

House Research Act Summary

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Revisor corrections
bill)

TOPIC: Tax Bill

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Article 1: Income and Franchise Taxes

Overview

Provides a refundable credit of \$59 for each month of active service in a combat zone or supporting area since September 11, 2001.

Provides a refundable credit of 50 percent of cattle owners' expenses of testing cattle for bovine tuberculosis.

Increases the alternative minimum tax (AMT) exemption amounts and indexes them for inflation.

Includes a Department of Revenue provision that clarifies assignment of deductions to the state of domicile, effective beginning in tax year 2006.

- 1 **Bovine testing credit.** Provides a refundable income tax credit to owners of cattle in Minnesota for one-half the expenses incurred to conduct bovine tuberculosis testing.
- 2 **Military service credit.** Allows are refundable credit equal to \$59 for each month of active military service in a combat zone, qualified hazardous duty area, or area eligible for combat zone tax benefits. Eligible areas include the Arabian Peninsula Areas, the Kosovo area, Afghanistan, and supporting areas. The credit applies for active service since September 11, 2001; credit amounts from 2001 through 2006 may be claimed on 2006 individual income tax returns. Survivors of individuals killed in a designated area may claim the credit.
- 3 **Alternative minimum tax; exemption amount.** Increases the alternative minimum tax (AMT) exemption amount to \$60,000 for married couples filing joint returns, \$30,000 for married separate filers, and \$45,000 for unmarried filers, effective in tax year 2006. Provides for the exemption amounts to be indexed annually for inflation beginning in tax year 2007. Under prior law the exemption equaled \$40,000 for married joint filers, \$20,000 for married separate filers, and \$30,000 for unmarried filers.
- 4 **Scope of allocation rules.** Clarifies that deductions definitely related to income items assigned to the taxpayer's domicile are also assigned to the state of domicile. Thus, such an item would be deductible for Minnesota purposes, only if the taxpayer's tax domicile is in Minnesota. Prior law assigned deductions not definitely related to an item or class of income to the state of domicile. Effective for tax years beginning after December 31, 2005; so that the change does not affect any previous tax years that may currently be under review. [Note: This reflects the effective date as modified in the Corrections Bill, Chapter 283, section 2.]

Article 2: Federal Update

Overview

Conforms Minnesota's income tax to the increased federal standard deduction for married filers, and to federal law changes enacted since April 15, 2005.

Clarifies that foreign earnings allowed to be repatriated under the 85 percent dividends received deduction in the American Jobs Creation Act of 2004 must be added back to federal taxable income.

- 1 Update of tax administration provisions.** Adopts federal tax administrative provisions made between April 15, 2005, and May 18, 2006, that Minnesota references for state tax administration purposes under chapter 289A. None of the four federal acts enacted since April 15, 2005, changed federal provisions that Minnesota provisions refer to in chapter 289A.

Effective the day following final enactment.

- 2 Update to federal definition of taxable income.** Adopts all of the federal changes to taxable income effective at the same time the federal changes were effective. The four new federal laws and important changes were:

- **The Energy Tax Incentives Act of 2005**, Public Law 109-58, enacted August 8, 2005, generally provides for the acceleration of the deduction of capital expenditures for companies providing energy and energy services to U. S. consumers and was generally effective for expenses incurred under contracts entered into after April 11, 2005.
- **The Katrina Emergency Tax Relief Act of 2005**, Public Law 109-73, enacted September 23, 2005, provides additional tax incentives for individuals and corporations to make charitable contributions after August 25, 2005, and before January 1, 2006, and additional tax relief to victims of the hurricane. Generally effective between August 25, 2005, and January 1, 2007.
- **The Gulf Opportunity Zone Act of 2005**, Public Law 109-135, enacted December 21, 2005, provides similar tax provisions available under the Hurricane Katrina bill to Hurricane Rita and Wilma victims and charitable givers. Also allows additional section 179 expensing or 50 percent bonus depreciation on business property placed in service in the areas damaged by Hurricane Katrina (between August 28, 2005, and December 31, 2007, for equipment and December 31, 2008, for structures).
- **The Tax Increase Prevention and Reconciliation Act of 2005**, Public Law 109-222, replaces two-year amortization of geological and geophysical costs for major integrated oil companies with five-year amortization. Also extends higher limits on section 179 expensing and the active financing exception for subpart F income for tax years 2007 and 2008, and provides a controlled foreign corporation look-through exception from subpart F for cross-border payments of dividends, interest, rents, and royalties that are funded with active income that has not been repatriated, for tax years 2006 to 2008. Minnesota has not

conformed to the section 179 higher limits or the subpart F exceptions in past federal laws; section 0 extends the prior law requirement that taxpayers to add-back to taxable income 80 percent of the additional expensing amount through tax years 2007 and 2008, and all of the exceptions to subpart F income in tax years 2006 through 2008. Other significant federal changes in TIPRA 2005 (extension of increased alternative minimum tax exemption amounts, extension of preferential tax rates for dividend and capital gain income) do not affect federal taxable income and thus do not flow through to Minnesota's income tax.

- 3 Additions to federal taxable income; individuals.** Strikes the addition to Minnesota taxable income for the difference between the current federal standard deduction for married filers and the standard deduction for married filers in effect before enactment of WFTRA, effective in tax year 2006. This has the effect of conforming Minnesota's standard deduction for married filers to the federal standard deduction for tax years 2006 to 2008, years in which Minnesota would otherwise allow a lower standard deduction for married filers than is allowed at the federal level.

Also strikes the adjustment to the calculation of the addition to Minnesota taxable income for state income and sales taxes deducted at the federal level that was enacted in 2005 because Minnesota did not conform to the increased standard deduction.

- 4 Additions to taxable income; corporations.** Clarifies that foreign earnings allowed to be repatriated under the 85 percent dividends received deduction in the American Jobs Creation Act of 2004 (section 965 of the Internal Revenue Code) must be added back to federal taxable income. The 2005 omnibus tax bill federal update article inadvertently omitted this Internal Revenue Code reference. Extends the requirement that taxpayers add back 80 percent of additional section 179 expensing to tax years 2007 and 2008, and all of the amount excluded from subpart F income at the federal level for tax years 2006 to 2008; TIPRA 2005 extended the additional expensing and subpart F exclusions to those years.

- 5 Update to other references to the Internal Revenue Code in chapter 290.** Adopts federal changes to federal adjusted gross income used for computing individual alternative minimum tax and household income which is used to compute the dependent care and K-12 education credit; changes to the federal earned income tax credit; and changes to the federal definition of "qualified research expenses." The main changes to federal adjusted gross income are described in section 0.

For the federal earned income credit that Minnesota uses as a basis for the Working Family Credit, individuals who lived in the Hurricane Katrina, Rita, or Wilma disaster areas are allowed to elect to use their 2004 earned income rather than 2005 earned income in calculating their 2005 credit.

The federal definition of "qualified research expenses," which Minnesota uses to compute the Minnesota C corporation Research and Development Credit, was changed, effective for amounts paid or incurred after August 8, 2005, to allow 100 percent of amounts paid to small businesses, universities and federal labs for qualified energy research as a qualifying research expense (old law allowed only 65 percent of amount paid).

- 6 Marriage penalty credit.** Strikes the adjustment to the calculation of the marriage penalty credit enacted in 2005 because Minnesota did not conform to the increase standard deduction. Effective beginning in tax year 2006.

- 7 Update of references to Internal Revenue Code in the property tax refund chapter.** Adopts the federal changes that affect household income, which uses the definition of

federal adjusted gross income as a starting point.

- 8 **Federal update; estate tax.** Changes the date through which Minnesota incorporates the federal estate tax from April 15, 2005, to May 18, 2006. Since there have not been any federal changes to the estate tax since the last update, this change does not have any substantive effect.

Article 3: Sales and Use Tax

Overview

Modifies existing local sales tax authorities for the cities of:

1. Hermantown;
2. Winona; and
3. Worthington.

Authorizes new local sales taxes for the cities of:

4. Austin;
5. Baxter;
6. Brainerd; and
7. Owatonna.

Allows a sales tax exemption for construction materials for the lower St. Anthony hydroelectric facility, and extends the time for the construction exemption for the Crown Hydro facility. Makes a minor change to permit revocation.

- 1 **Sales tax permits after revocation.** Changes from mandatory to permissive, the language relating to the 24-month revocation of a sales tax permit after three revocations in a five-year period.
- 2 **Electric generating facility; St. Anthony.** Exempts from sales tax the materials and supplies used or consumed in the construction of a 10.3-megawatt hydroelectric generating facility in lower St. Anthony. Effective for purchases after April 30, 2006, and before December 31, 2009.
- 3 **Sales tax authorized (Hermantown).** Allows the city of Hermantown to finance a multi-use building containing a police and fire station and an administrative services facility with proceeds from its local sales tax. Under prior law, the city could use the proceeds to fund a joint police and fire station.
- 4 **Termination (Hermantown).** Provides that the city of Hermantown's local sales tax will expire on March 31, 2026. Under the prior law, the expiration is the later of 10 years after the tax was first imposed (2007) or when sufficient funds have been raised to fund the authorized projects.
- 5 **Electric generating facility; Crown Hydro.** Changes the expiration date for the construction exemption for the Crown Hydro electric generating facility from December 31, 2007, to December 31, 2009.
- 6 **Use of revenues (Albert Lea).** Clarifies that the city of Albert Lea may transfer its local sales tax revenues to the Shell Rock River Watershed Board, notwithstanding the city's charter limitations. States that the city does not have to oversee the watershed board's expenditures. The authority for imposing the tax was granted during the 2005 special session and it requires that the revenue be used to fund projects in the watershed board's plans.

7 **Use of revenues (Winona).** Expands the allowed uses of the revenues from the existing local sales and excise tax in Winona to include funding up to \$1.2 million of the costs of certain flood control projects approved by the city council February 6, 2006.

8 **Sales and use tax (Worthington).** Allows the city of Worthington to hold its referendum to impose a local sales tax at general election prior to January 1, 2008. The intent was to allow the referendum to be held at the 2008 general election but a mistake was made in the date. The authority for imposing the tax was granted during the 2005 special session.

9 **City of Austin; taxes authorized.** Authorizes the city of Austin to impose a one-half of one percent local sales tax to fund flood mitigation projects. The tax would expire at the earlier of (1) 20 years, or (2) when funds sufficient to finance the authorized projects have been raised.

Subd. 1. Sales and use tax authorized. Authorizes the city to impose a sales and use tax of one-half of one percent, based on a referendum passed at the next general election or at a special election held before January 1, 2007. Imposition and administration requirements under Minnesota Statutes, section 297A.99 apply.

Subd. 2. Use of revenues. Authorizes the city to spend revenues raised under subdivision 1 to fund capital and administration costs of flood mitigation projects.

Subd. 3. Bonding authority. Authorizes the city to issue \$14 million in bonds for the projects listed in subdivision 2, based on the referendum to impose the sales tax.

Subd. 4. Termination of taxes. The tax under subdivision 1 expires at the earlier of (1) 20 years after the tax is imposed, or (2) when sufficient revenues are raised to fund the specified projects.

10 **City of Baxter; taxes authorized.** Authorizes the city of Baxter to impose a one-half of one percent local sales tax to fund a number of projects. The city is also allowed to impose a \$20 per vehicle tax on motor vehicles sales in the city. The taxes would expire at the earlier of (1) 12 years, or (2) when funds sufficient to finance the authorized \$15 million in projects have been raised.

Subd. 1. Sales and use tax authorized. Authorizes the city to impose a sales and use tax of one-half of one percent, based on a referendum passed November 2, 2004. Imposition and administration requirements under Minnesota Statutes, section 297A.99, apply.

Subd. 2. Excise tax. Allows the city to impose a \$20 per vehicle sales tax on motor vehicles sold by licensed dealers in the city.

Subd. 3. Use of revenues. Authorizes the city to spend revenues raised under subdivisions 1 and 2 for the following projects:

- acquisition and betterment of water and wastewater facilities; and
- constructing and equipping a fire substation.

Subd. 4. Bonds. Allows the city to issue up to \$15 million in bonds for the

projects listed in subdivision 3, based on the referendum for the sales tax.

Subd. 5. Termination of taxes. The taxes under subdivisions 1 and 2 expire at the earlier of (1) 12 years after the tax is imposed, or (2) when sufficient revenues are raised to fund \$15 million in project costs plus any related bond costs.

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City of Brainerd; taxes authorized. Authorizes the city of Brainerd to impose a one-half of one percent local sales tax to fund a number of projects. The city is also allowed to impose a \$20 per vehicle tax on motor vehicles sales in the city. The tax would expire at the earlier of (1) 12 years, or (2) when funds sufficient to finance the authorized \$22.03 million in projects have been raised.

Subd. 1. Sales and use tax authorized. Authorizes the city to impose a sales and use tax of one-half of one percent, if approved by the voters at the next general election in November 2006. Imposition and administration requirements under Minnesota Statutes, section 297A.99, apply.

Subd. 2. Excise tax. Allows the city to impose a \$20 per vehicle sales tax on motor vehicles sold by licensed dealers in the city.

Subd. 3. Use of revenues. Authorizes the city to spend revenues raised under subdivisions 1 and 2 for the following projects:

- joint water and wastewater treatment facilities with the city of Baxter;
- water infrastructure improvements; and
- trail development.

Subd. 4. Bonds. Allows the city to issue up to \$22.03 million in bonds for the projects listed in subdivision 3, based on the referendum for the sales tax.

Subd. 5. Termination of taxes. The taxes under subdivisions 1 and 2 expire at the earlier of (1) 12 years after the tax is imposed, or (2) when sufficient revenues are raised to fund \$22.03 million in project costs plus any related bond costs.

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City of Owatonna; taxes authorized. Authorizes the city of Owatonna to impose a one-half of one percent local sales tax to fund a number of projects. The tax would expire at the earlier of (1) ten years or (2) when funds sufficient to finance the authorized \$12.7 million in projects have been raised.

Subd. 1. Sales and use tax authorized. Authorizes the city to impose a sales and use tax of one-half of one percent. The city is also allowed to impose a \$20 per vehicle tax on motor vehicles sales in the city. Requirements under Minn. Stat. § 297A.99, including approval by voters at a general election, apply.

Subd. 2. Excise tax. Allows the city to impose a \$20 per vehicle sales tax on motor vehicles sold by licensed dealers in the city.

Subd. 3. Use of revenues. Authorizes the city to spend revenues raised under

subdivisions 1 and 2 for the following projects:

- \$4.45 million for U.S. Highway 14 – Owatonna Beltline related transportation projects;
- \$5.4 million in parks and trail projects;
- \$2.823 million for the West Hills complex, fire hall, and library improvement projects.

Subd. 4. Bonds. Allows the city to issue up to \$12.7 million in bonds for the projects listed in subdivision 3, based on the referendum for the sales tax.

Subd. 5. Termination of taxes. The taxes under subdivisions 1 and 2 expire at the earlier of (1) ten years after the tax is imposed or (2) when sufficient revenues are raised to fund the authorized projects and any related bonds

Article 4: Property Taxes

Overview:

Indexes the first tier (0.55 percent) classification limit of agricultural homestead property. The limit increases from \$600,000 to \$690,000 for taxes payable in 2007.

Provides personal property exemptions for two utility generating facilities, and extends authorization for some previously authorized facilities.

Increases the maximum property tax levy limit on emergency medical services district, and extends the sunset by two years.

Allows political subdivisions to enter into abatement agreements with certain utility property owners.

Provides homestead status for certain individuals called to active military duty.

Modifies the levy for the Buffalo-Red River watershed district

Allows the Faribault and Rocori school districts to levy for leased administrative space under certain circumstances.

Authorizes the Cook-Orr Hospital district to enter an agreement to include Bois Forte reservation lands in the district.

- 1 Business subsidy.** Amends the business subsidy law to provide that it does not apply to property tax abatements granted to certain utility property.
- 2 Referendum revenue.** Authorizes a school district to include language in its referendum ballot question that the increase in the per-pupil amount may increase by the annual rate of inflation rather than stating the increased revenue per-pupil for the number of years authorized. Effective for referenda conducted on or after July 1, 2006.
- 3 Emergency medical services taxing districts.** Increases the maximum dollar amount of levy that can be made by an emergency medical services special taxing district from \$250,000 to \$400,000. The levy is still limited to the lesser of: 0.048 percent of the taxable market value of the district, or \$400,000.

- 4 **Utility mandate.** Conforming cross-reference to changes in section 0.
- 5 **Biomass electric generation facility; personal property exemption.** Extends the date by three years, from 2002 to 2005, for construction to begin in order for the Laurentian biomass facility to qualify for a personal property tax exemption. (Construction began in 2005.)
- 6 **Electric generation facility; personal property.** Extends the date by two years to January 1, 2009, that construction must begin in order for a proposed generating facility for Crown Hydro (Minneapolis) to qualify for a personal property exemption. Effective for taxes payable in 2007 and thereafter.
- 7 **Small biomass electric generation facility; personal property.** Extends the date by two years to January 1, 2008, that construction must begin by in order for a proposed facility for Rahr Malting (city of Shakopee; Scott County) to qualify for a personal property exemption.

Provides that the exemption is contingent on approval by the governing bodies of the city and county where the facility is proposed to be located.

Effective for taxes payable in 2009 and thereafter.

- 8 **Electric generation facility; personal property.** Provides an exemption of attached machinery and other personal property which is part of a proposed facility (Excelsior Energy; may be located in Itasca County or St. Louis County) that meets the following requirements at the time of construction:

- is designated as an innovative energy project;
- is within the taconite tax relief area;
- has access to existing railroad infrastructure within less than three miles;
- has received by resolution approval from the county and city or township in which it is to be located; and
- is designed to host at least 500 megawatts of electrical generation.

Construction of the first 500 megawatts of the facility must be commenced before January 1, 2010, and up to an additional 750 megawatts must be commenced before January 1, 2015.

Provides that the owner of the facility must have an agreement with the host county, city/township, and school district for a payment in lieu of property taxes to the host county, city/town, and school district.

Effective the day following final enactment.

- 9 **Electric generation facility personal property.** Provides an exemption for attached machinery and other personal property of a 10.3 megawatt run-of-the-river hydroelectric generation facility (lower St. Anthony; City of Minneapolis). At the time of construction, the facility must:
- utilize between 12 and 16 turbine generators at a dam site existing on March 31, 1994;

- be located on land within 3,000 feet of a 13.8 kilovolt distribution substation; and
- be eligible to receive a renewable energy production incentive payment under section 216C.41.

Construction must begin after April 30, 2006, and before January 1, 2009. Effective for taxes payable in 2007, and thereafter.

- 10 Wind energy conversion systems.** Expands the definition of wind energy conversion systems to include substations used and owned by one or more wind energy conversion facilities. By including this property within the definition of “wind energy conversion system,” those substations will be exempted from property tax since these systems pay a production tax in lieu of property tax. Effective for taxes levied in 2006, payable in 2007 and thereafter.
- 11 Indexing first-tier valuation limit; agricultural homestead property.** Provides for the indexing of the first-tier agricultural homestead classification. Beginning with the 2006 assessment year (payable 2007), the current \$600,000 limit on the first-tier class rate (0.55 percent) will annually be adjusted based upon the ratio of the previous assessment year’s statewide average taxable market value of agricultural property per acre of deeded farm land to the same measure for assessment year 2004. The limit is rounded to the nearest \$10,000 and is certified annually by the commissioner of revenue. The limit for taxes payable in 2007 is \$690,000.
- 12 Homestead of member of United States armed forces.** Provides that property owned by a person who is absent from Minnesota solely because they are on active duty with the armed forces may be granted homestead classification even if the property has never been occupied as a homestead by the person or a member of the person’s family. In order to qualify, the person acquiring the property must notify the county assessor of the acquisition and of their absence due to military service. When the person returns from service and notifies the assessor, the assessor must grant an abatement for the difference between the nonhomestead and homestead taxes for the current year and the preceding two years, not to exceed the time during which the person owned the property. Effective for taxes payable in 2007 and thereafter.
- 13 Class 2; agricultural homestead.** Increases the maximum market value of agricultural land and buildings eligible for the homestead class rate of 0.55 percent based on the index in section 0. The value in excess of that amount has a class rate of 1 percent. As in prior law, the house, garage, and one acre of land (HGA) is not included in this amount, but rather is treated the same as a residential homestead.

History. The \$600,000 market value tier was enacted in 1999. Prior to 1999, the maximum amount of agricultural property that was eligible to receive homestead treatment was based on acreage (320 acres), regardless of the value.

- 14 Abatements; utility property.** Modifies the general economic abatement authority provision by allowing a political subdivision to grant a current or prospective abatement, by contract or otherwise, and to also allow the abatement to include the taxes on personal property. It also adds another factor for authorizing an abatement if the governing body finds that it would be in the public interest to do so because granting the abatement will stabilize the tax base through equalization of the property tax revenues for a specified

period of time with respect to a taxpayer that owns certain public utility property.

- 15 Abatements; duration.** Provides that the duration of the abatement, which is generally limited to 15 years, begins in the first year in which the abatement is either paid or retained. Economic abatement agreements for real and personal property of utilities are specifically excluded from the prohibition, and may be granted successively after the initial abatement has expired.
- 16 Abatements; extended duration limit.** Adds utility businesses to the list of qualified businesses for which an abatement may be granted with an extended duration limit of up to 20 years. Under prior law, the ability to grant abatements subject to this extended duration expires on July 1, 2004, but this law provides that this authority to grant extended duration abatements as it applies to utility property does not expire. The law does allow 20-year abatements if only two of the three political subdivisions (e.g., the city and county, but not the school district) grant an abatement. But if all three political provide an abatement, the maximum term for new abatements is 15 years.
- 17 Abatements; limit.** Exempts utility owners from the limitation on abatements that exist under prior law, which equals the greater of (1) ten percent of the total current year's levy of the political subdivision, or (2) \$200,000.
- 18 Abatements; consent.** Provides that the authority of a political subdivision to abate taxes without obtaining the consent of the property owner does not apply to abatements granted to utility properties.
- 19 Abatements; applicability.** Provides that the application of the abatement laws to utility property applies only to property that is specified or described in an abatement contract or agreement.
- 20 Emergency medical services district; sunset.** Extends the sunset on emergency medical services special taxing districts by two years, to taxes levied in 2011, payable in 2012.
- 21 Property tax refunds; tuition discounts.** Prohibits the disallowance of any part of a property tax refund claim filed in 2005 or an earlier year if the claim failed to include in household income the cash value of a tuition discount provided by a postsecondary educational institution. Also provides for refunds to taxpayers who were required to repay part of a property tax refund based on inclusion of tuition discounts in household income on a claim filed in 2005 or earlier years. While the law requires inclusion of tuition discounts in household income, the discounts were not specifically noted in the instructions for claims filed in 2005 and earlier years. Beginning with claims filed in 2006, tuition discounts are referenced in the instructions, and refund claims will be disallowed for claimants who fail to include the value of tuition discounts in household income. Effective the day following final enactment.
- 22 Buffalo-Red River Watershed District; levy.** (a) Provides that the Buffalo Red-River Watershed District may levy only the (1) basic general administrative levy and (2) a tax levy not to exceed 0.02394 percent of taxable market value to pay for costs attributable to the basic water management features of projects initiated by petition of a political subdivision within the watershed district, or by petition of at least 50 resident owners of property within the district. The levy may also be used to develop and implement total maximum daily loads for water quality. Any project initiated by petition cannot be for a period exceeding 15 consecutive years.

(b) The tax levy under paragraph (a), clause (2), is effective beginning with taxes levied in 2006, payable in 2007, through taxes levied in 2008, payable in 2009, except that any project initiated by petition under this section within that two-year time period that extends beyond taxes payable in 2009, the levy authorization in Minnesota Statutes, section 103D.905, subdivision 3, (which is only 0.00798 percent of taxable market value) shall

continue to fund those projects for their duration. The general administrative tax levy under paragraph (a), clause (1), has no expiration date.

Effective the day following final enactment.

- 23 **Cook-Orr Hospital District; addition of territory.** Allows the board of the hospital district to enter into an agreement with the tribal council of the Bois Forte Band of Minnesota Chippewa that would permit certain reservation lands to be included in the territory of the hospital district. The agreement must establish terms and conditions under which the territory would be expanded and the amount of or means for determining the amount of the contribution by the Bois Forte Band.
- 24 **Property tax certification; Rochester school district.** Extends the date for certification of proposed property tax levies for Independent School District No. 535 (Rochester). Under otherwise applicable law, the deadline is September 30th. This section extends that deadline to October 8th for taxes payable in 2007 only.
- 25 **Rocori and Faribault lease-levy.** Authorizes the Rocori and Faribault school districts to levy for leased administrative space if the districts can demonstrate that the administrative space is less expensive than the instructional space that the districts would otherwise lease. The school district may not levy under this section for more than five years. Effective beginning with revenue for taxes payable in 2007.

Article 5: Department of Revenue Property Taxes and Aids

Overview

This article makes a number of minor changes in the property tax and state aid laws. It provides that the maximum market value credit for agricultural land that is part homestead and part nonhomestead will be calculated in the same manner as the credit for split-class residential properties. It also clarifies the deadline for adjusting LGA for boundary changes.

- 1 **Homestead seasonal resorts.** Clarifies that for property tax purposes, the portion of the resort used as the homestead of the owner is class 1a (residential homestead). Effective for taxes payable in 2006 and thereafter.
- 2 **Nonhomestead seasonal resorts (class 4c).** Strikes obsolete language due to the changes made in 2005 to resort property. Effective taxes payable in 2006 and thereafter.
- 3 **Market value homestead credit, residential property.** Strikes an obsolete reference, and makes explicit the multiple pro-rations that must occur in the situation when a property is part homestead and part nonhomestead, and not all of the owners, or qualifying relatives, occupy the property or because not all the spouses of owners occupy the property. Does not change the amount of credit allowed for affected properties.
- 4 **Market value homestead credit, agricultural property.** Changes the market value homestead credit calculation and resulting credit amount for agricultural properties that are part homestead and part nonhomestead to be consistent with the calculation for residential properties that are part homestead and part nonhomestead (see section 3). Both sections 3 and 4 have the effect of preventing a part owner from having a larger credit (and a lower tax) than a full owner of a same-valued homestead.
- 5 **Disparity reduction aid.** Strikes an obsolete provision. Directs the commissioner of revenue to delay for one year an aid adjustment related to changes in class rates if information needed to make the adjustment in a timely manner is not available. Effective for taxes payable in 2006 and thereafter.
- 6 **Certificate of forfeiture.** Eliminates the requirement that county auditors retain a paper

copy of each certificate of forfeiture, consistent with changes enacted in Laws 2005, chapter 5, modernizing recording and filing requirements. The auditor records the certificate with the county recorder or registrar, thus making it part of the county’s formal land records. Effective day following final enactment.

7 **Certificate of forfeiture.** Replaces a reference to the “filed” certificate with a reference to a “recorded” certificate, consistent with section 0 and to changes enacted in Laws 2005, chapter 4, modernizing recording and filing requirements. Effective the day following final enactment.

8 **Calculations and payments; LGA.** Makes explicit when LGA calculations will be adjusted for boundary changes. The required data must be available by July 15 of the year in which the calculation is made in order for the annexation adjustment to be included.

Article 6: Department of Revenue Sales and Use Taxes

Overview

This article makes a number of minor and clarifying changes in the sales and use tax.

1 **Sale and purchase; food, retail sale, affiliated groups.** Deletes reference to “sales at retail” in paragraph (g) and inserts the defined term “retail sale.” Also makes technical changes to the definition of “members of an affiliated group” used in determining the exclusion for services between affiliated groups of corporations. Effective the day following final enactment.

2 **Farm machinery.** Clarifies that in order to be included in the definition of “farm machinery,” the machinery must be used in the agricultural production of tangible personal property intended to be sold ultimately at retail. This change is intended to restore language to the definition of farm machinery that was omitted during recodification of the sales tax. Effective the day following final enactment.

3 **Computer; definition.** Adds a definition of “computer” that will apply throughout the sales tax chapter. This same definition appeared in prior law but applied only to the definition of “prewritten software.”

4 **Electronic; definition.** Adds a definition of “electronic” that will apply throughout the sales tax chapter. This same definition appeared in prior law but applied only to the definition of “prewritten software.”

5 **Computer software; definition.** Adds a definition of “computer software” that will apply throughout the sales tax chapter. This same definition appeared in prior law but applied only to the definition of “prewritten software.”

6 **Prewritten computer software.** Strikes definitions of “computer,” “electronic,” and “computer software” specific to the subdivision defining “prewritten computer software,” since those terms will be defined for the sales tax chapter as provided in sections 0 to 0.

7 **Logging equipment; definition.** Codifies the definition of “logging equipment,” based on the department interpretation. Provides the machinery and equipment must be used in the commercial cutting or removal of timber or wood products to be sold ultimately at retail in order to qualify as “logging equipment.” Specifies the types of machinery that would and would not qualify as logging equipment. Effective the day following final enactment.

8 **Use tax.** Replaces references to “sales” price with references to “purchase” price, the correct measure in computing use tax. Also provides that if the sale of tangible personal property sold by a Minnesota retailer is sourced outside the state, the property is subject to the Minnesota use tax if the property returns to Minnesota, except if the property returns in the course of interstate commerce. Effective the day following final enactment.

- 9 **Multiple points of use.** Strikes the word “taxing” before “jurisdiction,” for consistency with the Streamlined Sales Tax Agreement. Effective the day following final enactment.
- 10 **Mobile telecommunications service.** Corrects a reference to the federal Mobile Telecommunications Sourcing Act.
- 11 **Exempt meals at residential facilities.** Replaces undefined terms (“meals or drinks”) with defined terms (“prepared food, candy, and soft drinks”). Clarifies that food sold through vending machines is not exempt.
- 12 **Exempt meals at schools.** Replaces undefined terms (“meals and lunches”) with defined terms (“prepared food, candy, and soft drinks”). Clarifies that food sold through vending machines is not exempt.
- 13 **Other exempt meals.** Replaces undefined terms (“meals or drinks”) with defined terms (“prepared food, candy, and soft drinks”). Clarifies that food sold through vending machines is not exempt.
- 14 **Computers prescribed for use by school.** Replaces the undefined term “personal computer,” with the term “computer,” for which a definition is provided in section 0.
- 15 **Sewing materials.** Clarifies that the term “clothing” as used in the definition of “sewing materials,” is the definition provided in section 297A.67, subdivision 8.
- 16 **Job opportunity building zones.** Clarifies that the exemption for an aerial camera package is capped at \$50,000, regardless of the number of aerial camera packages qualifying for the exemption. Also clarifies that equipment must be incorporated into the construction of qualifying facilities in order to qualify for the exemption for construction materials, supplies, and equipment. Effective the day following final enactment for the provision relating to aerial camera packages and the provision relating to equipment incorporated into realty is effective for sales made after January 1, 2004.
- 17 **Biotech and health sciences industry zone.** Clarifies that equipment must be incorporated into the construction of qualifying facilities in order to qualify for the exemption for construction materials, supplies, and equipment. Effective sales made after January 1, 2004.
- 18 **Sales to government.** Replaces an undefined term (“meals”) with defined terms (“prepared food, candy, and soft drinks”). Also corrects a cross-reference.
- 19 **Sales of certain goods and services to governments (land clearing).** States that land clearing for construction or maintenance of roads, trails, and firebreaks for the state or a political subdivision is not subject to the sales tax. This finishes the clarification of when land clearing is a nontaxable service that was begun in the 2005 special session. The effective date is retroactive to sales made after October 28, 2005, but does not allow for refunds for taxes paid during the period from October 28, 2002 and July 15, 2005
- 20 **Sales to nonprofit groups.** Replaces an undefined term (“meals”) with defined terms (“prepared food, candy, and soft drinks”). Also corrects a cross-reference.
- 21 **Hospitals and outpatient surgical centers.** Replaces a reference to prepared food defined elsewhere with defined terms (“prepared food, candy, and soft drinks”). Also corrects a cross-reference.
- 22 **Fund-raising sales by or for nonprofit groups.** Strikes the terms “gum” and “candy products” from the list of items that qualify for the exemption for fund-raising sales made by youth groups since they would all fall within the defined term “candy.” Effective the day following final enactment.
- 23 **Fund-raising events sponsored by nonprofit groups.** Replaces undefined terms (“food, meals, and drinks”) with defined terms (“prepared food, candy, and soft drinks”).
- 24 **Statewide amateur athletic games.** Replaces undefined terms (“food, meals, and drinks”) with defined terms (“prepared food, candy, and soft drinks”).
- 25 **Exemption certificates.** Removes the requirement that exemption certificates must contain

a description of the general character of the property being sold by the purchaser in the regular course of business and must identify the property being purchased. These requirements are no longer required under the simplified exemption certificate process being used by the department. Effective the day following final enactment.

- 26 **Tax collected.** Clarifies that sales tax must be collected on purchase of an aerial camera package and certain purchases by a Meeker County electrical cooperative and on certain construction purchases made in international economic development zones. These purchases will be eligible for a sales tax refund under section 0. The original authorizing language for both exemptions provided for purchasers of these items to pay the sales tax and then claim a refund; this section along with sections 0 and 0 sets up a mechanism for implementing the refund.
- 27 **Sales tax refund.** Include purchase of an aerial camera package and certain purchases by a Meeker County electrical cooperative in the list of items for which sales tax refund claims may be filed.
- 28 **Application.** Includes purchase of an aerial camera package and certain purchases by a Meeker County electrical cooperative in the list of items for which the seller must provide the purchaser with a statement of cost to be used in filing a refund claim as provided in section 0.
- 29 **Motor vehicle lease price; payment.** Provides that when a credit is claimed at the early termination of a motor vehicle lease upon which sales tax was paid at the origination of the lease, the credit cannot be transferred or assigned to another person. A person who was the lessee on a terminated lease must be the party who claims the credit on a subsequent lease or purchase of a motor vehicle. Effective for leases entered into after September 30, 2005.
- 30 **Exemptions; local sales tax.** Strikes language that is obsolete and has been replaced by the sourcing rules found in section 297A.668. Effective the day following final enactment.
- 31 **Land clearing.** Changes the effective date on the land clearing exemption provision enacted during the 2005 special session to clarify that the special refund provisions only apply to contracts entered into between October 28, 2002, and July 15, 2005.
- 32 **Repealer.** Paragraph (a) repeals

- Minnesota Statutes, section 297A.68, subdivision 15, which provides an exemption for property delivered or shipped outside Minnesota by the seller. This exemption is no longer needed since, under the sourcing rules found in section 297A.668, a sale will be sourced to the location where receipt by the purchaser occurs if the purchaser does not receive the item at the business location of the seller. Effective the day following final enactment.
- Minnesota Statutes, section 297A.68, subdivision 18, which provides an exemption for custom computer software. This exemption is no longer needed since only prewritten computer software is defined as being tangible personal property. Custom computer software is not considered to be tangible personal property and is never subject to sales tax and therefore no exemption is necessary. Effective the day following final enactment.

Paragraph (b) repeals sales and use tax rules that are obsolete or that merely duplicate statutory language:

- part 8130.0400, subpart 3 (rental of equipment by contractors);

- part 8130.4800 (drugs, therapeutic and prosthetic devices);
- part 8130.5100 (gifts; transfers without monetary consideration);
- part 8130.5400 (clothing and wearing apparel); and
- part 8130.5800, subpart 6 (occasional meals).

Article 7: Department of Revenue Special Taxes and Fees

Overview

Allows the dry cleaner registration fee to be paid in quarterly installments.

Provides for a minimal deed tax on transfers to contractors to facilitate financing of improvements.

Makes clarifying changes in the MinnesotaCare provider tax, the tax in lieu of the sales tax on cigarettes, and the excise tax on flavored malt beverages.

- 1 Registration fee; dry cleaner.** Allows the payment of the registration fee in four installments (due on the 18th of January, April, June, and October). Prior law required that the fee be paid a single annual payment on October 1. Effective for tax returns and payments due on or after October 1, 2006.
- 2 Deed tax; transfer to obtain financing.** Establishes a deed tax at \$1.65 for transfers of real property if the transfer is: (1) to a builder or contractor, (2) intended to be temporary, and (3) done solely to obtain financing for an improvement on the conveyed property under a contract for improvement with the grantor that requires the conveyed property to be reconveyed to the grantor after completion and payment for the improvement. A transfer from the builder or contractor back to the grantor is also subject to a \$1.65 tax. Effective for deeds both executed and recorded on or after July 1, 2006.
- 3 Housing with services establishment.** Clarifies that housing with services establishments are excluded from the definition of health care provider for purposes of the MinnesotaCare taxes. This exclusion is consistent with the tax's treatment under the definition of patient services and replaces the exclusion for residential care homes licensed under chapter 144B, which was repealed. Effective the day following final enactment.
- 4 Separate statement of tax by wholesale drug distributors.** Clarifies that wholesale drug distributors who itemize the tax cannot do so in a deceptive or misleading manner. They must not separately state the tax obligation on bills when the amount received by the wholesale drug distributor is not subject to the MinnesotaCare tax. Prior law already applied this restriction to hospitals, surgical centers, and health care providers. Effective the day following final enactment.
- 5 Weighted average retail price.** Defines "weighted average retail price" for purposes of the per-pack cigarette tax that is imposed on wholesalers in lieu of the retail sales tax. Clarifies that the commissioner's estimates include expected price inflation during the year in which the per-pack amount will apply. Effective April 30, 2006.
- 6 Distilled spirits; definition.** Updates the definition of distilled spirits to follow federal regulations. Classifies as a distilled spirit any beverage that otherwise would be a flavored malt beverage except that:

- the alcohol contribution from flavors and other nonbeverage materials exceeds 49 percent of the product’s alcohol content of the product; and
- the beverage contains an alcohol content of more than 6 percent, 1.5 percentage points or more of which is derived from flavors or non-beverage ingredients.

Effective July 1, 2006.

- 7 **Flavored malt beverage; definition.** Updates the definition of flavored malt beverage to follow federal regulations that provide that a flavored malt beverage may not include a beverage that derives more than 49 percent of its alcohol content from flavors and other non-beverage materials. Effective July 1, 2006.

Article 8: Department of Revenue Miscellaneous

Overview

This article makes a number of minor changes in various tax administration rules. These include clarifying the manner of assessing penalties when there is no underlying tax obligation, authorizing collection of sales and withholding taxes against successor businesses, and delaying the payment of interest on refunds, awarded by the Tax Court, of income taxes and certain sales tax refunds.

- 1 **Electronic means; definition.** Provides that “electronic means” includes by use of a touch-tone telephone.
- 2 **Electronically filed returns; signatures.** Strikes reference to use of touch-tone phones made unnecessary by inclusion of touch-tone phones in the definition of “electronic means” in section 0.
- 3 **Orders of assessment.** Provides that penalties are assessed in the same manner as a tax order when there is no underlying tax obligation. This procedure applies to penalties such as a tax preparer penalty, penalty for submitting a materially incorrect W-4, penalty for filing frivolous liens against Department of Revenue employees, and penalties for failing to file certain information returns. Effective the day following final enactment.
- 4 **Business successor liability.** Clarifies that orders assessing successor liability are only made against businesses and not individuals. The statute provides a remedy for holding a successor business liable for the unpaid sales and withholding taxes of a former business. Under current law there, because of the definitions of “person” and “successor,” there is some ambiguity as to whether successor liability applies to individuals. Effective the day following final enactment.
- 5 **Personal property exemption; liens.** Strikes language that exempts personal property from property subject to levy if a lien is in place or a tax judgment filed. A new subdivision explicitly providing the exemption of personal property is proposed in section 0. Effective the day following final enactment.
- 6 **Exempt property.** Adds a new subdivision exempting personal property from levy to satisfy a lien or tax judgment. This replaces the exemption stricken in section 0.
- 7 **Tax court awarded refunds; interest.** Changes the time when interest on a tax refund awarded by the Tax Court begins accruing from the date the overpayment was made to the date the overpayment was made unless a different date of accrual is otherwise provided in law. This makes interest accrual on these refunds consistent with income tax refunds, where interest starts 90 days after the due date of the return, and with sales tax refunds, where interest starts 90 days after the filing date of the refund claim. Effective the day

following final enactment.

- 8 **Tax shelters; reportable transactions.** Clarifies that the due date of the tax return upon which reportable transactions must be disclosed is the extended due date of the tax return. Without this clarification some taxpayers would be required to file a copy of a federal disclosure form with the Department of Revenue prior to the time at which they are required to file it with the Internal Revenue Service. Effective for reportable transactions in which the taxpayer participated for taxable years ending before December 31, 2005.

Article 9: Public Finance

Overview

Contains provisions from the annual bill sponsored by the Public Finance Institute making various changes that affect the authority of local governments to issue debt and borrow money.

Modifies the bond allocation process for 2006 by giving a temporary top priority for unified pool allocations to student loan bonds.

- 1 **Drainage bonds.** Eliminates the requirement that drainage bonds be sold at par value.
- 2 **Maximum term of sewer and water system bonds.** Allows a 40-year term for sewer and water system bonds that are financed or guaranteed by the United States Department of Agriculture. The 40-year term cannot exceed the useful life of the asset. Prior law limits these bonds to a maximum term of 30 years.
- 3 **Municipal state-aid street aid anticipation bonds.** Increases the amount of bonds that a city can issue in anticipation of the receipt of state aid for municipal streets and eliminates other restrictions on these bonds. The section increases the percentage limit from 50 percent to 90 percent of the last annual aid amount. In addition, the five-year maturity limit on these bonds is repealed.
- 4 **County state-aid highway aid anticipation bonds.** Increases the percentage limit for bonds issued in anticipation of receipt of county state highway aid from 50 percent to 90 percent of the last annual aid amount.
- 5 **Market value definition for debt limits.** Provides that net debt and other limits on bonds that are based on market values are to be computed before any adjustments for tax increment financing, fiscal disparities, power line credits, and wind energy values, but after the limited market value adjustments, and after the exclusions for “This Old House.” In addition, current assessment year values are used. Under prior law, the previous assessment year values were required to be used.
- 6 **State guarantee program for county bonds.** Includes county general obligation housing bonds as qualifying debt obligations under the state guarantee program for county bonds.
- 7 **HRA bonds.** Eliminates the requirement that HRA bonds be sold at par value.
- 8 **EDA bonds, maximum term.** Increases the maximum term of economic development authority bonds from 20 years to 30 years.
- 9 **Interfund TIF loans.** Clarifies that the development authority (e.g., an HRA, EDA, etc.) may pass the authorizing resolutions for interfund loans that will be repaid with tax increments, if the authority has jurisdiction over the fund, rather than requiring the municipality (e.g., city) to do so.
- 10 **Bond allocation; HESO bonds.** Reduces the carryover for student loan bonds under the bond allocation statute from three years to one year and eliminates the \$25 million limit on the carryover.

- 11 **Carver County HRA.** Renames the Carver County Housing and Redevelopment Authority the Carver County Community Development Agency.
- 12 **City of Ramsey bonds.** Authorizes the city of Ramsey to issue general obligation bonds for the Sunwood on Grand project and exempts the bonds from the net debt limits.
- 13 **Bond allocation, unified pool temporary priority.** Provides a temporary set of priorities for bond allocations to be made from the unified pool before October 1, 2006. This temporary priority adds student loan bonds as the top priority to the priority list that for allocations otherwise would apply.
- 14 **Bond allocation, unified pool temporary priority.** Provides a temporary set of priorities for bond allocations to be made from the unified pool from the first Monday in October through November 2006. This temporary priority adds student loan bonds as the top priority to the priority list for allocations that otherwise apply.
- 15 **Unified pool, higher education total allocation.** Limits the total amount of allocations for student loan bonds from the unified pool in July 2006 to 50 percent of the pool amount.

Article 10: Tax Increment Financing

Overview

This article includes the annual tax increment financing (TIF) technical bill that is put together by staff from the Office of the State Auditor, cities, and the legislative staff. It makes a number of technical, clarifying, and minor policy changes in the TIF act. In addition, special law provisions are included for the cities of:

1. Burnsville
2. Detroit Lakes
3. Minneapolis
4. Faribault
5. Brooklyn Park

- 1 **County and school comments.** Modifies the process for the TIF authorities to solicit comments from the affected counties and school districts. Prior law required the authority to provide a copy of the TIF plan and a statement of the fiscal and economic implications for a proposed TIF district to the school district and county and to allow 30 days for comments before the public hearing is held on establishing the TIF district. The section makes a number of changes in this procedure. It:
- Clarifies that the discussion of borrowing costs in the statement of fiscal and economic implications is limited to the effects of issuing general obligation TIF bonds on the ability to issue bonds for general fund purposes. This eliminates the need to assess or discuss any tax base or other effects of the proposed TIF district on borrowing costs.
 - Limits the additional information that the school district or county can request from the TIF authority to matters related to size, timing, or type of development in the district. (This would appear to preclude requests for information about the

likelihood of development of the site or development absent TIF.)

- Limits the time a school district or county has to request additional information to 15 days after receipt of the plan and clarifies that making a request does not trigger a requirement to provide additional notice before approval of the district.

Effective date: Proposed TIF plans adopted after June 30, 2006.

- 2 **Plan modifications.** Eliminates the need for 30-day published notice and a public hearing before the authority adopts modifications to the TIF plan that change the amount of capitalized interest.

Effective date: Modifications of TIF plans adopted after the day following final enactment.

- 3 **Annual disclosure.** Eliminates the requirement to send the annual TIF statement to the school district.

Effective date: Disclosures provided after June 30, 2006.

- 4 **Duration limits.** Allows a TIF authority and municipality to reverse a decision setting a shorter duration limit in the TIF plan (as compared with the maximum statutory duration limit). This would be done following the plan amendment procedure that requires 30-day published notice and a public hearing. Under prior law, there was no authority to increase this duration limit.

Effective date: For all districts and for plan modifications adopted after the day following final enactment.

- 5 **Expenditures outside district; bioscience zones.** Clarifies that the special pooling rules for TIF districts in bioscience zones apply to existing, as well as newly created, districts. Expenditures on public infrastructure within the bioscience zone are treated as in-district expenditures.

Effective date: For all districts subject to the pooling rules.

- 6 **Five-year rule.** Clarifies that the exception (enacted in 2003) allowing districts to increase the pooling percentage limits by 10 percentage points for qualifying housing purposes also applies to the five-year rule. This was a drafting oversight in 2003 legislation. In addition, this section allows expenditures on public infrastructure in a bioscience zone to qualify for an exemption from the five-year rule.

Effective date: None (It was intended to apply to all districts to which the five-year rule applies.)

- 7 **Required use of increments for decertification.** Exempts the special pooling rules for housing and bioscience zones from the requirement that increments be used only to pay bonds or contracts qualifying under the five-year rule. This is necessary to allow these increments to be used for the permitted housing purposes, contemplated in the 1990 and 2003 provisions that exempted housing from the pooling rules.

Effective date: Applies to all districts to which the five-year rule applies.

- 8 **Pooling for deficits.** Clarifies that a TIF authority may transfer increments to cover deficits caused by the 1997-2001 property tax changes without modifying the TIF plan. This confirms a position taken by the Office of State Auditor. It will allow the authority and municipality to avoid the cost of adopting plan amendments (e.g., published notice and

paying outside attorneys or consultants to draft the amendments, attend hearings, and so forth).

Effective date: Effective retroactively to cover all transfers made under the pooling for deficits provisions.

- 9 **Adjustments to original net capacity.** Provides that improvements to tax exempt property are excluded from original net tax capacity, if they were made after approval of the TIF plan. Prior law tied this to certification of the district, which may occur significantly later and varies from county to county. For example, Ramsey County has a policy of not formally certifying a district until the district tax capacity increases over the original net tax capacity.

Effective date: Improvements made after June 30, 2006.

- 10 **Suspension of distribution of increment.** Moves up the date for withholding increments from authorities that fail to file their disclosures with the Office of State Auditor from the third Tuesday in November to October 1 and increases the percentage of the first distribution of increment withheld from 25 percent to 100 percent.

Effective date: Begins with the 2006 disclosure filing.

- 11 **Referendum exemption for TIF bonds.** Clarifies the language of the referendum exemption for TIF bonds. Under prior law, general obligation TIF bonds were not subject to the referendum requirement if they met the rules that exempt special assessment bonds (i.e., 20 percent of the cost is covered by increments). Prior law applied this 20-percent test using pure tax increments (i.e., the actual taxes paid by captured tax capacity) as the measure of increment. The section changes this to refer to “increments” as defined under the TIF Act. The change will allow other forms of revenues (e.g., interest on TIF balances, repayments by developers, and so forth) to be used to satisfy the 20-percent test.

Effective date: Day following final enactment.

- 12 **Burnsville; Heart of the City TIF.** Extends the five-year rule to a ten-year period for one parcel in the Heart of the City TIF district.

- 13 **Detroit Lakes; Redevelopment TIF.** Authorizes the city of Detroit Lakes to establish a redevelopment TIF district in a defined area of the city under special rules for applying the blight test. This district would be established by:

- Buildings and structures removed under the Highway 10 Realignment Project would be treated as structurally substandard under the blight test).
- The three-year time limit for requesting certification after demolition will not apply (i.e., certification could be requested after the three-year limit and still treat the parcels as occupied by buildings purposes of the blight test.

The city must approve the TIF plan by December 31, 2014.

- 14 **Minneapolis; Homeless Assistance TIF district.** Authorizes the city of Minneapolis to create a special “homeless assistance TIF district.” This district is limited to an area of up to six acres, located in a municipal development district, and containing two homeless shelters operated by 501(c)(3) organizations and that meet specified requirements.

The district has a 25-year duration limit and is exempt from the following rules under the

general law:

- Approval of the TIF plan is not subject to the but-for findings under general law.
- The five-year rule and pooling restrictions do not apply.

At least 50 percent of the district's increments (determined after first deducting the allowable administrative expenses) must be used to provide emergency shelter and assistance for the homeless.

- 15 City of Faribault; TIF extension.** Allows the city of Faribault to extend the duration of TIF district No. 5-1 by two years to cover a deficit in the city's ability to pay the district's bonds caused by the 2001 property tax changes.

Effective date: Upon local approval by the city, county, and school district.

- 16 Brooklyn Park; housing TIF.** Authorizes the city of Brooklyn Park to extend the duration limit of a district established under a 1994 special law by five additional years and deposit the additional money in its housing account. The 2005 Legislature authorized extension of the district by one year, pending preparation by the city of a report and plan for using increments from the district for housing improvements.

The section also authorizes the city to establish up to 6 additional housing districts subject to special rules. 75 percent of the parcels in each of these districts must consist of either vacant land or multi-family housing constructed before 1975. The parcels in these districts containing multi-family housing constructed before 1975 would have an original net tax capacity based on the value of the land. The authority to establish these districts expires on 2011.

Effective date: Upon local approval by the city, except the duration extension is also subject to approval by the county and school district.

- 17 Repealer; Burnsville.** Repeals a 1998 special law permitting the city of Burnsville to establish a TIF district and directs that the increments be returned to the county for distribution as excess increments.

Article 11: Aids and Credits

Overview

Provides one-time aid to the county, city, and school district of Mahnomen to compensate for property taxes not paid in 2006 when the tribal casino is placed in trust and removed from the property tax rolls. Provides transition language for city LGA and school district levy calculation related to this tax base reduction.

Provides additional LGA funding for the city of Cass Lake.

- 1 LGA; City aid base.** Provides additional city aid base (the "grandfathered portion" of LGA) to the cities of Mahnomen and Cass Lake.

Paragraph (t) provides a one time additional payment of \$80,000 for aids payable in 2007 only, to compensate the city of Mahnomen for tax base loss from the tribal casino being placed in trust. Beginning with aids payable in 2008, the tax base loss will be compensated

for under the LGA formula.

Paragraph (u) permanently increases the city aid base by \$100,000 beginning with aids payable in 2007 for a city that meets the following criteria:

- has a 2004 city population between 200 and 2,000;
- has less than \$300 per capita in equalized tax capacity (tax base);
- has an equalized city tax rate of more than 110 percent; and
- is located in a county with at least 15,000 acres of tax-exempt Indian lands.

Cass Lake is the only city that meets these criteria.

- 2 City formula aid.** Provides additional transition language for the Mahnomen city tax base loss by increasing the maximum allowed increase for a city's aid if the city's net tax capacity has decreased by more than 25 percent due to property becoming tax-exempt Indian land. The allowed increase equals the city's tax rate in the aid calculation year times its net tax capacity decrease resulting from property becoming exempt.
- 3 Appropriation; temporary county and city aids.** Appropriates \$600,000 for payments to Mahnomen County and the city of Mahnomen, and the Mahnomen school district No. 432 on July 20, 2006, to compensate for the loss of property tax revenue in calendar year 2006 as a result of land located in the city of Mahnomen being placed in trust status. \$450,000 will go to the county, \$80,000 to the city and \$70,000 to the school district.

Subdivision 2 also provides for transitional language for calculating school levies for taxes payable in 2007, based on the reduced school district tax base.

Article 12: Minerals

Overview

Modifies the mining occupation tax by reducing the rate, changing the apportionment formula, and providing rules for computing the tax for companies engaged in both taconite and other types of mining.

Modifies the distribution of taconite production tax revenues and allocates surplus money in the taconite homestead credit account to various infrastructure projects in the tax relief area for distributions in 2007 only.

- 1 Producer; definition.** Defines "producer" as firms engaged in mining or in producing concentrates or direct reduce ore for purposes the mining tax chapter.
- 2 Occupation tax rate; other minerals.** Reduces the rate of the occupation tax that applies to ores other than iron ore or taconite from 9.8 percent to 2.45 percent. The rate reduction is offset by the change in the definition of sales under the apportionment formula in section 0.
- 3 Gross income.** Provides that if more than one mineral, metal, or energy resource is mined and processed at the same mine and plant, the gross income for each of those items is determined separately, but then may be combined on one occupation tax return for producers of ores other than taconite or iron ore. The section also deems transfers of ores to be Minnesota sales for purposes of the three-factor apportionment formula. Prior law treated these as non-Minnesota sales, if the ore was transported outside of Minnesota. This

offsets the reduction in the tax rate under section 0.

4 **Deductions.** Provides that additions to federal taxable income for percentage depletion for a mine or plant that mines and produces more than one mineral, metal, or energy resource, other than iron ore or taconite, must be determined separately, but then may be combined on one occupation tax return.

5 **Occupation tax.** Reduces the rate of the occupation tax on producers of iron ore and taconite from 9.8 percent to 2.45 percent. The rate reduction is offset by the change in the definition of sales under the apportionment formula in section 0.

6 **Gross income.** Provides that if iron ore or taconite and another mineral, metal, or energy resource are mined and produced at the same mine and plant, the gross income for each of these products must be determined separately from the mine value for the iron ore or taconite. Those items of gross income may be combined on one occupation tax return. It also deems transfers of ores to be Minnesota sales for purposes of the three-factor apportionment formula. Prior law treated these as non-Minnesota sales, if the ore was transported outside of Minnesota. This offsets the reduction in the tax rate under section 0.

7 **Deductions.** Provides that deductions from a mine or plant that mines and produces iron ore or taconite, and another mineral or metal, is determined separately in computing the addition for percentage depletion, but then those additions may be combined on one occupation tax return.

8 **Deductions; ratio.** Requires companies that produce both iron, taconite, or direct reduced ore, and other ores from the same mine or facility to separately determine the mine value of iron ore, taconite concentrates and direct reduced ore, from the gross proceeds from mining other ores. The ratio of the mine value from the iron ore, taconite concentrates, and direct reduced ores to gross proceeds from mining other ores is applied to the deductions that are common to both processes in determining taxable income, for the separate occupation taxes paid on taconite and iron ore and on other minerals.

9 **Repayment of grant for removed mobile equipment.** Requires a producer that uses money from the taconite economic development fund to buy haulage trucks, mobile equipment, and mining shovels to repay a proportion of the grant to the fund if it removes the equipment from the tax relief area. The repayment percentage is based on the period of use in the tax relief area: 100 percent must be repaid if the equipment is removed in the first year, declining by 10 percentage points with the passage of each year.

10 **Reference.** Incorporates a reference to the change in distribution required under section 0.

11 **Range Association of Municipalities and Schools.** Increases the distribution of production tax proceeds to the Range Association of Municipalities and Schools from .20 cent to .30 cent per ton. Effective for taxes paid in 2007 and later years.

12 **Grant and loan fund.** Modifies the distributions from the grant and loan fund. Under prior law, for distributions in 2008 and later years, amounts would be allocated to joint ventures with mining companies, for reclamation of lands containing abandoned or worked out mines to convert those lands to marketable properties. This section allocates the first \$2,000,000 of the 2008 distribution to the St. Louis County road and bridge fund for the relocation of St. Louis County Road 715, Pike River Road and the balance are allocated to the purposes permitted for taconite environmental protection fund administered by the IRRRB. This will allow continued use for mine land reclamation, as well as other types of projects.

13 **Public works and local economic development fund.** Provides for distributions in 2007 only, a special fund is established to receive 38.4 cents per ton of the taconite production tax that would otherwise be distributed into a property tax relief account. (The property tax relief account has a sufficient surplus to pay for the ongoing taconite homestead credit without this money.) It is estimated that the total amount distributed in 2007 will be about

\$15,360,000. This section allocates money to the following projects:

Project	Cents per ton allocation	Estimated allocation
Central Iron Range Sanitary Sewer District for combined waste water facility	13.4	\$5,360,000
Eveleth for water treatment facility	6	2,400,000
East Range Joint Powers Board central wastewater collection and treatment system	1	400,000
Hoyt Lakes for Leeds Road repairs	0.5	200,000
Virginia to extend 8 th Street South	0.7	280,000
Mountain Iron for Hoover Road repairs	0.7	280,000
Gilbert for alley repairs and loan repayment	0.9	360,000
Keewatin for city well	0.4	160,000
Grand Rapids for fire and hazardous materials center	0.3	120,000
Aitkin County Growth for peat harvesting project	0.9	360,000
Nashwauk for comprehensive city plan	0.4	160,000
Taconite for comprehensive city plan	0.4	160,000
Marble for water and sewer	0.3	120,000
Long Lake Environmental Learning Center (Aitkin County)	0.8	320,000
Colerain Technology Center	0.3	120,000
Grand Rapids EDA for North Central Research and Technology Laboratory	0.5	200,000
Bovey for sewer and water infrastructure	0.6	240,000
Calumet infrastructure	0.3	120,000
Economic development project	10	4,000,000
Total		\$15,360,000

14 **Sylvan Township; aggregate tax may be imposed.** Authorizes the Town of Sylvan, with the approval of Cass County, to impose an aggregate tax (i.e., gravel tax) if not imposed by the county. Instead of the normal distribution of the aggregate tax, the Town of Sylvan will retain all of the proceeds of the tax. If Cass County later imposes an aggregate tax, the tax authorized under this subdivision is repealed on the effective date of the Cass County tax.

Effective upon local approval by the governing body.

15 **Issuance; purpose.** Requires the commissioner of IRRR to issue \$415 million of bonds for health, safety, and maintenance improvements in schools in the taconite tax relief area. Prior law granted authority to the commissioner to issue these bonds, but did not require it. The section also eliminates the requirement that the school districts levy the maximum amount allowed by law for this purpose to qualify for the bonds.

16 **Transition provisions; alternative minimum tax.** Allows unused alternative minimum tax credits to be claimed against the occupation tax prior to repeal of the alternative minimum tax after 2005.

17 **Alternative minimum tax; taconite.** Repeals the alternative minimum taxes that apply to taconite and other mineral producers, effective for tax years after 2005.

Article 13: Miscellaneous

Overview

Reduces the percent of June sales and excise taxes that must be submitted early by 8 percentage points; from 85 percent to 78 percent.

Delays designation of the International Economic Development Zone by two years and delays the start of the tax incentives by three years.

Authorizes issuance of \$32.8 million of transit bonds by the Metropolitan Council.

Defines a “tax” for purposes of the definitional provisions under Minnesota Statutes.

1 **International economic development zone; property tax exemption.** Provides that the exemption for qualifying property in an international economic development zone applies only during the duration of the zone. Prior law allowed the exemption beginning with the first year after designation of the zone. The change will delay the start of the property tax exemption until property taxes payable in 2011 under the provisions of section 0.

Effective the day following final enactment.

2 **Sales and use tax.** Changes the percent of the June sales and use tax collections that a vendor with an annual liability of \$120,000 or more must remit in June. The 85 percent amount under prior law is reduced to 78 percent. Effective beginning with the June 2007 sales tax remittance.

3 **Accelerated payment of June sales tax liability; penalty for underpayment.** Changes the safe harbor provision for avoiding a penalty for underpayment of the June sales tax liability to match the rate reduction from 85 percent to 78 percent in section 0. Effective beginning with the June 2007 sales tax payments.

4 **International economic development zones; corporate minimum fee.** Provides the zone’s exemption from the minimum fee on business entities applies during the duration of the zone. Prior law provided that this fee did not apply during the period of the designation

of the zone. This section ensures that the provisions of section 0 (delaying the start of the zone until 2010) will not extend the period in which the tax incentives are provided to qualifying businesses.

Effective the day following final enactment.

- 5 **International economic development zones; corporate minimum fee.** Changes the definitions of the base for the minimum fee to be consistent with the provisions of section 0.

Effective the day following final enactment.

- 6 **International economic development zones; sales tax exemption.** Modifies the timing of the sales tax exemption for purchases by qualified businesses for use in an international economic development zone so that the exemption applies after final designation of the zone and before its expiration. It eliminates restrictions in prior law intended to ensure that the fiscal cost of the exemption occurred in fiscal year 2008 or later. (Section 0 delays designation of the zone until the last day of fiscal year 2007.)

Effective the day following final enactment.

- 7 **Accelerated tax payment; cigarette or tobacco products distributor.** Changes the percent of the June cigarette and tobacco tax collections that a vendor with an annual liability of \$120,000 or more must remit in June. The 85 percent amount under prior law is reduced to 78 percent. Adjusts the safe harbor provision for avoiding a penalty for underpayment of the June sales tax liability to match the rate reduction. Effective beginning with the June 2007 sales tax remittance.

- 8 **Accelerated tax payment; penalty (liquor tax).** Changes the percent of the June alcoholic beverage excise tax collections that a vendor with an annual liability of \$120,000 or more must remit in June. The 85 percent amount under prior law is reduced to 78 percent. Adjusts the safe harbor provision for avoiding a penalty for underpayment of the June sales tax liability to match the rate reduction. Effective beginning with the June 2007 sales tax remittance.

- 9 **Foreign trade zone powers.** Authorizes a city, county, town, or other political subdivision (e.g., a port authority) to apply for federal foreign trade zone powers. Two or more political subdivisions can apply jointly for these powers.

Effective the day following final enactment.

- 10 **Duration limit; JOBZ ethanol projects.** Provides a three-year extension of the period in which JOBZ tax incentives are available for ethanol projects, if the business subsidy agreement is signed after April 30, 2006, and before July 1, 2007.

NOTE: A nearly identical provision was enacted in chapter 281, article 4, section 26. This provision was open-ended as to when the business subsidy agreement must be signed (i.e., it did not contain the July 1, 2007, or a comparable date). The Governor signed chapter 281 after chapter 259. Minnesota Statutes, section 645.26, subdivision 3, provides that when two or more laws passed in the same legislative session are irreconcilable, the law latest in date of final enactment prevails. This likely means that the July 1, 2007, date was effectively negated by the enactment of chapter 281.

- 11 **International economic development zone designation and duration schedule.** Delays the required date for designation of the international economic development zone from June 30, 2006, to June 30, 2008. The start of the duration of the zone would be delayed by three

years to calendar year 2010 (from 2007 under present law).

This section also requires the zone authority to prepare a transportation impact study, in consultation with the applicant for zone designation. This study must be completed before final designation of the zone and must evaluate the zone's effects on the transportation system, including the Metropolitan Council's transportation plan, if the zone is to be located in the metropolitan area. The study must be distributed to the legislature and the committees on transportation and economic development.

Effective the day following final enactment.

12 International economic development zone; business plan distribution. Requires copies of the business plan to be provided to the legislature in the manner normally used for reports to the legislature (i.e., to the Chief Clerk, Secretary of the Senate, and the Legislative Reference Library). Copies of the business plan would also be provided to the chairs of the legislative committees with jurisdiction over transportation and economic development.

13 International economic development zone; jobs credit. Provides that the jobs credit applies only during the duration of the zone and that the base year for calculating the jobs credit is the year before the zone duration begins. Prior law provided that it was the year before designation. Under section 0, there will be about a two-year gap between designation of the zone (required by June 1, 2008) and the start of the zone duration (2010). The credit applies to a percentage of the increase in qualifying wages over the amount paid in the base year, so this will have the effect of using a later year (with a likely higher amount) as the base.

It delays the start of the indexing credit base from tax year 2007 until tax year 2011. The credit's dollar amounts (i.e., the minimum \$30,000 wage that must be paid to qualify for the credit) are annually adjusted for inflation. Under the act, no inflation adjustments will occur until tax year 2011.

14 Transit bonds. Authorizes the Metropolitan Council to issue \$32.8 million of transit bonds to fund the May 1, 2006, version of the Council's regional master transit plan and transit capital improvement program.

15 Fee and tax; definitions. Defines "tax" to mean any fee, charge or assessment imposed by a governmental entity. Excludes amounts that an individual chooses to pay in return for goods or services, but specifies that goods or services do not include access to private market transactions with a nongovernmental party, or trade, professional, or business licenses.

Provides that any fee or charge that meets the definition provided of a tax must be treated as a tax for all purposes, without regard to whether or not the statute or law names it as a tax.

Provides that the definition does not extend or limit the constitutional requirement that bills to raise revenue originate in the House.

16 International economic development zone; appropriation. Extends the availability of the \$750,000 appropriation for grants from fiscal year 2007 through December 31, 2010 (midway through fiscal year 2011).

17 Tax relief account transfer. Directs the commissioner of finance to transfer sufficient money from the tax relief account to bring the ending FY2007 general fund balance to zero based on the legislation enacted during the 2006 regular session and the February 2006 forecast. The remaining balance in the account will be transferred to the general fund on the first day of the 2008-2009 biennium.

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Application. Provides that the transit bonds in section 14 apply in the seven-county metro area.