water, or steam. This overturns the Minnesota Supreme Court ruling in *Great Lakes Gas Transmission, L.P. v. Commissioner*, 638 N.W.2d 435 (Minn. 2002). Effective for purchases made after June 30, 2004.

8 Capital equipment. States that for purpose of this exemption, industrial production does not include transportation, transmission, or distribution of petroleum, gas, water, or steam. However, machinery and equipment used to blend petroleum or biodiesel fuel are still exempt. This is consistent with the change in the definition of industrial production contained in section 0. Effective for purchases made after June 30, 2004.

9 Sales tax, PRT operations. Exempts purchases to operate a PRT system, as defined in section 0. Types of purchases that qualify for the exemption include equipment, machinery, and supplies for:

- Vehicles, guideways, and related parts
- Computers and equipment used to control the system
- Machinery and equipment for the stations
- Machinery, equipment, and supplies used to maintain vehicles, guideways, and stations
- Electricity and other fuels used to operate the system, including those for heating, cooling, and lighting.

The exemption does not apply to purchases for non-production purposes (e.g., office furniture and supplies for the administrative offices of the PRT). Effective for sales and purchases after June 30, 2004.

10 Sales tax; public safety radio. Amends the sales tax exemption for public safety radio communications system product and service purchases within the metropolitan area by repealing the sunset date and expanding the exemption from purchases in the seven county metro area to include purchases in the following counties and state patrol districts:

- all counties in the eastern and western metro districts (adds Chisago and Isanti counties);
- Benton, Sherburne, Stearns, and Wright counties in the central district; and
- all counties in the southeast district.

Removal of the phrase "backbone system" and adding "regionwide or statewide" extends the exemption to purchases for all three phases of the system development; current law is limited to first phase purchases. Effective the day after final enactment.

11 Sales tax; meals donated by nonprofits. Provides an explicit sales tax exemption for meals donated to certain nonprofit organizations for fundraising purposes. The qualifying nonprofits include organizations operated exclusively for charitable, religious, or educational purposes, or to senior citizen groups. Effective for donations made after June 30, 2004.

Under current law, the non-profit organization does not owe sales tax on food that is provided for free, however the food provider owes use tax on the "extras" such as napkins, take-out containers, disposable silverware, and cups that may accompany the food. The use tax is owed because the food provider paid no tax when purchasing these items due to the "sale for resale" exemption. Exempting donated meals would mean that the food provider would not owe use tax on these ancillary items.

12 Sales tax, capital equipment. Exempts purchases used to construct a PRT system, as defined in section 0, from the sales tax. Effective for sales and purchases after June 30, 2004, however, the exemption expires three years after construction of a PRT training and safety

certification facility.

- 13 Sales tax permit; flea markets and craft fairs. Allows a seller at a flea market, craft fair, or similar event to provide the operator with a statement indicating that the seller meets the following criteria:

- only participates in one event per calendar year;
- will participate in the event for three or fewer days; and
- will make less than \$500 in total sales at the event.

The statement must also include the name, address, and phone number of the seller. A seller providing such a statement is not required to hold a sales tax permit. Current law requires all participants in flea markets, craft fairs, and similar events to either hold a sales tax permit or certify that they are only selling tax-exempt items. Effective for events occurring after June 15, 2003.

- 14 Occasional sales exemption. Extends the occasional sales exemption to sellers at flea markets, craft fairs, and similar events that provide a statement, as described in section 0, to the event operator. Under current law, sellers are exempt from collecting sales tax on isolated and occasional sales not made in the course of business, but this exemption does not apply to sellers participating in flea markets, craft fairs, and similar events. Effective for events occurring after June 15, 2003.

- 15 Uses of local sales tax; Rochester. Retains the \$20 million limit on spending for facilities for student and community use but

- allows the facilities to be located away from the Rochester center, and
- does not require that the facilities be associated with the recreation and sports center although they must still be higher education facilities.

Under current law, \$20 million of revenues from the Rochester local sales tax may be used to fund a recreation and sports center and associated facilities for student and community use if located at or adjacent to the Rochester center.

- 16 Exclusion; ready to eat meat and seafood. Removes the expiration date on the temporary exclusion for ready-to-eat meat and seafood sold by weight and volume. Although the Streamlined Sales Tax Project (SSTP) definition of prepared food does not allow this exclusion, this will not change the state's status vis-à-vis SSTP because the state has still not adopted certain other law changes needed for full compliance with the SSTP agreement.

In 2001, the legislature adopted a new definition of "prepared food" as one of the initial steps to bring the state into conformity with the SSTP definitions. The new definition moved bakery products, and ready-to-eat meat and seafood sold by weight or volume from the definition of exempt food, to taxable prepared food. SSTP modified the required prepared food definition in the fall of 2001, to allow the exclusion of bakery products but not the ready-to-eat meats. The 2002 Legislature adopted the exclusion for bakery products and also adopted a temporary exclusion for the ready-to-eat meats and seafood. The current exclusion ends after December 31, 2005.

## Article 5: Special Taxes

### Overview

Phases-down the premiums tax on life insurance from two percent to 1.5 percent.

Imposes restrictions on "delivery sales" of tobacco products to ensure that purchasers and recipients of the products are of legal age and that states excise taxes are paid. Imposes civil penalties for violations and authorizes the attorney general to enforce the law.

Reverses the Minnesota Supreme Court decision in *BCBSM, Inc. v. Commissioner of Revenue*, 663 N.W. 2d 531 (Minn. 2003), which held that stop-loss insurance purchased as part of an employer's plan of self-insurance for its employees was exempt from the premium tax on the ground that the stop-loss coverage was not "direct business."

Imposes the sales tax on cigarettes at the wholesale, rather than the retail, level.

- 1 Authority; MinnesotaCare tax. Requires third-party purchasers of health care services to pay MinnesotaCare provider tax expenses transferred to them by health care providers, whether or not the health care provider has chosen to itemize the tax on patient billings. Allows a third-party purchaser that has incorporated the tax in its payment amount to deduct the itemized tax amount from provider payments. Effective January 1, 2005, and applies to actions arising from services provided on or after that date.
- 2 Cigarette tax; out of state retailer. Defines "out-of-state retailer" as a person outside Minnesota who sells cigarettes to consumers in Minnesota.
- 3 Registration; out of state retailer. Requires out-of-state retailers of cigarettes to register with the Department of Revenue.
- 4 Reporting requirements. By the 18<sup>th</sup> of each month, an out-of-state retailer must file with the Department of Revenue a report or copy of an each invoice showing the names and addresses of the purchasers, the brands, and quantities for sales and shipments made in the previous calendar month. Compliance with the federal Jenkins Act reporting requirements satisfies this requirement.
- 5 Cigarettes wholesale tax. Imposes a tax on the sales of cigarettes by distributors to retailers or subjobbers. The tax is equal to 6.5 percent on 112 percent of the distributor's gross invoice price before discounts and including the other state taxes and fees.

The tax is due monthly with the other cigarette and tobacco taxes and is subject to the same administrative provisions. Revenues from this tax will be deposited in the general fund. Effective for sales made on or after August 1, 2004.

- 6 Definition; direct business. Defines "direct business" for purposes of the insurance premiums tax as all insurance other than (1) reinsurance, where one insurance company assumes the risk covered by a policy issued and sold by another insurance company, or (2) self-insurance (i.e., where a non-insurance company assumes or covers its own risks). Insurance companies are defined to include nonprofit health service corporations, health maintenance organizations, and community integrated service networks. These changes will reverse the Minnesota Supreme Court decision in *BCBSM, Inc. v. Commissioner of Revenue*, 663 N.W. 2d 531 (Minn. 2003). This will make the tax treatment of self-insured health plans, which

under ERISA must be exempt from state taxation, and employee health coverage provided by insurers somewhat more equal. The true self-insurance component of plans would remain exempt. Effective for premiums received after June 30, 2004.

7 Mutual property and casualty insurance companies. Provides that the premium tax rate that applies to life insurance written by "small" property and casualty companies is the general rate established under section 0.

8 Life insurance. Phases down the premiums tax rate for life insurance to 1.5 percent in 2009. Under present law, a two percent rate applies. The rate would decrease by one-tenth of one percentage point per year, beginning in 2005. Effective for premiums received after December 31, 2004.

9 Operator; aggregate removal. Modifies the definition of "operator" for purposes of the aggregate removal tax. Provides that operator does not include persons engaged in a transaction in which the aggregate is moved within a project's construction limits to other locations within that same project's construction limits. Effective for aggregate sold, imported, transported, or used from a stockpile after June 30, 2004.

10 Tobacco delivery sales.

Subd. 1. Definitions. Defines terms:

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

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

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

resale or delivery to underage individuals;

- The email address of the purchaser, if the order resulted from an Internet advertisement.

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

Subd. 3. Requirements for shipping a delivery sale. Imposes requirements on sellers making delivery sales of tobacco products:

- It must mark the outside of the package to show the contents are tobacco products, require the signature of an adult, and the name of the seller.
- It must use a delivery service that requires (1) an adult to sign for the deliver and (2) the person signing for the delivery must show government photo identification indicating the person lives at the address in order to receive the package.
- The delivery instructions must clearly indicate these special requirements.

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

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

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

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

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

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

- A fine of up to \$1,000 for the first violation and
- For second or subsequent violations, a fine of up to \$5,000.

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

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

No date is provided; but the section would be effective on August 1, 2004.

11 Floor stocks tax. Imposes a tax on all cigarettes in a retailer's or subjobber's possession at 12:01 am on July 31, 2004. The tax is \$0.27 per pack of 20 for most cigarettes and \$0.54 per pack for cigarettes weighing more than three pounds per thousand. The revenue from this tax is deposited in the general fund.

## **Article 6: Tax Increment Financing**

### **Overview**

This article makes a number of technical and minor policy changes in the tax increment financing law. It repeals the 3-year rule and the market value based income limits that apply to housing districts. It provides the income limits for housing districts for rental housing are the same as those under federal law for tax exempt bond and low income housing credit projects. In addition it includes special law provisions for the following cities:

- New Brighton
- Brooklyn Center
- Robbinsdale
- Wabasha
- Minneapolis NRP

1 Cleanup grants, special duration limit. Repeals the special duration restriction on TIF districts that receive state cleanup grants. Before repeal of the state aid offset, districts and subdistricts established to meet the local match requirement for these state grants were exempt from the state aid offset. However, they were subject to a special duration restriction that required termination of the district when increments equal to three times the cleanup related costs had been received. The 2001 tax act repealed the state aid offset. In response, the 2003 Revisor's bill eliminated the references to the state aid offset, but retained the special duration limit. Since the special duration limit was likely a condition of the state aid offset exemption, this section repeals the duration limit.

2 Housing districts. Repeals the two-tiered set of income limits that have applied to housing districts since the percentage income limits were enacted in 1989. Under present law, the definition of "housing district" limits the amount of market value of the planned development that may be in "other than low and moderate income housing." Minn. Stat. § 469.174, subd.

11 (2002). Section 469.1761 imposes percentage income tests for rental and owner-occupied housing developments. Development authorities have generally administered the law in a way that treats housing that meets the percentage test (i.e., all of the housing units that were used in the denominator when the percentages were computed for the tests) as being "low and moderate-income housing" for the purposes of the market value test. This section eliminates the market value test altogether. The restriction on providing assistance to commercial property is moved to section 469.1761, which contains the income tests. This change is made retroactive back to the 1989 enactment of the percentage income limits, since that is the way the law has been applied.

3 **Definition of increment.** Modifies the definition of increment in three ways:

- Clarifies that the proceeds from the sale or lease of property, purchased in part with increments and in part with other moneys, are tax increments only in the proportion to which the original property tax was purchased with increments.
- Provides that returns or repayments of increment by developers or others are increments. Present law provides this under the developer payment provision (applicable to districts to which the request for certification was made after August 1, 1993). Minn. Stat. § 469.1766. Section Orepeals the developer payment provision. The effective date is tied to the effective date of the original developer payment restrictions (i.e., post-1993 districts).
- Clarifies that market value homestead credit payments are increment. This credit was enacted in the 2001 tax bill and was first paid for taxes payable in 2002. Treating these credits as increments reflects administrative practice and the practice under the old homestead credit (in placed in the 1970s and 1980s). In addition, it is consistent with the economic character of these credits, as essentially a substitute for property taxes.

4 **TIF plan filing.** Requires TIF and development plans to be filed with the Office of the State Auditor in addition to the requirement under present law to file them with the Department of Revenue. Effective for plans required to be filed after June 30, 2004.

5 **Housing districts, use of increments.** Adds a cross reference in the statute that specifies the permitted use of housing district increments to the statute establishing the income limits.

6 **Housing districts, commercial properties.** Limits the size of related commercial developments that may be assisted with housing district increments. Present law imposes a percentage of market value test, described above under section 0. This section substitutes a square footage test, as a simpler and clearer test that avoids the difficulties involved with appraisal or cost accounting under the market value test. Thus, housing district increments may be used to assist both the housing development that meets the income tests under section 469.1761 (i.e., the entire development, not just the income qualified units) and the related commercial or other developments meeting the 20 percent square footage test. Other properties (e.g., market rate housing units or commercial properties) could be included in the district, if they are not assisted with tax increments (i.e., the authority documents that these properties paid for their full cost of development and did not receive a "bargain" on site acquisition, infrastructure or similar costs).

7 **Rental property; income limits.** Eliminates the 50-80 income test for rental properties. Only properties that meet the income test under federal law would qualify (i.e., the 20-50 and 40-60 tests). The 50-80 test allows a development to qualify if 50 percent of the units are occupied by individuals with incomes at or below 80 percent of the area median. For 2004,

80 percent of the area median is \$61,360 for a family of four in the Twins Cities (and various other counties) and \$41,760 in the rural counties that are subject to the lowest income limits.

8 **Cross reference correction.** Corrects a cross reference to the valuation adjustments that result from platting of properties. The erroneous references resulted from legislative changes that moved this language to new subdivisions and changed the time periods for phasing in value increases resulting from platting. The effective date is retroactive to those changes.

9 **Cross reference correction.** Corrects a cross reference in enforcement statute to the excess increment statute. Legislation enacted in 2003 divided the excess increment statute into additional paragraphs and the cross reference in section 469.1771, subdivision 5, was not changed. Effective retroactive to the underlying 2003 change.

10 **Cross reference correction.** Corrects a cross reference in the TIF bonding statute. Legislation enacted in 1988 divided the subdivision limiting the spending of increments into a general subdivision and separate subdivisions by district type. The cross reference in the limit on the use of bonds proceeds was not changed to reflect the separate subdivisions. Effective retroactive to the underlying changes in the cross-referenced statutes.

11 New Brighton, TIF. Amends a 1998 special TIF law for the city of New Brighton to expand the exemptions from the general law rules. Under the present special law, the city is allowed to create redevelopment districts within a defined area with special exemptions from the "pooling" and 5-year restrictions. This section expands the exemptions:

- 5-year rule. The 1998 special law extended the 5-year rule to nine years. This section increases that period to 10 years. The 5-year rule requires the development authority to complete the district's activities within 5 years after approval of the TIF plan. (This can be extended by a reasonable period for expending bond proceeds.)
- Blight test. The section deems a list of parcels to qualify for inclusion in a redevelopment TIF district, regardless of whether they meet the blight test. These parcels, however, are not treated as being occupied by substandard buildings. Thus, their inclusion in the district could not be used to justify (under the percentage tests) including other non-blighted parcels in the district. This change will allow the city to use TIF to collect up to 25 years of increment from these parcels and use the increments for expenditures anywhere in the defined geographic area.

Increment collected from the identified parcels may only be spent on eligible expenses within the area of those parcels or for sewer relocation or road improvements directly caused by the development of the parcels. Effective upon local approval by the city of New Brighton and Ramsey county

12 New Brighton, TIF expiration of authority. Extends by 5 years the authority of the city to create districts in the defined project area for parcels that are released from the development agreement or the development rights are returned to the city. Effective upon local approval by the city of New Brighton and Ramsey county.

13 Brooklyn Center, TIF. Authorizes the city of Brooklyn Center to extend the time to comply with the 5-year rule to 13 years for its TIF district number 3. The 5-year rule requires the development authority to complete the district's development activities within 5 years after approval of the TIF plan. The 1997 Legislature extended the 5-year rule for this district to 10 years. 1997 Minn. Laws 2569, ch. 231, art. 10 § 14. This period expires in December of 2004. Thus, this bill adds three additional years to the period the city has to comply. Effective upon local approval by the city of Brooklyn Center.

14 TIF, city of Robbinsdale. Authorizes the city of Robbinsdale and its EDA to treat on old school building as being structurally substandard for purposes of the blight test. Effective upon local approval by the city of Robbinsdale.

15 TIF, city of Wabasha. Authorizes three exceptions to general law TIF rules for redevelopment district No. 3 in the city of Wabasha:

- Duration extension. The city may extend the duration of the district by three years. Redevelopment districts are subject to a 25-year duration limit.
- 5-year rule. The bill extends the 5-year rule to 10 years. The 5-year rule requires the development authority to complete the district's activities within 5 years after approval of the TIF plan. (This can be extended by a reasonable period for expending bond proceeds.)
- Use of increment. The bill permits the city to expend the proceeds of bonds issued before January 1, 2000, for the National Eagle Center and to use increments from the district to pay the bonds. General law prohibits the use of increments to build municipal buildings, community centers, a commons area of a public park, or facilities used for social and recreational areas (except privately owned conference and meeting facilities). These restrictions were enacted in 1999, but expenditures made under binding contracts or letters of intent entered into before January 1, 2000, were "grandfathered" or exempted from the restrictions. The bonds may not be treated as pre-existing obligations for purposes of the deficit reduction provisions that allow a district extension.

Effective upon local approval by the city of Wabasha; the duration extension requires approval by the county and school, as well as the city.

16 **Repealer.** This section repeals the 3-year rule and the restrictions on developer payments.

- The developer payments provision has effectively been superseded by the definition of increment enacted in 1997 and the changes made in section **Error! Unknown switch argument.** This change is effective retroactive to enactment of the developer payment provision, since the changes in the definition of increment now cover this.
- The 3-year rule requires bonds to be issued, property to be acquired, or public infrastructure to be constructed in the district within 3 years of certification of the district. This restriction can be satisfied in a technical manner (e.g., by issuing a small amount of bonds) and is a trap for the unwary city or development authority. The rule technically requires the activity to occur after the certification, so activity occurring after the request for certification but before the district is actually certified does not qualify. The 4-year rule requires development to occur on each parcel in the district and provides a stronger guarantee of development activity in the district. Therefore, it seemed superfluous to impose both rules. (The 3-year rule was contained in the original 1979 Act, while the 4-year rule was added by the 1982 amendments.) This change is effective the day following final enactment. In addition, the effective date provides that under the 3-year rule any qualifying activity undertaken before certification of the district satisfies the rule for any district.

## Article 7: International Economic Development Zone

### Overview

This article authorizes designation of an international economic development zone within 60 miles of the Minneapolis-St. Paul International Airport. This zone is intended to stimulate development of a regional distribution center that will increase the capacity and capability to handle international air freight. Qualifying businesses operating in the zones are exempt from sales and property taxes, receive a partial corporate franchise tax exemption and a refundable jobs credit for the portion of increased payroll that exceeds \$30,000 per FTE. The tax incentives would have a maximum 8-year duration, except freight forwarders would be subject to a 4-year duration, and would end no later than 2020.

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

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

The exemption applies to the first assessment year after designation of the zone by the commissioner of trade and economic development.

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

3 Payroll and property factor. Provides that the numerator of the property and payroll factor exclude zone property and payroll of a qualified business. This has the effect of providing a partial corporate franchise tax exemption for a multi-state business, since zone property and payroll will not cause more income to be apportioned to and be taxable by Minnesota.

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

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

- Foreign trade zone means a foreign trade zone designated under federal law or an authorized subzone.
- Foreign trade zone authority is Greater Metropolitan Foreign Trade Zone Commission number 119. This is a joint powers organization formed by Hennepin County, Bloomington, Minneapolis, and the Metropolitan Airports Commission. The definition permits other local governments to join the

agreement later.

- International economic development zone means a zone designated designed under section 0.
- Person includes individual, corporations, partnerships, limited liability companies, and any other entity.
- Qualified business means a person that is an international import or export business and that is certified by the authority as furthering the purpose of developing international distribution capacity and capabilities. Businesses (*other than freight forwarders, which qualify even if they only relocate jobs into and do not increase investment in the zone*) that relocate into the zone must:
  - Meet an expansion test by either:
    - Increasing employment by 20 percent in its first full year of zone operations and maintaining that level of employment during the duration of the zone; or
    - Making a capital investment in the zone equal to 10 percent of its gross revenues in the prior year from the portion of the business it relocated to the zone; and
  - Agree in writing to repay the tax benefits, if it does not meet the expansion test.
- Regional distribution center is a distribution center within a foreign trade zone. The center's primary purpose must be to centralize functions necessary to ship freight in international commerce, such as custom and security functions.
- Relocates means moving a Minnesota business operation from outside a zone into a zone or by locating an operation in a zone that supplants employment at an existing Minnesota business operation outside the zone. It does not include an expansion that does not replace or supplant another Minnesota operation.
- International economic development zone payroll factor is the wage and salaries paid to employees for services performed in the zone or to employees working from offices in a zone, if the work outside the zone is incidental to that in the zone.
- Freight forwarder is a business that transports goods made by another business.

6

Designation of international economic development zone. Authorizes the foreign trade zone authority to designate one foreign trade zone that contains a regional distribution center as an international economic development zone. Factors relevant to whether a potential site qualifies for designation include:

- access to major transportation routes

- consistency with transportation plans
- adequacy of the site
- access to airport facilities
- capacity of the airport
- capability to meet integrate air cargo, security, and inspection service needs
- access to infrastructure and other financial incentives

The zone must be contiguous and contain between 500 and 1,000 acres. The zone can be no more than 60 miles from the Minneapolis-St. Paul International Airport. In designating the zone, the authority is to consider site, transportation, infrastructure, and financial factors, including review of a transportation impact study. The county in which the zone is located must also be a member of the foreign trade zone authority.

7 Foreign trade zone authority powers. Directs the authority to develop a development plan for the regional distribution center with a goal of expanding international distribution capacity for the region. The authority must consult with municipalities that are interested in being the site for the zone and with businesses and federal and state agencies. Municipalities must be willing to establish a TIF district that is coterminous with the zone boundaries.

The foreign trade zone authority may establish a port authority and may exercise any city powers, except the power to levy or request a property tax levy.

8 Available tax incentives. Three tax incentives are available in international economic development zones:

- State and local general sales taxes (but not the sale tax on motor vehicles) do not apply to purchases used by businesses in an international economic development zone
- Property taxes do not apply to improvements in the zone
- A refundable jobs credit is available for higher paying jobs

These incentives would be available for a 8-year duration, except freight forwarders would be subject to a 4-year duration. (Freight forwarders can relocate into the zone and be qualified businesses without increasing investment or expanding employment.) This duration limit runs from the date the taxpayer first claims the exemption or incentive, but cannot be claimed later than 2020. This duration limit is unlike JOBZ incentives, which are tied to the zone duration, not when the business began receiving the tax incentive.

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

- The lesser of either:
  - The increase in the business payroll (but excluding amounts paid to an employee in excess of \$100,000 per year) in the zone since the year of

designation or

- The increases in total Minnesota payroll since the year of designation; minus
- The increase in the number of FTEs in the zone since designation multiplied by \$30,000

**Inflation adjustment.** Starting for tax year 2005, the \$30,000 amount will be adjusted for inflation.

Refundable. The credit is refundable.

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

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

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

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

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

- 11 Reporting requirement. Requires the authority to establish zone performance goals for 3-, 5-, and 10-year periods for jobs, investment, and freight handling. The authority must annually report to the Commissioner of DEED on how it is meeting these goals.

## **Article 8: Department of Revenue Policy Provisions**

### **Overview**

This article consists of provisions from the Department of Revenue's policy bill. In addition, it eliminates retailers as qualified businesses under the JOBZ program.

- 1 Taxpayer rights advocate as case reviewer. Provides that the taxpayer rights advocate act as case reviewer in the collection of non-tax debts. Authorizes the advocate to issue debtor assistance orders if the manner in which state non-tax debt collection is being administered would create an unjust and inequitable result for the debtor. The taxpayer rights advocate has

the same authority under current law with respect to tax debts. Effective the day following final enactment.

2 Delegation of commissioner's authority. Provides that delegations of authority granted by the commissioner of revenue remain in effect until revoked by that commissioner or a successor commissioner. Effective the day following final enactment.

3 Commissioner's authority to negotiate; Streamlined Sales Tax. Authorizes the commissioner of revenue to negotiate with Streamlined Sales Tax Agreement member states on the amount of monetary allowance for sellers and certified service providers who purchase certified software for sales tax collection.

4 Mailing of notices. Provides that notices of a determination or action of the commissioner may be sent to the last known address of the taxpayer or affected person, if another method is not specifically provided. Effective for notices sent on or after the day following final enactment.

5 Transcription of liens. Provides that state tax liens filed in a county may be transcribed to the secretary of state within ten years of the date of filing. Under current law state tax liens filed in one county may be transcribed to any other county. In no case does the transcription extend the period in which the lien is enforceable.

6 Blind/disabled homestead application private data. Provides that applications for blind/disabled homestead classification are private data, protected from disclosure to anyone other than the applicant unless otherwise provided in law.

7 Blind/disabled homestead disclosure. Authorizes the commissioner to disclose the names of qualified applicants for blind/disabled homestead status to county assessors and their designees.

8 Property tax exemption. Clarifies that the property tax exemption for biotech zones applies to property occupied by a qualified business by July 1 of the assessment year.

9 Electronic filing requirement; partnerships. Requires partnerships that have more than 100 partners and are required their federal partnership return electronically to file their Minnesota partnership return electronically as well. Imposes a penalty of \$50 for each partner over 100 if the return is filed in paper form, but authorizes the commissioner to waive the penalty if the partnership demonstrates that filing electronically creates a hardship. Effective beginning with tax year 2004 returns.

10 Limits on recalculation of separate spouse liability. Exempts the commissioner from recalculating separate liability for an ex-spouse when a request is made six years or longer after the due date of the return. Also exempts the commissioner from recalculating separate liability if the remaining unpaid liability for which the recalculation is requested is \$100 or less. Effective for requests for relief made on or after the day following final enactment.

11 Sales tax refund claims in biotech and border city zones; interest. Provides that sales tax refund claims in biotech and border city zones bear interest beginning 90 days after the date of filing.

12 Research and development subtraction. Limits the corporate income tax subtraction for research and development expenses to expenses in excess of both the research and development credit and the biotechnology and health sciences industry zone credit.

13 Withholding on payments to non-Minnesota residents on construction contracts. Reduces the dollar threshold that triggers withholding on nonresidents contracted with to provide construction work from a contract expected to exceed \$100,000 to aggregate contract payments during the calendar year in excess of \$50,000. Effective for payments made after December 31, 2004.

14 Sustainable forests; acquisition for public purpose. Allows early withdrawal from the sustainable forest program of land acquired for a public purpose. Clarifies that if a portion of land is acquired for a public purpose, only the portion acquired is withdrawn and the rest

- remains enrolled in the program.
- 15 Vendor allowances; Streamlined Sales Tax. Provides that allowances that the states provide to sellers and certified service providers for the purchase of certified software for sales tax collection are netted out of the sales tax collected by the sellers and certified service providers before they remit the tax to the department of revenue.
- 16 Sales tax refund claims in border city development zones; interest. Provides that sales tax refund claims in border city development zones bear interest beginning 90 days after the date of filing.
- 17 Qualified business; JOBZ. Clarifies that the definition of "qualified business" is limited to parcels of land included in a business subsidy agreement with the local government unit. Also provides that a business does not qualify for JOBZ exemption if it is primarily engaged in making retail sales to consumers on-premises.
- 18 Qualified business; biotech zones. Clarifies that the definition of qualified business is limited to parcels of land included in a business subsidy agreement with the local government unit.
- 19 Corporate minimum fee; biotech zone. Exempts from the corporate minimum fee a business with all its Minnesota property in a biotech zone and all of its Minnesota payroll treated as biotech zone payroll.
- 20 Fiscal disparities; area. Clarifies that the geographic area for the metro area fiscal disparities program excludes major and intermediate airports.
- 21 Repealer. Repeals language allowing the Alexandria Lake Area sanitary sewer district and the Central Lakes region sanitary sewer district to levy property taxes on an alternative tax base that includes only 25 percent of the net tax capacity of agricultural property.

## **Article 9: Miscellaneous**

### **Overview**

Provides that any forecast general fund surpluses go first to eliminate the property tax recognition shift and second to increase the holdback payment for K-12 state aid to 90 percent

Makes various changes dealing with certificates of title of vehicles held or sold by motor vehicle dealers.

Imposes a five percent franchise fee on the card club at Canterbury Park (starting July 1, 2004) as a condition of its continued operation.

Appropriates \$3,678,000 to the commissioner of revenue for compliance initiatives relating to the corporate tax, the sales and use tax, and insurance taxes, expected to result in \$16 million in additional revenues in the FY 2004-2005 biennium, and \$16 million annually in following years.

- 1 Additional revenues; priority. Modifies the statutory priorities for use of forecast surpluses of general fund revenues.

Under present law, these revenues are allocated to the following order of priorities:

- To the cash flow account until it reaches \$350 million

- To budget reserve account until it reaches \$635 million

For a November forecast in an odd numbered year or a February forecast in an even numbered year, additional surpluses are designated to be available for a tax rebate and the governor is required to submit a plan to the legislature for paying a rebate. Minn. Stat. § 16A.1552 (2002). No priority is specified for surpluses that are forecast in November of an even numbered year or February of an odd numbered year. These moneys would "drop to the bottom line" (i.e., become undesignated surpluses).

The bill adds two priorities that would be interposed before allocation to a tax rebate:

- Elimination of the property tax revenue recognition shift for K-12 education; and
- Increasing the holdback payment for K-12 state aid from the present 80 percent to 90 percent.

The commissioner of finance will certify the dollar amounts to the commissioner of education, who will increase the aid payments accordingly. Effective the day following final enactment.

- 2 Registration without title. Allows the Department of Public Safety to register a vehicle if the vehicle has a Minnesota title and is being held for resale by a motor vehicle dealer.
- 3 Dealer applying for title. Deletes the requirement that a motor vehicle dealer who buys a vehicle for resale must procure the title from the owner.

Requires a dealer who sells a vehicle for removal from the state to remove the plates, issue a 31-day temporary certificate, and notify the state of the removal. Allows a dealer to apply for a certificate of title on a vehicle the dealer holds for resale without having to register the vehicle if the dealer pays one month's registration tax. Provides that if the dealer applies for a title on a vehicle held for resale, the Department of Public Safety may not mark the title to the effect that motor vehicle sales tax has not been paid, but may mark the title to show if the vehicle is new or used.

- 4 Notification. Deletes the requirement that a dealer who buys a vehicle without a title must execute a purchase receipt and notify the state that the vehicle is being held for resale.

Requires a dealer who acquires a vehicle titled and registered in Minnesota to notify the state within 48 hours of the acquisition.

- 5 Centralized record keeping. Allows three or more new car dealers under common management or control to designate to the department a single location where their vehicle title records more than a year old will be kept. Requires such a location to be open to inspection by a peace officer or the department during business hours. Requires the location to be at one of the dealer's place of business within 25 miles of another of the dealer's locations.
- 6 Franchise fee. Requires a pari-mutuel licensee to pay a five percent franchise fee to the Racing Commission as a condition for operating a card club. This fee would be imposed on the card club's gross revenues (i.e., amounts charged for table rents or the club's percentage of "pots"). The fee would be paid, collected, and administered by the Racing Commission in the same manner as the tax on pari-mutuel betting. Amounts paid are deposited in the state general fund.

The fee does not affect the licensee's obligation to pay a share of gross revenues to the breeder's fund and for horse racing purses. These computations would continue to be made in the same manner as before imposition of the fee, i.e., the fee would not be deducted before applying the percentages to be paid for those purposes. Effective for charges and revenues received after June 30, 2004.

7 Tax preparers; scope. Extends the tax preparer standards of conduct enacted in 2003 to preparers who do not offer refund anticipation loans (RALs). Current law limits the scope of the standards to preparers who offer RALs.

8 Tax preparers; itemized bill. Limits the requirement that tax preparers provide clients with an itemized bill to preparers who charge a fee or other consideration. This exempts volunteers and individuals who prepare returns for family members from the requirement.

9 Tax preparers; exceptions. Exempts from refund anticipation loan disclosure requirements, standards of conduct, and civil and criminal penalties

- various professional preparers (attorneys, CPAs, etc.) who are subject to professional requirements that are similar to the standards
- individuals who prepare returns for fewer than six clients a year
- individuals who prepare returns for family members
- employees who prepare returns for their employers

10 Definition of taxable estate. Provides that state death taxes are not deducted from the gross estate in computing Minnesota estate taxes. Minnesota law indirectly defines the taxable estate by reference to computations under the federal estate tax. Starting for decedents dying after December 31, 2004, the federal tax will allow state death taxes to be deducted in computing the amount of the taxable estate. (This deduction replaces the federal credit for state death taxes.) This likely means that the Minnesota tax itself will be deductible in computing the tax base subject to Minnesota tax, essentially a circular computation. The bill resolves this by providing state death taxes are not taken into account in determining the taxable estate for Minnesota estate tax purposes.

QTIP. This section also allows a Minnesota QTIP election that differs from the federal election. This will allow electing differing state and federal amounts to qualify for the full exemption under both taxes. Effective for decedents dying after June 30, 2004.

11 Production tax; direct reduced ore. Clarifies the time periods before the production tax is imposed on direct reduced ore by (1) providing that no tax is imposed during the first two years of the facility's "commercial production" period (defines "commercial production" as production of more than 50,000 tons per year) and, (2) provides that no tax is imposed during the facility's noncommercial production of direct reduced ore (i.e., during the experimental/research phase).

Nothing in law specifically addresses the tax during the experimental/research phase of a project. This section clarifies the law by (1) defining "commercial production" as 50,000 tons per year; (2) providing that for the two year time-period after the commercial production level is reached, the production tax will not be imposed on the direct reduced ore; and (3) does not impose the tax on the direct reduced ore during the noncommercial time period-when the pilot plant is doing its research and development.

The iron concentrate used to produce the direct reduced ore (i.e., the iron nuggets) is taxed like other taconite concentrates and pellets during the non-commercial phase. This tax is being paid now. After the facility has been in commercial production for two years, the iron concentrate used to produce the iron nuggets will no longer be taxed, and the direct reduced ore will then become subject to the statutory phased-up tax (i.e., 25% in the 3<sup>rd</sup> year, 50% in the 4<sup>th</sup> year, 75% in the 5<sup>th</sup> year, and 100% beginning in 6<sup>th</sup> year). Effective for direct reduced ore produced after the date of final enactment.

12 Biotech zones, authorized tax reductions. Increases the amount of tax credit certificates under the biotechnology zone law from \$1 million for fiscal year 2004 to \$2 million. Tax credit certificates not awarded in 2004 may be carried over to fiscal year 2005. A taxpayer must use the certificates by the later of the end of (1) the state fiscal year or (2) its taxable year.

13 Electronic real estate recording task force; membership. Provides that the Secretary of State serves as the chair of the electronic real estate recording task force. Specifies that the task force consists of 15 members appointed for two year terms. Revises criteria for other members.

14 Study and recommendations. Requires the electronic real estate recording task force to report to the legislature by January 15, 2005. Extends the expiration of the task force to June 30, 2007, instead of the current June 30, 2004.

15 Application. Extends the electronic real estate recording task force to June 30, 2007.

16 Application. Extends a real estate filing surcharge until June 30, 2007.

17 Real estate filing surcharge. Provides that funds collected under a real estate filing surcharge are appropriated for purposes of the electronic real estate recording task force through June 30, 2007.

18 Task force transition. Provides that current members of the electronic real estate recording task force end their service when this act becomes effective, unless reappointed or designated under section 0.

19 In-lieu tax; Racino. Increases the tax in-lieu of sales tax on adjusted gross gaming machine revenue in H.F. 646 as passed the House in 2003 from 31.5% to 36.7% in fiscal years 2006 and 2007 and decreases the percentage of adjusted gross gaming machine revenue retained as compensation to the racetrack in H.F. 646 as passed the House in 2003 from 53.5% to 48.3% in fiscal years 2006 and 2007.

20 Funds transfer. Directs the commissioner of finance to transfer \$350 million from the budget reserve account to the cash flow account on July 2, 2004, and to transfer \$8,566,000 from the general fund to the budget reserve account on or before July 2, 2004.

21 Federal funds. States that the first \$167 million of general education aid in fiscal year 2004 was paid for with federal revenue sharing received under the 2003 Jobs and Growth Tax Relief Act.

22 Appropriations.

Subd. 1. Tax compliance initiative. Appropriates \$3,678,000 to the commissioner of revenue in fiscal year 2005 for additional compliance activities, which are expected to result in \$16 million of new revenues in the 2004-2005 biennium and \$16 million per year in following years. \$800,000 of this appropriation is for corporate compliance related to foreign operating corporations. \$120,000 of this appropriation is one-time; the rest is added to the department's base for compliance.

Requires reports to the House and Senate tax committees and state government finance committees by March 1, 2005, and January 15, 2006, on noncompliance with

- the corporate tax system,
- the sales and use tax system, and
- taxes on insurance companies

including information on the number of noncompliant taxpayers and the amount of liability collected under this initiative.

Subd. 2. Property tax refund study. Provides a one-time appropriation of \$50,000 to the commissioner of revenue for the study of rent constituting property taxes contained in article 3, section 41.

Subd. 3. Income and home value dataset. Provides a one-time appropriation of \$50,000 to the commissioner of revenue to prepare a dataset linking homeowners' incomes to the market value of their homes.

23 Effective date. Makes sections 13 to 18 effective the day following final enactment.

## **Article 10: Property Taxes Technical**

### **Overview**

Makes various technical changes recommended by the Department of Revenue.

- 1 Population estimates. Requires the state demographer to certify estimates of population and households to the commissioner of revenue by July 15, each year, including estimates under objection. Provides that changes to population estimates made after July 15, other than those relating to clerical errors, will not be considered in determining aid calculations. Also changes the date for estimates of household size in cities with 2,500 or more in population from May 1 to June 1, and the date by which a municipality may challenge an estimate from June 10 to June 24. These dates are consistent with the new dates imposed on the metropolitan council estimates.
- 2 Payment of current taxes requirement for manufactured homes. Clarifies that all personal property taxes payable in the current year on a manufactured home must be paid before the title may be transferred. Current law refers to taxes levied on the manufactured home, but since the levy date for manufactured home taxes is May 30, there would otherwise be a five-month window during which the new owner could obtain a certificate of title without paying all the personal liability taxes assessed to the seller. Collection problems would arise if these taxes are not paid at the time title is transferred because neither the property nor the new owner would be liable for those taxes without the change proposed in this section. Effective the day following final enactment.
- 3 Homestead verification. Authorizes the commissioner of revenue to verify to an assessor if an individual requesting or receiving homestead classification has filed an income tax return as a resident. Current law authorizes the commissioner to share such information with assessors when the commissioner determines that an individual is a nonresident or part-year resident for income tax purposes. Effective the day following final enactment.
- 4 Exemption for property used under cooperative farming agreements and for leased housing and redevelopment authority property. Clarifies that property used under a cooperative farming agreement and that HRA leased property is not subject to property tax. These cross

references do not create new exemptions as these uses are exempt under other sections of statute. Effective the day following final enactment.

5 Property tax exemptions. Replaces obsolete references to repealed provisions with a general reference to other provisions of applicable law. Effective the day following final enactment.

6 Institutions of purely public charity. Clarifies that government rent assistance and government contract payments are not donations or gifts for the purposes of the property tax exemption for institutions of public charity. Effective for taxes payable in 2004 and thereafter.

7 Property subject to taconite production tax or net proceeds tax. Adds a new subdivision that describes the property tax exemptions related to the taconite production tax and net proceeds tax. Effective the day following final enactment.

8 Cross reference to exemption for religious corporations. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the nonprofit corporation chapter that exempts personal and real property that a religious corporation necessarily uses for a religious purpose. Effective the day following final enactment.

9 Cross reference to exemption for children's homes. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the nonprofit corporation chapter that exempts property owned by children's home corporations. Effective the day following final enactment.

10 Cross reference to exemption for housing and redevelopment authority property and tribal housing authority property. Adds a new subdivision providing a cross-reference in the property tax chapter to language in the economic development chapter that exempts property owned by a housing and redevelopment authority or a tribal housing authority. Effective the day following final enactment.

11 Agricultural homesteads for entity-owned land. Clarifies that a limited liability company must operate a "family farm" in order to receive an agricultural homestead classification. Effective the day following final enactment.

12 Cross reference to exemption for cooperative farming agreements and leased HRA property. Provides that cooperative farming agreements and occupancy agreements are not considered leases and therefore do not cause property to become subject to property tax. These are cross references to existing laws and do not create new exemptions. Effective the day following final enactment.

13 County board meeting dates. Strikes obsolete language that allowed county boards of equalization to meet on any ten consecutive days in June, rather than the last ten days, if the actual meeting days were listed on the valuation notices. Other provisions of law require meeting dates to be listed on the valuation notices, making the stricken language superfluous. Also clarifies that "meeting day" excludes Saturdays and Sundays. Effective the day following final enactment.

14 Date to certify levies and tax rates. Changes the date by which county auditors must certify levy and tax rate information to other county auditors with respect to taxing jurisdictions that cross county boundaries from September 20 to October 5. September 20 is not practical because school districts do not certify their levies until September 30. Effective the day following final enactment.

15 Disparity reduction aid levy adjustment. Strikes language requiring levies to be reduced by Disparity Reduction Aid (DRA), since DRA acts to reduce disparities in local tax rates, not levies. This change will not affect the amount of DRA received by a jurisdiction. Effective the day following final enactment.

16 Reporting special levies on surveys. Gives the commissioner the option of excluding detailed special levy information from levy information that county auditors are required to report annually. Effective the day following final enactment.

- 17 Transmittal of state property tax levy receipts. Changes the date by which county treasurers must transmit the state's share of property tax receipts to the department from "on or before June 29" to "on or before two business days before June 30." This is necessary to insure that property taxes are transmitted to the state within the fiscal year of receipt by the county, even during years in which June 29 falls on a Saturday. Effective the day following final enactment.
- 18 Tax-forfeited property; prohibited purchasers. Clarifies and expands the language prohibiting county auditors, treasurers, attorneys, court administrators, and assessors from purchasing or from having someone purchase on their behalf tax-forfeited land. Further clarifies that these prohibitions only apply to tax-forfeited land in the county for which the specified office-holders perform duties. Effective the day following final enactment.
- 19 Tax-forfeited land; duties of the commissioner of finance. Clarifies that the commissioner of finance's responsibility for issuing conveyances for tax-forfeited land apply only to lands in conservation areas. Effective the day following final enactment.
- 20 Tax-forfeited land; duties of the commissioner of natural resources. Clarifies that the commissioner of natural resources' responsibilities with respect to issuing conveyances of tax forfeited property apply only to tax forfeited agricultural lands in the Red Lake Preserve. Effective the day following final enactment.
- 21 Tax-forfeited land; duties of the commissioner of revenue. Clarifies that statutory procedures and the duties of the commissioner of revenue with respect to repurchases of tax-forfeited land relate to all repurchases of tax forfeited land authorized in chapter 282. Effective the day following final enactment.
- 22 Metro area population estimates. Requires the metropolitan council to prepare estimates of population and households of municipalities in the metro area by June 1 of each year. Allows municipalities to challenge estimates by June 24, and to hold a special census at its own cost. Requires the metropolitan council to certify population estimates to the commissioner of revenue by July 15 each year, including estimates under objection. Provides changes to estimates made after July 15, other than those relating to clerical errors, will not be considered in determining aid calculations. Although the council has always prepared estimates, there currently are no deadlines for certifying the estimates.
- 23 Population; definition. Makes a conforming cross-reference to section 0.
- 24 City aid base definition. Strikes grandfathered aid base from the city aid base definition. This change was inadvertently omitted in the 2003 restructuring of Local Government Aid for cities, and is consistent with current program administration. Effective beginning with aids payable in 2004.
- 25 Local impact note and public defender costs. Clarifies the amounts of the appropriations for local impact note costs and public defender costs provided in the 2003 tax law. Effective for aid payable 2004 and thereafter.
- 26 2004 city aid reductions. Clarifies that a city's 2004 initial aid reduction amount is not applied to its 2004 local government aid amount specified in section 477A.013, because that amount already includes the initial aid reduction amount. Effective for aids payable in 2004.
- 27 "Levy plus aid revenue base" for counties. Excludes attached machinery aid from the "levy plus aid revenue base" used to compute the 2004 aid reductions for counties. Effective for aids payable in 2004.
- 28 Repealers. Repeals

- § 273.19, subd. 5, which provides a limited exemption for some hydroelectric facilities on government owned sites, duplicating a non-limited exemption provided in § 272.02, subd. 15.

- § 274.05, which is obsolete certification between county auditors and assessors
- § 275.15, containing obsolete language relating to levy limits.
- § 283.07, containing obsolete language relating to refunding of property taxes on railroad property in certain circumstances.

Effective the day following final enactment.

## **Article 11: Sales and Use Taxes Technical**

### **Overview**

Makes various technical changes proposed by the Department of Revenue.

- 1 Omission of use tax. Clarifies that the period for assessing additional taxes is 6 1/2 years after the due date of the return if the return omits use tax in excess of 25 percent of the amount of use tax reported. Current law references only sales and withholding tax returns. Effective the day following final enactment.
- 2 Definition of "bad debt." Clarifies that the exclusions from the definition of "bad debt" are allowed only in the case of refund claims relating to overpayment of sales and use taxes attributable to a loss from a bad debt. The definition for purposes of refund claims for other taxes continues to follow the federal definition. The exclusions were enacted in 2003 as part of the Streamlined Sales Tax Project, and were intended to relate to sales tax only, but current law could be interpreted to allow the exclusions for taxes other than sales tax.
- 3 Sourcing; watercraft, aircraft, modular homes, manufactured homes, and mobile homes. Clarifies that the sourcing provisions enacted as part of the Streamlined Sales Tax Project apply to sourcing for watercraft, aircraft, modular homes, manufactured homes, and mobile homes. The Streamlined Sales Tax Agreement does not require member states to apply the sourcing rules to these items, but Minnesota does so. Effective the date following final enactment.
- 4 Sourcing of first periodic payment to recurring lease or rental payments. Corrects a citation to clarify that sourcing of first periodic payment of recurring lease or rental payments is in accordance with the general sourcing rules adopted as part of the Streamlined Sales Tax Project. Effective for sales and purchases made on or after January 1, 2004, consistent with the effective date of the language enacted in 2003.
- 5 Sourcing of transportation equipment purchases. Adds
  - aircraft operated by air carriers for the transport of persons or property in interstate commerce and
  - containers designed for use on and component parts attached or secured on railcars, tracks, and aircraft

to the list of items subject to the sourcing provisions for transportation equipment. These items are included in the definition of transportation equipment in the Streamlined Sales Tax Agreement, and were inadvertently omitted from the 2003 legislation. Effective for sales and purchases made on or after January 1, 2004, consistent with the effective date of the

language enacted in 2003.

6 Service address definition for telecommunication sourcing. Corrects references in the service address definition used in telecommunications sourcing. Effective for sales and purchases made on or after January 1, 2004, consistent with the effective date of the language enacted in 2003.

7 Industrial production. Clarifies that the industrial production exemption does not include materials and supplies used or consumed in providing services that were added to the sales tax base in 1987, which are not considered to be tangible personal property for purposes of the exemption. Effective the day following final enactment.

8 Capital equipment. Clarifies that capital equipment does not include

- machinery and equipment used in providing services that were added to the sales tax base in 1987, or
- machinery and equipment used primarily in the furnishing, preparing, and serving of prepared food by restaurants.

Clarifies that these services and prepared foods are not considered to be tangible personal property for purposes of the capital equipment exemption. Also corrects a reference to equipment used primarily in providing online data retrieval services that was inadvertently omitted during recodification. Effective the day following final enactment.

9 Preexisting construction contracts and bids. Clarifies that the transition period for preexisting construction contracts and construction bids applies to tax rate increases in addition to sales tax base changes. Effective the day following final enactment.

10 Repeal of obsolete sales and use tax rules. Repeals sales and use tax rules that are obsolete or that merely duplicate statutory language. Some are obsolete due to specific law changes; some were incorporated into statute as part of the 2001 sales tax recodification; while others conflict with language enacted as part of the Streamlined Sales Tax Project.

- Minnesota Rules, parts 8130.0110, subpart 4, stating that the order of subject matter in the sales and use tax rules follows the order in statutes;
- 8130.0200, subparts 5 and 6, relating to the tax incidence on the transfer of title for special tooling, and stating that sales tax on title transfers not specifically described in the rule must be decided on the basis of relevant facts;
- 8130.0400, subpart 9, providing guidance for distinguishing a lease from a conditional sales contract;
- 8130.1200, subparts 5 and 6, relating to the application of sales tax to construction contracts;
- 8130.2900, providing that all sales are presumed to be subject to sales tax unless the seller proves otherwise;
- 8130.3100, subpart 1, specifying the content of sales tax exemption certificates;
- 8130.4000, subparts 1 and 2, specifying the incidence of the duty to collect

sales tax;

- 8130.4200, subpart 1, relating to the duty to obtain a sales tax permit;
- 8130.4400, subpart 3, limiting the credit paid to other states;
- 8130.5200, relating to sales taxation of cartons and containers used by moving and transfer companies;
- 8130.5600, subpart 3, relating to the sales taxation of paper and ink products;
- 8130.5800, subpart 5, relating to sales by nonprofit organizations;
- 8130.7300, subpart 5, relating to remitting local use taxes; and
- 8130.8800, subpart 4, relating to exemption certificates presented to commercial artists and photographers.

Effective the day following final enactment.

## **Article 12: Special Taxes Technical Overview**

Makes various technical changes proposed by the Department of Revenue.

- 1 Mortgage registry tax exemption. Provides that the mortgage registry tax does not apply to mortgages on armories. Effective the day following final enactment.
- 2 MinnesotaCare health care provider definition. Replaces a reference to residential care homes licensed under chapter 144B, which has been repealed, with a reference to housing with services establishment registered under chapter 144D. These facilities are generally also licensed as foster homes or board and lodging establishments and are already excluded from the definition of a health care provider. Effective the day following final enactment.
- 3 Petroleum tax penalty abatement. Adds a new subdivision to provide the commissioner with general penalty abatement authority and a time frame for making appeals of penalty abatement denials. This section is effective for penalties imposed on or after the day following final enactment.
- 4 Distributor. Expands the definition of distributor to include a linked bingo game provider, with the effect of requiring reporting of sales of gambling product. Effective the day following final enactment.
- 5 Gambling product. Expands the definition of gambling product to include linked bingo paper sheets. Effective the day following final enactment.
- 6 Linked bingo game. Provides a definition of "linked bingo game" for use in administering the gambling tax. Effective the day following final enactment.
- 7 Linked bingo game provider. Provides a definition of "linked bingo game provider" for use in administering the gambling tax. Effective the day following final enactment.
- 8 Inspection rights. Authorizes the commissioner of revenue to inspect the place of business of a linked bingo game provider and the books, records, and other documents required to be maintained under law. Effective the day following final enactment.

- 9 Cigarettes in interstate commerce. Clarifies that reporting requirements for cigarettes transported outside of Minnesota only apply to companies that are not original or subsequent participating manufacturers in the Master Settlement Agreement with other states. Effective the day following final enactment.
- 10 Cigarette tax returns; June acceleration. Clarifies the due dates of returns for May and June liability for cigarette distributors subject to the June accelerated payment requirements. Effective the day following final enactment.
- 11 Tobacco products tax return; June acceleration. Clarifies the due dates of returns for May and June liability for tobacco products distributors subject to the June accelerated payment requirements. Effective the day following final enactment.
- 12 Reinsurance. Provides a definition of "reinsurance" for use in administering the insurance premiums tax. Effective the day following final enactment.
- 13 Medium-sized mutual companies. Conforms language in statute to the decision of the Minnesota Supreme Court in CUNA Mutual Insurance Society vs. Commissioner of Revenue, 647 N.W.2d 533 (Minn. 2002), relating to taxation of certain medium sized mutual companies. Effective for returns, taxes, surcharges and estimated payments required to be filed or paid for tax years beginning on or after January 1, 2004.
- 14 Gross premiums tax. Clarifies that the gross premiums tax on health maintenance organizations, nonprofit health service plan corporations, and community integrated service networks does not apply to return premiums on direct business whether received in cash or otherwise. Also strikes obsolete language.
- 15 Repealer. Repeals a lawful gambling tax provision dealing with allocation of payments since Minn. Stat. § 270.652 already deals with allocation of payments. Effective the day following final enactment.

### **Article 13: Miscellaneous Technical**

#### **Overview**

Makes various technical changes proposed by the Department of Revenue.

- 1 Date of assessment; consent agreement. Clarifies that in the case of a consent agreement in which the taxpayer is agreeing to a change in tax as the result of an audit, the date of assessment is the notice date shown on the consent form signed by the taxpayer. Effective the day following final enactment.
- 2 Extension to file estate tax return. Replaces the requirement that the commissioner find good cause in allowing a Minnesota estate tax return filing extension with an automatic filing extension for requests received within nine months of the decedent's death. Effective for estates of decedents dying after December 31, 2003.
- 3 Sending orders of assessment by electronic mail. Provides that an order of assessment may be sent by electronic mail to the taxpayer's electronic mailing address, as set forth in the Uniform Electronic Transactions Act. Effective the day following final enactment.
- 4 Civil fraud penalty. Clarifies that the imposition and calculation of the 50 percent civil fraud penalty is the same for someone who fails to file a return with intent to evade tax as it is for someone who files a fraudulent return. Effective the day following final enactment.
- 5 Additions to taxable income; income taxes paid to other states. Changes references from "income taxes" to "taxes based on net income" for consistency with other statutes. Effective for tax years beginning after December 31, 2003.
- 6 Credit for taxes paid to other states; income taxes paid to other states. Changes references

from "taxes on or measured by net income" to "taxes based on net income" for consistency with other statutes. Also corrects a cross-reference. Effective for tax years beginning after December 31, 2003.

7 K-12 education credit; qualifying curriculum areas. Updates a reference specifying curriculum areas of study for which fees for instruction qualify for the education credit, made necessary by the 2003 repeal of the graduation standards and profiles of learning.

8 Personal liability standard for withholding tax. Makes the personal liability standard in the withholding tax statute consistent with the general standard of personal liability for trust taxes, by clarifying the definition of employer to mean someone with either actual or legal control over the payment of wages. Effective the day following final enactment.

9 Annual sustainable forest incentive act annual certification. Clarifies that failure to return the annual certification required under the sustainable forest program by the due date is treated like any other program violation and does not result in immediate removal from the program. Current language requires that land be removed from the program immediately upon failure to return the annual certification by the due date, but current practice is to treat late filing of the annual certification like other program violations and allow 60 days for appeal. Effective the day following final enactment.

10 Sustainable forest incentive act; length of covenant. Adds a new section to the sustainable forest incentive act that addresses issues related to the length of the covenant. This repeats language in other sections of the act, and

- specifies that the covenant remains in effect for a minimum of 8 years, unless an exception applies;
- explains how the 4-year waiting period in § 290C.10 functions and
- explains how to determine when the covenant ends.

Effective the day following final enactment.

11 Unfair cigarette sales act. Strikes language authorizing revocation of a cigarette distributor's license by the commissioner of commerce since licensure is under the authority of the commissioner of revenue. Effective the day following final enactment.

12 Metropolitan solid waste landfill fee penalty. Clarifies that the penalties provided for corporate franchise taxes also apply when penalties are required under the metropolitan solid waste landfill fee. A similar change was recently enacted for the hazardous waste generator tax. Effective the day following final enactment.

13 Rule repealer. Repeals

- Minnesota Rules, part 8093.2000, providing guidance for corporate taxpayers subject to estimated tax provisions, and recently replaced with statutory language.
- Minnesota Rules, part 8093.3000, permitting the commissioner to grant a reasonable extension of time for filing a declaration of estimated tax. The corresponding subdivision of statute was recently repealed.

## Article 14: Blue Waters

### Overview

This article establishes a new property class for certain unimproved real estate bordering certain public waters. The new class 2c has a class rate of 0.8 percent of market value if certain criteria are met. Under current law the class rate on this property is usually 1.0 percent or 1.25 percent, depending upon ownership.

The owner must sign a covenant agreeing to keep the land in its undeveloped state for the duration of the covenant. The property owner may terminate the covenant, but needs to give an 8-year notice of termination. The covenant language is similar to the covenant on property enrolled in the Metropolitan Agricultural Preserve Program, Chapter 473H.

Upon termination of the covenant, the land will no longer qualify for the deferral and additional taxes are due for the last 7 years that the property was valued and assessed as class 2c property.

Effective for the 2005 assessment, taxes payable in 2006, and thereafter.

1 Class 2c undeveloped lakeshore. Provides a new class 2c for certain unimproved real estate, excluding agricultural land, which meets all the criteria in clauses (1) to (5). Class 2c has a class rate of 0.8 percent. They are:

(1) the property consists of at least 200 contiguous feet of unimproved real estate that borders a "meandered lake" as defined under section 103G.005, subdivision 15, paragraph (a), clause (3);

(2) the unimproved real estate is located within 400 feet of the ordinary high water elevation of the water. "Unimproved" means that the property or portion of property qualifying contains no structures, no docks or landings on its shoreline, natural terrain and vegetation has not been disturbed, or has been restored to native vegetation;

(3) the property is either (i) the homestead of the owner, the owner's spouse, or the owner's or spouse's son or daughter; or (ii) has been in one of their possessions for at least seven years prior to application for benefits;

(4) the owner of the property files an application by July 1 with the county assessor for classification for the subsequent year's assessment; and

(5) the owner of the property signs a covenant agreement and files the covenant with the county assessor in the county where the property is located. The covenant agreement must include all of the following:

(i) legal description of the area included in the covenant;

(ii) name and address of the owner;

(iii) a statement that the land described in the covenant must be kept as undeveloped land for the length of the covenant;

(iv) a statement that the landowner may initiate expiration of the covenant agreement by notifying the county assessor. The date of expiration must be at least 8 years from the date of the expiration notice;

(v) a statement that the covenant is binding on the owner or owner's successor or assignee, and runs with the land; and

(vi) a witnessed signature of the owner covenanting to keep the land in its undeveloped state as it existed on the date of the covenant was signed.

Upon expiration of the covenant, additional taxes are due. The amount of additional taxes due equals the difference between the taxes actually imposed on the property and the taxes that would have been imposed for the last seven years if the property had been valued and assessed if class 2c did not apply. No interest and penalties are levied on the additional taxes if timely paid. The tax imposed is a lien on the property to the same extent as other real property taxes.

Effective date. This section is effective for the 2005 assessment and thereafter, taxes payable in 2006 and thereafter.