Department Tax Bill

March 21, 2006

	Yes	No
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F. 3519 (Simpson)/ S.F. 3257 (Moua)

	Fund Impact			
	F.Y. 2006	**F.Y. 2007**	**F.Y. 2008**	**F.Y. 2009**
	(000's)			
Agricultural Market Value Credit – Calculation for Fractional Homesteads (Starting pay 2007)	$0	$0	$15	$15
Disparity Reduction Aid – Timing of Adjustment for Class Rate Changes (Starting pay 2006)	$0	$0	$75	$75
General Fund Total	$0	$0	$90	$90

EXPLANATION OF THE BI LL

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

REVENUE ANALYSIS DETAIL

Agricultural Market Value Credit – Calculation for Fractional Homesteads

- This change is similar to the change enacted in 2005 for fractional residential homesteads. Because the market value credit decreases for values between $115,000 and $345,000, the proposal will reduce the market value homestead credit.
- The estimate was based on the count of agricultural homestead parcels in the $115,000 to $345,000 range, about 90,000, multiplied 0.3%, the estimated portion that are fractional homesteads, multiplied by the midpoint reduction of $57.
- An estimated 270 parcels would be affected.

Disparity Reduction Aid – Timing of Adjustment for Class Rate Changes

- If information is not available to adjust disparity reduction aid (DRA) when class rates changes are made, the proposal authorizes the adjustment to be made in the following year.
- This analysis was modeled on taxes payable 2006 estimated market values and class rate changes. The estimates reflect the proposed DRA adjustment resulting from the 2005 law which re-established Class 4d property. Future law changes could result in similar situations where data would not be available to make the adjustment until after the initial year.

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

2006 REVENUE DEPARTMENT BILL SUMMARY

MINNESOTA · REVENUE
Appeals and Legal Services Division
600 North Robert Street
Saint Paul, Minnesota 55146-2220

Bill Date: February 27, 2006
Summary Date: February 27, 2006

ARTICLE 1: PROPERTY TAXES AND AIDS

Homesteads

Sections 1 and 2. Seasonal Resorts. Amends Minn. Stat. § 273.13, subds. 22 and 25. These amendments are related to changes made by the 2005 Legislature for resorts located on lakeshore that also contain the homestead of the owners. Before 2005, different portions of the resort entitled to different class rates were defined geographically; now, those portions are determined with reference to market values. These proposed changes clarify that (i) the portion of the resort used for a homestead is a homestead for property tax purposes, not just subject to the same class rates as a homestead; and (ii) the entire resort is now in class 1a and 1c, not partially in class 4c. This change will not increase or decrease any property's tax amount. Effective for taxes payable in 2006 and thereafter.

Property Tax Related State Aids and Credit Reimbursements

Sections 3 and 4. Market Value Homestead Credits. Amends Minn. Stat. § 273.1384, subds. 1 and 2. The changes in subd. 2 are substantive, and affect the amount of credit for ag-use properties that are part-homestead and part-nonhomestead, not because of how the property is used, but because of who lives there or who farms it. These changes to subd. 2 (for ag properties) parallel the changes that were made to subd. 1 (for residential properties) in 2005; and, in general, have the effect of preventing a part owner from having a larger credit (and a lower tax) than the full owner of a similar-valued homestead. The changes to subd. 1, and the other changes to subd. 2, merely delete an obsolete reference, and make explicit the multiple pro-rations that must occur in situations where only one spouse occupies the property, and the married couple itself is only a part-owner or the relative of a part owner. Effective for taxes payable in 2007 and thereafter.

Section 5. Disparity Reduction Aid. Amends Minn. Stat. § 273.1398, subd. 3. The new language instructs the commissioner of revenue to delay for one year an aid adjustment related to changes in class rates, if sufficient information is not available to make the adjustment that year. Effective for taxes payable in 2006 and thereafter.

Tax-Forfeited Property

Sections 6 and 7. Certificates of Forfeiture. Amends Minn. Stat. §§ 281.23, subd. 9 and 284.07. In 2005, § 284.07 was amended to eliminate redundant references to both "recording" property-related documents (with the county recorder in the case of abstract property) and "filing" such documents (with the county registrar in the case of registered property). Under other changes made in 2005, the word "recording" now refers to both actions. The problem is that § 284.07 still refers to both "recording" and "filing" auditor's certificates of forfeiture, because § 281.23, subd. 9 currently tells the county auditor to "record" each certificate of forfeiture, and informally "file" a copy of each certificate in their own office. These changes: (1) eliminate the requirement for the auditor to keep a copy of each certificate in their office (although they can continue to do so if they deem it appropriate); but, (2) continue to require each certificate of forfeiture to become a part of the county's formal land records. Effective the day following final enactment.

Section 8. Aid Adjustments for Annexations. Amends Minn. Stat. § 477A.014, subd. 1. This law requires the commissioner of revenue to make aid adjustments to reflect municipal annexations and other boundary or organizational changes that are effective on or before June 30 of the aid calculation year. These amendments will clarify that those adjustments can only be made if the needed information is certified to the commissioner by the respective responsible authorities by July 15 of the aid calculation year. Effective for aid payable in 2006 and thereafter.

ARTICLE 2: SALES AND USE TAX

Section 1. Sale and Purchase of Food; Retail Sale; Services Between Affiliated Groups. Minn. Stat. § 297A.61, subd. 3, deleting paragraph (d) to clarify that the sale and purchase of certain non-exempt foods is taxable, not the "preparing" of taxable food. In paragraph (g) deletes reference to "sales at retail," and inserts the defined term "retail sale" and provides that the exclusion for services between affiliated groups of corporations is limited to entities defined as "members of affiliated group" as defined under the Internal Revenue Code. Effective the day following final enactment.

Section 2. Farm Machinery. Amends Minn. Stat. § 297A.61, subd. 12, to clarify that farm 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 lost during recodification of the sales tax. Effective the day following final enactment.

Sections 3 through 6. Definitions of Computer, Electronic and Computer Software. Amends Minn. Stat. § 297A.61, subd. 17, and adds new subdivisions, so that the definitions of "computer," "electronic," and "computer software" apply wherever those terms are found in chapter 297A, rather than just in reference to prewritten software of subd. 17. Effective the day following final enactment.

Section 7. Logging Equipment. Amends Minn. Stat. § 297A.61 by adding a subdivision that defines the term "logging equipment". This would codify the current department interpretation of "logging equipment." The subdivision provides the machinery and equipment must be used in the commercial cutting or removal of timber or wood products. The subdivision sets forth the types of machinery that would and would not qualify as logging equipment. Effective the day following final enactment.

Section 8. Use Tax. Amends Minn. Stat. § 297A.63, subds. 1 and 2, to delete the reference to "sales" price and inserts the defined term "purchase" price which is the correct measure in computing use tax. Subdivision 1 is amended to provide 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.

Section 9. Multiple Points of Use. Amends Minn. Stat. § 297A.668, subd. 6, as a technical change, to remove the word "taxing" before "jurisdiction," to make the provision consistent with the Streamlined Sales Tax Agreement. Effective the day following final enactment.

Section 10. Mobile Telecommunications Service. Amends Minn. Stat. § 297A.669, subd. 11, to correct an incorrect cite to the Mobile Telecommunications Sourcing Act. Effective the day following final enactment.

Sections 11 through 13. Meals, Food. Amends Minn. Stat. § 297A.67, subds. 4, 5, and 6 to make a technical correction by replacing undefined terms with defined terms, and deleting superfluous terms. Effective the day following final enactment.

Section 14. Computers. Amends Minn. Stat. § 297A.67, subd. 14, to delete the references to a personal computer and instead use the defined term "computer." Effective the day following final enactment.

Sections 15, 17, 18, 19, and 35. Statutory Reference. Amends Minn. Stat. §§ 297A.67, subd. 25; 297A.68, subd. 2; 297A.68, subd. 3; 297A.68, subd. 5, and 297A.94, to reflect an amendment to § 297A.61, subd. 3 where paragraph (d) was deleted. Effective the day following final enactment.

Section 16. Sewing Materials. Amends Minn. Stat. § 297A.67, subd. 27, to clarify the definition of the term "clothing" found in this subdivision. Effective the day following final enactment.

Section 20. Job Opportunity Building Zones. Amends Minn. Stat. § 297A.68, subd. 37, to clarify 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. Amends the subdivision to provide that equipment must be incorporated into the construction of the qualifying facilities in order to qualify for the exemption. 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.

Section 21. Biotechnology and Health Sciences Industry Zone. Amends Minn. Stat. § 297A.68, subd. 38, to provide that equipment must be incorporated into the construction of the qualifying facilities in order to qualify for the exemption. Effective for sales and purchases made after January 1, 2004.

Section 22. Land Clearing Contracts. Amends Minn. Stat. § 297A.68, subd. 68, to provide that land clearing contracts to develop a site would include the construction and maintenance of public roads, trails and firebreaks. Effective for sales and purchases made October 28, 2002, except that no refunds will be made if the tax was collected by a retailer and remitted to the state on land clearing contracts in effect after October 28, 2002, and before July 15, 2005.

Section 23. International Economic Development Zones. Amends Minn. Stat. § 297A.68, subd. 41, to provide that state and local sales tax must be paid on (a) purchases before July 1, 2007 of building materials, supplies and equipment incorporated into the construction of real property in the international economic development zone, and (b) purchases of goods and services for use by a qualified business in the international trade zone if those purchases are made during the duration of the zone but before July 1, 2007. The qualified business or the contractor is then authorized to file a claim for refund of those taxes under general refund provisions in Minn. Stat. § 297A.75. No refunds are to be paid before July 1, 2007. Effective the day following final enactment.

Section 24. Sales to Government. Amends Minn. Stat. § 297A.70, subd. 2, by deleting the term "meals" and inserting references to prepared food, candy, and soft drinks, which are the types of food and food ingredients that are otherwise subject to the sales tax. Effective the day following final enactment.

Section 25. Sales to Nonprofit Groups. Amends Minn. Stat. § 297A.70, subd. 4, by deleting the term "meals" and inserting references to prepared food, candy, and soft drinks, which are the types of food and food ingredients that are otherwise subject to the sales tax. Effective the day following final enactment.

Section 26. Sales to Hospitals and Outpatient Surgical Centers. Amends Minn. Stat. § 297A.70, subd. 7, by deleting the term "meals" and inserting references to prepared food, candy, and soft drinks, which are the types of food and food ingredients that are otherwise subject to the sales tax. Effective the day following final enactment.

Section 27. Fund-raising Sales by or for Nonprofit Groups. Amends Minn. Stat. § 297A.70, subd. 13, by deleting 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.

Section 28. Fund-raising Events Sponsored by Nonprofit Groups. Amends Minn. Stat. § 297A.70, subd. 14, by deleting the phrase "food, meals, and drinks" and inserting references to prepared food, candy, and soft drinks, which are the types of food and food ingredients that are otherwise subject to the sales tax. Effective the day following final enactment.

Section 29. Statewide Amateur Athletic Games. Amends Minn. Stat. § 297A.70, subd. 15, by deleting the phrase "food, meals, and drinks" and inserting a reference to prepared food, candy and soft drinks which are the types of food and food ingredients that are subject to the sales tax. Effective the day following final enactment.

Section 30. Exemption Certificates. Amends Minn. Stat. § 297A.72, subd. 2, to remove the requirement that exemption certificates must contain a description of the person claiming the exemption 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.

Sections 31 through 33. Sales Tax Refunds. Amends Minn. Stat. § 297A.75, subds. 1, 2, and 3, to correct an oversight in legislation passed in 2005. The law currently provides an exemption for purchases of an aerial camera package and certain purchases by a Meeker County electrical cooperative but in both cases the tax must be imposed and a refund claim filed. These amendments set up a mechanism to file the refund claims and provide that the refund claims must be filed by the owner of the qualifying business. This section also provides a refund mechanism for items purchased for use in an International Economic Development Zone. Effective the day following final enactment.

Section 34. Motor Vehicle Lease Credits. Amends Minn. Stat. § 297A.815, subd. 1, to provide that when 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.

Section 36. Local Sales Tax. Amends Minn. Stat. § 297A.99, subd. 7, to delete paragraph (b), since § 297A.68, subd. 15, is being repealed as the exemption is no longer needed under the sourcing rules found in § 297A.668. Effective the day following final enactment.

Section 37. Repealer. Repeals Minn. Stat. § 297A.68, subd. 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 § 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.

Repeals Minn. Stat. § 297A.68, subd. 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.

Repeals the following sales and use tax rules that are obsolete or that merely duplicate statutory language: Minnesota Rules, parts 8130.0400, subp. 3 (rental of equipment by contractors); 8130.4800 (drugs, therapeutic and prosthetic devices); 8130.5100 (gifts; transfers without monetary consideration); 8130.5400 (clothing and wearing apparel); and 8130.5800, subp. 6 (occasional meals).

ARTICLE 3: SPECIAL TAXES

Section 1. Dry Cleaner Registration Fee. Amends Minn. Stat. § 115B.49, subd. 4, to allow the payment of the registration fee in four equal installments. Current law requires that the fee be paid one time annually. Effective for returns and payments due on or after October 1, 2006.

Section 2. Deed Tax – Transfer to Obtain Financing. Creates Minn. Stat. § 287.222 to tax deeds at $1.65 that temporarily transfer property pursuant to a contract between an owner and a person who is a contractor or builder to enable the contractor or builder to obtain financing to build an improvement for the owner. Effective for deeds both executed and recorded on or after July 1, 2006.

Section 3. Housing with Services Establishments. Amends Minn. Stat. § 295.50, subd. 4, to clarify that housing with services establishments are excluded from the definition of health care provider. This exclusion is consistent with Minn. Stat. § 295.50, subd. 9b(b)(10), which excludes services to these establishments from the definition of patient services. This exclusion replaces the exclusion for residential care homes licensed under Minn. Stat. ch. 144B. That chapter has been repealed. Effective the day following final enactment.

Section 4. Separate Statement of Tax by Wholesale Drug Distributors. Amends Minn. Stat. § 295.53, subd. 3, to clarify 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. This provision already exists in the law for hospitals, surgical centers, and health care providers. Effective the day following final enactment.

Section 5. Weighted Average Retail Price. Amends Minn. Stat. § 297F.01 by adding a new subdivision 22a to define the term, "weighted average retail price" to clarify how the figure is determined including that inflation should be factored into the department's annual calculation of the weighted average retail price of cigarettes. Effective April 30, 2006.

Liquor Tax – Flavored Malt Beverages

For purposes of imposing the liquor tax on malt beverages, the department is proposing to follow federal regulations (27 CFR parts 7 and 25) that allow flavoring and other non beverage materials containing alcohol to be added to fermented malt beverages. The regulations provide that if the alcohol contribution from such flavors and other non beverage materials exceeds 49 percent of the alcohol content of the product then the tax will be the same as that imposed on distilled spirits.

Section 6. Distilled Spirits. Amends Minn. Stat. § 297G.01, subd. 7, to update the definition of distilled spirits to follow federal regulations that provide that a distilled spirit includes any beverage which would be classified as a flavored malt beverage except that the alcohol contribution from flavors and other nonbeverage materials exceeds 49 percent of the alcohol content of the product. Effective July 1, 2006.

Section 7. Flavored Malt Beverage. Amends Minn. Stat. § 297G.01 to add a new subdivision 8a to follow federal regulations that define flavored malt beverage. Effective July 1, 2006.

ARTICLE 4: TACONITE PRODUCTION TAX

Section 1. Amends Minn. Stat. § 298.223, subd. 3, to allow the new, fixed funding source for the taconite environmental protection fund (*see* new 298.98, subd. 9c created in section 5 of this article) to be used like the residual funding that is being removed from Minn. Stat. § 298.28, subd. 11.

Section 2. Amends Minn. Stat. § 298.225, subd. 2, to provide that if current year distributions of tax revenues are not sufficient to make the required distributions, any deficiencies will be made up solely from the Douglas J. Johnson economic protection trust fund. Effective for taxes and distributions payable in 2007 and thereafter.

Section 3. Amends Minn. Stat. § 298.227 to clarify that a producer's matching expenditures must be compared to distributions based on taxable tons (current year production) under § 298.98, subd. 9a. The amendment maintains the matching of tax revenues and distributions that is in effect under current law. Effective for taxes and distributions payable in 2007 and thereafter.

Section 4. Amends Minn. Stat. § 298.24, subd. 1(d), to provide that the production tax is calculated on production in the current tax year. Under current law, the tax is calculated on a three year average of production. Clarifies that property taxes are due, instead of the production tax, when a facility closes and the property taxes due are higher than the production taxes due. Updates subdivisions 1(a) and 1(e) to state the current rate of tax for the 2005 production year. Updates subdivision 1(g)(3) to eliminate obsolete references to three year average. Effective for taxes payable in 2006 for updated statement of rate, other changes effective for taxes payable in 2007 and thereafter.

Section 5. Amends Minn. Stat. § 298.28 to provide, with one exception in subdivision 9a, that the proceeds of the production tax are to be distributed based on a three year average of production. The exception in subdivision 9a is a tax rebate program. To match the rebates with the taxes collected, the distribution to the rebate program will be based on taxable tons (current year production) not a three year average of production.

A cross reference to section 298.225 is added to highlight that the sections are related.

Subdivisions 4 and 11 of section 298.28 are amended to delete remainder payments to the taconite environmental protection fund. All the proceeds of the production tax that are not needed to make the distributions required by the statute will be deposited into the Douglas J. Johnson economic protection trust fund. Instead of receiving any remainder payments, a new subdivision 9c creates a new, fixed distribution of 25 cents per ton to the taconite environmental protection fund. This distribution approximates historic funding levels from the remainder payments. Sections 298.28, subd. 11(e) and 298.28, subd. 11a are eliminated as obsolete.

Effective for taxes and distributions payable in 2007 and thereafter.

Section 6. Amends Minn. Stat. § 298.285 to provide that the state aid payment is calculated using a three year average of production instead of taxable tons (current year production). The amending language preserves the current method of calculating the aid payment based on a three year average of production. The reference to the 33 cents per ton rate is obsolete and thus, is eliminated. Effective for taxes payable in 2007 and thereafter.

Sections 7, 8, 9, 10, 11, 12, 13, 14, and 15. Amends the taconite revenue bond authorization that was passed in 2005 (section 7), and prior year's school bond authorizations that are currently in effect (sections 8-15), to provide that if current year distributions of tax revenues are not sufficient to make the payments required on the bonds, any deficiencies will be made up out of the Douglas J. Johnson economic protection trust fund. Current law distributes only currently collected taxes and allows any deficiencies to be paid in equal shares out of the taconite environmental protection fund and the Douglas J. Johnson economic protection trust fund. These sections also update the references to the Douglas J. Johnson economic protection trust fund to conform to the full and correct legal name of the fund. Effective for taxes payable in 2007 and thereafter.

ARTICLE 5: MISCELLANEOUS

Sections 1 and 2. Clarifying the Definition of Electronic Means. Amend Minn. Stat. §§ 270C.01, subd. 4 (definition of electronic means) and 270C.304 (definition of electronic filing and signature). The last sentence regarding touch tone phones in § 270C.304 is deleted and moved into § 270C.01, subd. 4. This makes the two definitions consistent. Effective the day following final enactment.

Section 3. Order of Assessment for Certain Kinds of Penalties. Amends Minn. Stat. § 270C.33, subd. 4. A provision is added for assessing penalties 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.

Section 4. Business Successor Liability. Amends Minn. Stat. § 270C.57, subd. 3, to clarify that orders assessing successor liability are only made against businesses. The statute provides a remedy for holding a successor business liable for the unpaid sales and withholding taxes of a former business. However, 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.

Sections 5 and 6. Personal Property Exemption for Liens and Levies. Amend Minn. Stat. § 270C.67 (levy statute). The current personal property exemption is deleted from subdivision 1, and a new subdivision 1a is added that incorporates the personal property exemption from the lien statute (§ 270C.63, subd. 8). This makes the personal property exemption for both liens and levies the same. Effective the day following final enactment.

Section 7. Interest Start Date on Tax Court Awarded Refunds. Amends Minn. Stat. § 271.12, which currently provides that interest on a tax refund awarded by the Tax Court starts from the date the overpayment was made. This is not consistent with income tax refunds, where interest starts 90 days after the due date of the return, or with sales tax refunds, where interest starts 90 days after the filing date of the refund claim. Clarifying language is therefore added for the Tax Court to apply a different start date for interest accrual when provided for by another law. Effective the day following final enactment.

Section 8. Tax Shelters; Special Rules. Amends Minn. Stat. § 289A.121, subd. 5, to clarify 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.

Section 9. Clarifying the Assignment of Deductions to Domicile. Amends Minn. Stat. § 290.17, subd. 1(b), to clarify that deductions are assigned to Minnesota only when the deductions are definitely related to items of income that are assigned to Minnesota. Effective the day following final enactment.