

MINNESOTA • REVENUE

Department Technical Bill

February 27, 2004

	Yes	No
Separate Official Fiscal Note Requested		
Fiscal Impact		
DOR Administrative Costs/Savings		

Department of Revenue
Analysis of H.F. 2300 (Abrams)

	<u>Revenue Gain or (Loss)</u>			
	<u>F.Y. 2004</u>	<u>F.Y. 2005</u>	<u>F.Y. 2006</u>	<u>F.Y. 2007</u>
		(000's)		
General Fund	\$0	\$0	\$0	\$0

Various effective dates.

EXPLANATION OF THE BILL

A section-by-section summary of the bill is attached.

REVENUE ANALYSIS DETAIL

The bill contains technical changes and clarifications that are not expected to have an impact on state revenues.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

hf2300-1/cc

2004 TECHNICAL BILL SUMMARY

MINNESOTA • REVENUE

Appeals & Legal Services Division
600 North Robert Street, Mail Station 2220
St. Paul, MN 55146-2220

ARTICLE 1 SALES AND USE TAXES

Section 1. Omission of Use Tax. Amends Minn. Stat. § 289A.38, subd. 6, to clarify that if a taxpayer omits an amount in excess of 25 percent from a use tax return, the period for assessing additional taxes is extended to 6 and ½ years. Currently the statute only references sales and withholding tax returns. Effective the day following final enactment.

Section 2. Definition of “Bad Debt.” Amends Minn. Stat. § 289A.40, subd. 2, to clarify that while the definition of “bad debt,” for purposes of refund claims that relate to overpayment attributable to a loss from a bad debt, in general has the same meaning as used federally, the exclusions listed are only for claims relating to an overpayment of taxes under Minn. Stat. ch. 297A. The definition of “bad debt” passed during the 2003 legislative session as part of the Streamlined Sales Tax project, and is effective for “sales and purchases made on or after January 1, 2004.” Arguably, however, the definition of bad debt, with exclusions, is effective on or after July 1, 2003 for taxes other than sales tax. Therefore, the effective date of this section is on or after January 1, 2004, for sales tax, and on or after July 1, 2003, for all other taxes.

Section 3. Sourcing of Watercraft, Aircraft, Modular Homes, Manufactured Homes, or Mobile Homes. Amends Minn. Stat. § 297A.668, subd. 1, to clarify that this section covers the sourcing for watercraft, aircraft, modular homes, manufactured homes, or mobile homes. While the Streamlined Sales Tax Agreement provides that member states are not required to apply the sourcing rules to these items, Minnesota does so. Effective the date following final enactment.

Section 4. Sourcing of First Periodic Payment of Recurring Lease or Rental Payments. Amends Minn. Stat. § 297A.668, subd. 3, to correct a cite, to clarify that sourcing of first periodic payment of recurring lease or rental payments is in accordance with the general sourcing rules of subdivision 2. This section is effective for sales and purchases made on or after January 1, 2004, to be consistent with the effective date of the language from the 2003 legislative session.

Section 5. Sourcing of Transportation Equipment Purchases. Amends Minn. Stat. § 297A.668, subd. 5, the sourcing and definition of transportation equipment, to include “aircraft that are operated by air carriers” that transport “persons or property in interstate commerce” and “containers designed for use on and component parts attached or secured on” the transportation equipment listed. These items are included in the definition of transportation equipment in the Streamlined Sales Tax Agreement, and were inadvertently omitted from the 2003 legislation. This section is effective for sales and purchases made on or after January 1, 2004, to be consistent with the effective date of the language from the 2003 legislative session.

Section 6. Service Address Definition for Telecommunication Sourcing. Amends Minn. Stat. § 297A.669, subd. 16, to correct cites to paragraphs within this subdivision. This section is effective for sales and purchases made on or after January 1, 2004, to be consistent with the effective date of the language from the 2003 legislative session.

Section 7. Industrial Production. Amends Minn. Stat. § 297A.68, subd. 2, to clarify that materials and supplies used or consumed in providing services added to the sales tax base in 1987 do not qualify for the industrial production exemption. The amendment would clarify that these services are not considered to be tangible personal property for purposes of this exemption. Effective the day following final enactment.

Section 8. Capital Equipment. Amends Minn. Stat. § 297A.68, subd. 5, to clarify that machinery and equipment used in providing services added to the sales tax base in 1987 and machinery and equipment used primarily in the furnishing, preparing, and serving of prepared food by restaurants does not qualify as capital equipment. This amendment would clarify that these services and prepared foods are not considered to be tangible personal property for purposes of this exemption. The amendment 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.

Section 9. Preexisting Construction Contracts and Bids. Amends Minn. Stat. § 297A.68, subd. 39, to provide that transition period for preexisting construction contracts and construction bids also applies to tax rate increases in addition to sales tax base changes. Effective the day following final enactment.

Section 10. Repeal of Obsolete Sales and Use Tax Rules. Repeals the following sales and use tax rules that are obsolete or that merely duplicate statutory language: Minnesota Rules, parts 8130.0110, subp. 4; 8130.0200, subps. 5 and 6; 8130.0400, subp. 9; 8130.1200, subps. 5 and 6; 8130.2900; 8130.3100, subp. 1; 8130.4000, subps. 1 and 2; 8130.4200, subp. 1; 8130.4400, subp. 3; 8130.5200; 8130.5600, subp. 3; 8130.5800, subp. 5; 8130.7300, subp. 5; and 8130.8800, subp. 4. Effective the day following final enactment.

ARTICLE 2 SPECIAL TAXES

Miscellaneous

Section 1. Mortgage Registry Tax Exemption. Amends Minn. Stat. § 287.04 which sets forth exemptions to the mortgage registry tax to reference Minn. Stat. § 193.147 which deals with armories. Effective the day following final enactment.

Section 2. Minnesota Care Health Care Provider Definition. Amends Minn. Stat. § 295.50, subd. 4, to eliminate the reference to residential care homes licensed under Minn. Stat. ch. 144B which has been repealed, and replace it with a reference to housing with services establishment registered under Minn. Stat. ch. 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.

Section 3. Petroleum Tax Penalty Abatement. Amends Minn. Stat. § 296A.22 by adding a new subdivision to provide 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.

Gambling Tax (sections 4-8)

As a result of the 2003 legislative session, linked bingo game provisions were added to Minn. Stat. ch. 349 which contains the regulatory provisions of the Minnesota Gambling Control Board. The revenue department is proposing that consistent changes be made to Minn. Stat. ch. 297E which contains the lawful gambling tax provisions.

Section 4. Distributor. Amends Minn. Stat. § 297E.01, subd. 5, which contains a definition of distributor to include a linked bingo game provider which will have the effect of requiring reporting of sales of gambling product. Effective the day following final enactment.

Section 5. Gambling Product. Amends Minn. Stat. § 297E.01, subd. 7, which contains a definition of gambling product to include linked bingo paper sheets. Effective the day following final enactment.

Section 6. Linked Bingo Game. Amends Minn. Stat. § 297E.01, by adding a new subdivision 9a, to define linked bingo game. Effective the day following final enactment.

Section 7. Linked Bingo Game Provider. Amends Minn. Stat. § 297E.01, by adding a new subdivision 9b, to define linked bingo game provider. Effective the day following final enactment.

Section 8. Inspection Rights. Amends Minn. Stat. § 297E.07 to give the commissioner of revenue the authority to inspect place of business of a linked bingo game provider and the authority to inspect the books, records, and other documents required to be kept by this chapter. Effective the day following final enactment.

Section 9. Cigarettes in Interstate Commerce. Amends Minn. Stat. § 297F.08, subd. 12, to clarify that the reports are only required in relation to cigarettes manufactured by companies that are not original or subsequent participating manufacturers in the Master Settlement Agreement with other states. Effective the day following final enactment.

Section 10. Cigarette Tax Return; June Acceleration. Amends Minn. Stat. § 297F.09, subd. 1, regarding acceleration to clarify the return due dates for those distributors subject to the accelerated payment requirements. Effective the day following final enactment.

Section 11. Tobacco Products Tax Return; June Acceleration. Amends Minn. Stat. § 297F.09, subd. 2, regarding acceleration to clarify the return due dates for those distributors subject to the accelerated payment requirements. Effective the day following final enactment.

Insurance Taxes

Section 12. Reinsurance. Amends Minn. Stat. § 297I.01, by adding a new subdivision 13a, to define reinsurance. Effective the day following final enactment.

Section 13. Medium-sized Mutual Companies. Amends Minn. Stat. § 297I.05, subd. 4, to remove the phrase “property and casualty” to conform the statute concerning the taxation of certain medium sized mutual companies to the decision of the Minnesota Supreme Court in *CUNA Mutual Insurance Society vs. Commissioner of Revenue*, 647 N.W.2d 533 (Minn. 2002). Effective for returns, taxes, surcharges and estimated payments required to be filed or paid for tax years beginning on or after January 1, 2004.

Section 14. Repealer. Repeals a lawful gambling tax provision set forth in Minn. Stat. § 297E.12, subd. 10, dealing with allocation of payments since Minn. Stat. § 270.652 already deals with allocation of payments. Effective the day following final enactment.

ARTICLE 3 PROPERTY TAX AND AIDS

Section 1. Payment of Current Taxes Requirement for Manufactured Homes. Amends Minn. Stat. § 168A.05, subd. 1a, to clarify the requirement added last year that certain outstanding personal property tax amounts must be paid for a purchaser to obtain a new certificate of title for a manufactured home. Last year’s change requires “taxes levied on the unit in the name of (the seller)” to be paid prior to issuing a new certificate. The proposed changes will clarify that these include taxes payable in the current year, whether or not they have been levied. 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 can arise if these taxes are not paid at the time title is transferred because neither the property nor the new owner will be liable for those taxes. Effective the day following final enactment.

Section 2. Cross Reference in Minn. Stat. § 270B.12. Amends Minn. Stat. § 270B.12, subd. 9, by adding a cross reference to Minn. Stat. § 273.124, subd. 1(a), which allows the commissioner of revenue to verify to an assessor whether an individual requesting or receiving a homestead classification has filed an income tax return as a resident. Minn. Stat. ch. 270B deals with disclosure of numerous types of tax and tax return information. Effective the day following final enactment.

Section 3. Cross Reference to Exemption for Leased Housing and Redevelopment Authority Property and to Exemption for Cooperative Farming Agreements. Amends Minn. Stat. § 272.01, subd. 2, to provide that the use of property under a cooperative farming agreement pursuant to Minn. Stat. § 97A.135 does not subject the property to taxation under this subdivision, and that HRA property leased under Minn. Stat. § 272.68, subd. 4, is not subject to tax under this subdivision. These are cross references to existing laws and do not create new exemptions. Effective the day following final enactment.

Sections 4 and 5. Institutions of Purely Public Charity. Amends Minn. Stat. §§ 272.02, subd. 1a and 272.02, subd. 7, to remove obsolete references to repealed provisions and to insert statements which clarify that government rent assistance and government contract payments are not donations or gifts for the purposes of this exemption. Section 5 is effective the day following final enactment, and Section 6 is effective for taxes payable in 2004 and thereafter.

Section 6. Property Subject to Taconite Production Tax or Net Proceeds Tax. Amends Minn. Stat. § 272.02 by adding a new subdivision that describes the property tax exemptions related to the taconite production tax and net proceeds tax in Minn. Stat. ch. 298. Effective the day following final enactment.

Section 7. Cross Reference to Exemption for Religious Corporations. Amends Minn. Stat. § 272.02 by adding a new subdivision cross-referencing Minn. Stat. § 317A.909, subd. 3, which exempts personal and real property that a religious corporation formed under Minn. Stat. § 317A.909 necessarily uses for a religious purpose. Effective the day following final enactment.

Section 8. Cross Reference to Exemption for Children's Homes. Amends Minn. Stat. § 272.02 by adding a new subdivision cross-referencing Minn. Stat. § 317A.907, subd. 7, which exempts property owned by children's home corporations formed under Minn. Stat. § 317A.907. Effective the day following final enactment.

Section 9. Cross Reference to Exemption for Housing and Redevelopment Authority Property and Tribal Housing Authority Property. Amends Minn. Stat. § 272.02 by adding a new subdivision cross-referencing the exemptions contained in Minn. Stat. ch. 469 for property owned by a housing and redevelopment authority or a tribal housing authority. Effective the day following final enactment.

Section 10. Agricultural Homesteads for Entity-Owned Land. Amends Minn. Stat. § 273.124, subd. 8, by clarifying that in order to receive an agricultural homestead classification under this

statute, limited liability companies must operate a “family farm” as defined in Minn. Stat. § 500.24. Effective the day following final enactment.

Section 11. Cross Reference to Exemption for Cooperative Farming Agreements and Leased HRA Property. Amends Minn. Stat. § 273.19, subd. 1a, to provide that cooperative farming agreements pursuant to Minn. Stat. § 97A.135, subd. 3, and occupancy agreements pursuant to Minn. Stat. § 272.68, subd. 4, are not considered leases for purposes of Minn. Stat. § 273.19 and therefore do not cause the 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.

Section 12. Local Boards of Appeal and Equalization; Documentation of Attainment of Annual Quorum and Training Requirements. Amends Minn. Stat. § 274.014, subd. 3, to clarify that 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.

Section 13. County Board Meeting Dates. Amends Minn. Stat. § 274.14 to delete obsolete language. Current law states that the County Board of Equalization may meet on any ten consecutive meeting days in June after the second Friday in June “if the actual meeting dates are contained on the valuation notices.” Actual meeting dates are now required to be on the valuation notices, so the stricken language, limiting the Board meetings to the last ten business days of June, is superfluous. Effective the day following final enactment.

Section 14. Date to Certify Levies and Tax Rates. Amends Minn. Stat. § 275.065, subd. 1a, to change 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. Current law sets this date at September 20. This is not workable because school districts do not certify their levies until September 30. The proposal changes the date to October 5. Effective the day following final enactment.

Section 15. Disparity Reduction Aid Levy Adjustment. Amends Minn. Stat. § 275.07, subd. 1, to remove duplicative language. Minn. Stat. § 275.07, subd. 1, reduces the levy for Disparity Reduction Aid (“DRA”), and Minn. Stat. § 275.08, subd. 1c, makes the same adjustment to tax rates. The levy-reduction language is stricken because the purpose of DRA is to reduce the disparity in local tax rates, not levies. Effective the day following final enactment.

Section 16. Reporting Special Levies on Surveys. Amends Minn. Stat. § 275.07, subd. 4, to allow the commissioner the option of excluding special levy information from the information reported on the levy surveys required under this statute. Effective the day following final enactment.

Section 17. Transmittal of State Property Tax Levy Receipts. Amends Minn. Stat. § 276.112 to require that county treasurers transmit the state’s share of property tax receipts from the first half of the year, on or before two business days before June 30, rather than on or before June 29. 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.

Section 18. Tax Forfeited Property; Prohibited Purchasers. Amends Minn. Stat. § 282.016 to clarify that the prohibitions in this statute preventing county auditors, treasurers, court administrators, assessors, and the other county officers and employees from purchasing tax forfeited land only apply to tax forfeited land in the county for which they perform duties. Effective the day following final enactment.

Section 19. Tax Forfeited Land; Duties of the Commissioner of Finance. Amends Minn. Stat. § 282.21 to clarify that the duties of the commissioner of finance with respect to issuing a conveyance for tax forfeited land under Minn. Stat. § 282.21 relate to Minn. Stat. §§ 282.14 to 282.22 dealing with lands in conservation areas. Effective the day following final enactment.

Section 20. Tax Forfeited Land; Duties of the Commissioner of Natural Resources. Amends Minn. Stat. § 282.224 to clarify that the duties of the commissioner of natural resources with respect to issuing a conveyance of tax forfeited property pursuant to Minn. Stat. § 282.224 relate to Minn. Stat. §§ 282.221 to 282.226 dealing with tax forfeited agricultural lands in the Red Lake Preserve. Effective the day following final enactment.

Section 21. Tax Forfeited Land; Duties of the Commissioner of Revenue. Amends Minn. Stat. § 282.301 to clarify that the procedures in that statute, and the duties of the commissioner of revenue under that statute, relate to all repurchases of tax forfeited land authorized in Minn. Stat. ch. 282. Effective the day following final enactment.

Section 22. City Aid Base Definition. Amends Minn. Stat. § 477A.011, subd. 36, to strike paragraph (f). Striking this paragraph was unintentionally missed when the 2003 Legislature redefined Local Government Aid for cities. Paragraph (f) would have the effect of preserving the grandfathered aid base. Effective beginning with aids payable in 2004.

Section 23. Local Impact Note and Public Defender Costs. Amends Minn. Stat. § 477A.03, subd. 2b, to clarify the appropriations for local impact note costs and public defender costs in this statute. Effective for aid payable 2004 and thereafter.

Section 24. 2004 City Aid Reductions. Amends 2003 Minn. Laws, 1st Spec. Sess., ch. 21, art. 5, sec. 13, to clarify that a city's 2004 initial aid reduction amount is not "*applied to*" its 2004 local government aid under Minn. Stat. § 477A.013, because that amount already includes the initial aid reduction amount. Effective for aids payable in 2004.

Section 25. "Levy Plus Aid Revenue Base" for Counties. Amends 2003 Minn. Laws, 1st Spec. Sess., ch. 21, art. 6, sec. 9, to exclude 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.

Section 26. Repealers.

Repeals Minn. Stat. § 273.19, subd. 5, which is a limited exemption for some hydroelectric facilities on government owned sites. It is no longer needed because a non-limited exemption already exists in Minn. Stat. § 272.02, subd. 15. Effective the day following final enactment.

Repeals Minn. Stat. § 275.15 because it is obsolete. It originally provided that Minn. Stat. §§ 275.124 to 275.16 do not increase levy limits but are additional limitations. However, those statutes currently do not contain a levy limit. Effective the day following final enactment.

Repeals Minn. Stat. § 283.07 because it is obsolete. This section allows for refunding property taxes related to exempt railroad land mistakenly believed to have been sold, and thereby to have become taxable. Railroad land is no longer exempt from property taxes so this provision is no longer needed. Effective the day following final enactment.

ARTICLE 4 MISCELLANEOUS

Section 1. Date of Assessment of a Consent Agreement. Amends Minn. Stat. § 270.65 by adding language to the date of assessment statute that in the case of a consent agreement under Minn. Stat. § 270.67, subd. 3, when 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.

Section 2. Extension to File Estate Tax Return. Amends Minn. Stat. § 289A.19, subd. 4, to change the extension to file a Minnesota estate tax return from an extension based on reasonable cause to an automatic extension upon a timely request. Effective for estates of decedents dying after December 31, 2003.

Section 3. Sending Orders of Assessment by Electronic Mail. Amends Minn. Stat. § 289A.37, subd. 5, by providing that notice of an order of assessment can 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.

Section 4. Civil Fraud Penalty. Amends Minn. Stat. § 289A.60, subd. 6, to clarify 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.

Sections 5 and 6. Income Taxes Paid to Other States. Amends Minn. Stat. §§ 290.01, subd. 19a (additions to federal taxable income) and 290.06, subd. 22 (credit for taxes paid to another state), to make the language describing income taxes paid to another state more consistent within Minn. Stat. ch. 290. Section 4 also corrects the cite to Minn. Stat. § 290.01, subd. 7 (definition of resident) in the credit for taxes paid another state caused by 2001 legislation which changed the paragraphs in Minn. Stat. § 290.01, subd. 7. Effective for tax years beginning after December 31, 2003.

Section 7. Education Credit Cite to Education Code. Amends Minn. Stat. § 290.0674, subd. 1, to change the cite in the education credit to the list of curriculum areas of study for which fees for instruction qualify for the education credit. The changes are needed because 2003 education legislation changed where the list is found in Minn. Stat. ch. 120B from 120B.02 to 120B.021 and 120B.022. Effective for tax years beginning after December 31, 2003.

Section 8. Personal Liability Standard for Withholding Tax. Amends Minn. Stat. § 290.92, subd. 1(4), to clarify the definition of employer in the withholding tax law to mean someone who has control, rather than “legal” control, over the payment of wages, so that both legal and actual control are covered. This makes the personal liability standard in the withholding tax statute consistent with the general standard of personal liability for trust taxes as set forth in Minn. Stat. § 270.101. Effective the day following final enactment.


Section 9. Annual Sustainable Forest Incentive Act Annual Certification. Amends Minn. Stat. § 290C.05 to clarify how claimants who fail to send in the annual certification by the due date, are treated. Adds a cross reference to Minn. Stat. § 290C.11 (penalties). Current language requires that land be removed from the program immediately upon failure to return the annual certification by the due date. This language makes it clear that failure to return an annual certification is treated the same way as any other program violation. The change codifies current practice, which is not to immediately remove the claimant from the program. Effective the day following final enactment.

Section 10. Sustainable Forest Incentive Act; Length of the Covenant Amends Minn. Stat. ch. 290C by adding a new section to make the chapter easier to understand by dealing with the length of the covenant in one section. As currently provided in Minn. Stat. §§ 290C.04 and 290C.10 the covenant remains in effect for a minimum of 8 years, unless an exception applies. The new section explains how the 4-year waiting period in Minn. Stat. § 290C.10 functions and explains how to determine when the covenant ends. Effective the day following final enactment.

Section 11. Unfair Cigarette Sales Act. Amends Minn. Stat. § 325D.33, subd. 6, which is part of the Unfair Cigarette Sales Act, to repeal language authorizing repeal of license since this is under the commissioner of revenue’s authority not the department of commerce. Effective the day following final enactment.

Section 12. Metropolitan Solid Waste Landfill Fee Penalty. Amends Minn. Stat. § 473.843, subd. 5, to clarify that the penalty provisions related to the metropolitan solid waste landfill fee are those applicable to the corporate franchise taxes. This is similar to the change recently enacted to the hazardous waste generator tax. Effective the day following final enactment.

Section 13. Rule Repealer. Repeals Minnesota Rules, parts 8093.2000 and 8093.3000. Part 8093.2000, Contents of Declaration of Estimated Tax, was promulgated to give guidance for corporate taxpayers subject to the estimated tax provisions of Minn. Stat. § 290.931. Minn. Stat. § 290.931 has been replaced by Minn. Stat. § 289A.26 which clearly sets forth rules for corporations computing estimated tax. The department recommends that this part be repealed because the rule is



general, the statute for which it provided guidance is repealed, and the present statute is more specific and arguably in conflict with the rule.

Part 8093.3000, Extension of Time for Filing Declarations by Corporations, was promulgated pursuant to Minn. Stat. § 290.932, subd. 4, which permitted the commissioner to grant a reasonable extension of time for filing a declaration of estimated tax. This subdivision of the statute was repealed.

Dated: January 29, 2004