

# MINNESOTA • REVENUE

## Department Tax Bill

February 12, 2007

	<b>Yes</b>	<b>No</b>
<b>DOR Administrative Costs/Savings</b>		<b>X</b>

Department of Revenue

Analysis of H.F. 496 (Lenczewski)/ S.F. 610 (Bakk), As Proposed to be Amended

	<b>Fund Impact</b>			
	<b><u>F.Y. 2008</u></b>	<b><u>F.Y. 2009</u></b>	<b><u>F.Y. 2010</u></b>	<b><u>F.Y. 2011</u></b>
	(000's)			
Change Tobacco Products Use Tax Exemption from \$100 to \$50 (7/1/07)				
General Fund	Negligible	Negl.	Negl.	Negl.
Health Impact Fund	Negligible	Negl.	Negl.	Negl.
Modify Homestead Qualifications for Agricultural Property Held in Trust	<u>\$0</u>	<u>(Negl.)</u>	<u>(Negl.)</u>	<u>(Negl.)</u>
<b>General Fund Total</b>	Negl.	Negl.	Negl.	Negl.
<b>Health Impact Fund Total</b>	Negl.	Negl.	Negl.	Negl.

### EXPLANATION OF THE BILL

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

### REVENUE ANALYSIS DETAIL

#### *Change Tobacco Products Use Tax Exemption from \$100 to \$50*

- Information from the Special Taxes Division indicates that assessments made for exceeding the current \$100 exemption have been minimal in recent years.
- It is expected that the changes from \$100 to \$50 would not have a significant impact.

#### *Modify Homestead Qualifications for Agricultural Property Held in Trust*

- It is expected that the changes would apply to only a few properties. The properties would qualify for market value homestead credit. Reduction in the property tax would be shifted onto other property types, including homesteads, and result in increased property tax refunds. The net impact on the general fund is estimated to be negligible, less than \$5,000.

Source: Minnesota Department of Revenue  
Tax Research Division  
[http://www.taxes.state.mn.us/taxes/legal\\_policy](http://www.taxes.state.mn.us/taxes/legal_policy)

# 2007 REVENUE DEPARTMENT BILL SUMMARY

## MINNESOTA • REVENUE

Bill Date: January 22, 2007  
Summary Date: January 23, 2007

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

---

### ARTICLE 1: INCOME AND FRANCHISE TAXES

**Sections 1, 13, 14, and 16. Uniform Language for Indexing Provisions.** Amends Minn. Stat. §§ 270A.03, subd. 5; 290.067, subd. 2b; 290.0671, subd. 7; and 290.091, subd. 3, to clarify that the indexing for the dependent credit income threshold, working family credit income threshold, the individual alternative minimum tax exemption, and threshold for being subject to Revenue Recapture, are all indexed in the same way rather than using differing base years and that the results of the indexing are all rounded to the nearest \$10. Effective for tax years beginning after December 31, 2006.

**Section 2. Date of Birth on Individual Return.** Amends Minn. Stat. § 289A.08, subd. 11, to require that individuals provide their date of birth on their individual Minnesota income tax returns. Effective for tax years beginning after December 31, 2006.

**Section 3. Electronic Filing of Withholding Tax Returns.** Amends Minn. Stat. § 289A.09, subd. 2, to require employers who are required to withhold Minnesota individual income taxes for more than 100 of their employees to submit their Minnesota W-2 tax filings by electronic means. The 100-employee threshold drops to 25 for 2008, 10 for 2009 and thereafter. Effective for wages paid after December 31, 2006.

**Sections 4 and 5. Returns of Mutual Funds Paying Federal Tax Exempt Interest Dividends.** Amends Minn. Stat. §§ 289A.12, subd. 14 and 289A.18, subd. 1, to require mutual funds that pay federal tax exempt dividends to Minnesota residents to file a copy of the return currently required to be sent to the shareholders of the fund to the commissioner by March 15<sup>th</sup> of the year following the year the dividends were paid. Current law allows the commissioner to demand copies of the return after which the mutual fund has 60 days to provide the returns without penalty. Effective for tax years beginning after December 31, 2006.

**Section 6. Penalty for Failure to Provide Correct Identification Number of Partners or Shareholders.** Amends Minn. Stat. § 289A.60, subd. 8, to provide a \$50 penalty for each time a partnership or S corporation for each incorrect tax identification number of an owner the entity reports in their Minnesota return after being notified by the commissioner that the number is incorrect. Effective for returns filed after December 31, 2007.

**Section 7. Penalty for Negligence in Filing a Property Tax Refund Return.** Amends Minn. Stat. § 289A.60, subd. 12, to change the penalty from one based on 10 percent of the property tax refund allowed to a penalty of 10 percent of the claimed amount that is not allowed. Effective for property tax refund claims filed on or after July 1, 2007.

**Section 8. Cross Reference in the Tax Shelter Disclosure Penalty.** Amends Minn. Stat. § 289A.60, subd. 27(e)(2), to correct a cross reference. The current cross reference is to Minn. Stat. § 270C.34, which does not abate a disclosure penalty. The corrected references to Minn. Stat. § 289A.60, subs. 26 (d) and (g) identify an abatement provision that applies to tax shelter transactions. Effective the day following final enactment.

**Section 9. Penalty for Tax Preparers Failing to Include Preparer Number.** Amends Minn. Stat. § 289A.60 by adding a new subdivision which requires tax preparers who prepare Minnesota individual income tax returns to provide their federal preparer number on Minnesota individual income tax returns. Failure to provide the number results in a \$50 penalty being assessed against the preparer for each failure. Effective for returns prepared for tax years beginning after December 31, 2006.

**Sections 10, 11, and 20. Modifications for Pollution Control Facilities.** Amends Minn. Stat. § 290.01, subs. 19c and 19d, repealing the present addition and subtraction for the federal pollution control depreciation. An uncodified section is enacted to permit taxpayers to deduct remaining added but not subtracted depreciation in taxable year 2007. Effective for taxable years beginning after December 31, 2006.

**Section 11. Corporations, Subtractions from Federal Taxable Income.** Amends Minn. Stat. § 290.01, subd. 19d, to conform the subtractions from Subpart F income excluded from federal taxation to the additions, which were amended in 2006. The effective date is the same date as the additions became effective, taxable years beginning after December 31, 2006.

**Section 11. Work Opportunity Credit.** Amends Minn. Stat. § 290.01, subd. 19d (2), to make a technical correction by changing the name of the former “federal jobs credit” to its present name “work opportunity credit” following the change in the Internal Revenue Code. Effective the day following final enactment.

**Section 11. Subtraction for Environmental Tax Refunds.** Amends Minn. Stat. § 290.01, subd. 19d (15), by repealing the subtraction for federal environmental tax refunds. The subtraction repealed by this section is obsolete, the federal environmental tax was repealed in 1997, Minnesota’s addition under Minn. Stat. § 290.01, subd. 19c, was repealed in 2005. Effective for taxable years beginning after December 31, 2006.

**Section 12. Sunset of Bovine Testing Credit.** Amends Minn. Stat. § 290.06, subd. 33, to provide that bovine testing credit will not be available for calendar years after the federal government no longer requires tuberculosis testing of Minnesota cattle. Effective for tax years beginning after December 31, 2007.

**Section 15. Military Service Combat Zone Credit.** Amends Minn. Stat. § 290.0677, subd. 1, to retroactively allow the estate or heirs at law to claim the credit for pre-2007 combat service for a deceased military member even though the death was not related to combat zone activity and even though the heirs at law are someone who is not a surviving spouse or dependent as required under current law. Effective retroactively for tax years beginning after December 31, 2005.

**Section 17. Corporate Franchise Tax Citation.** Amends Minn. Stat. § 290.191, subd. 8, to make a technical correction to an internal citation. Subdivision 7, which is cited in the present statutes, was repealed; the definition of “deposits ratio” used to apportion certain types of bank income was moved to subd. 6(n). Effective the day following final enactment.

**Section 18. Definition of Dependent for Property Tax Refund.** Amends Minn. Stat. § 290A.03, subd. 7, to remove unnecessary language dealing with support provided by welfare since the test for dependency is no longer whether the taxpayer provides more than 50 percent of support but whether

the individual provides more than 50 percent of their own support. Effective for property tax refunds based on rents paid after December 31, 2006 and for property tax payable after December 31, 2007.

**Section 19. Valuation of Assets for Estate Tax.** Amends Minn. Stat. § 291.215, subd. 1, to allow the commissioner to challenge an estate's valuation of assets included in an estate rather than being bound by valuations accepted by the Internal Revenue Service. Retroactively effective for estates of decedents dying after December 31, 2005.

## **ARTICLE 2: SALES AND USE TAXES**

Overview regarding amendments related to Streamlined Sales Tax: Some of the sections in this article are made to conform with provisions of the streamlined sales tax agreement and are so noted. Where the agreement allows a state an option, the choices made in this article reflect current law as closely as possible.

**Section 1. Bad Debt Loss.** Amends Minn. Stat. § 289A.40, subd. 2, to provide that a sales tax refund claim for a bad debt loss must be filed within 3-1/2 years from the date the bad debt was written off as uncollectible on the taxpayers' books and records and was either eligible to be deducted for income tax purposes or within one year from the due date the federal income tax return was timely filed claiming the bad debt loss, whichever period expires later. This section also provides that any payments on previously claimed bad debts must be first applied proportionally to the taxable price of the property or service. Effective the date following final enactment.

**Sections 2 and 37. Interest on Border City Zone Refunds.** Amends Minn. Stat. § 289A.56, by adding a subdivision, and Minn. Stat. § 469.1734, subd. 6, to provide that interest on border city zone refunds will be computed from 90 days after the refund claim is filed with the commissioner. Currently interest is computed from the date the claim is filed with the commissioner. Effective for refund claims filed on or after July 1, 2007.

**Section 3. Penalty for Failure to Properly Complete Return.** Amends Minn. Stat. § 289A.60, subd. 25, to provide that the penalty for failure to properly complete a sales tax return applies to all local taxes that are reported on the sales tax return which could include lodging, restaurant and liquor taxes. Currently the penalty only applies to local sales taxes administered by the department. Effective for returns filed after June 30, 2007.

**Section 4. Penalty for Failure to Report Liquor Sales.** Amends Minn. Stat. § 289A.60, by adding a subdivision that provides a \$500 penalty on a liquor distributor for failing to file an annual report with the commissioner of revenue listing the amount of intoxicating liquor sold in the previous calendar year to liquor retailers. The penalty is increased to \$1000 if the failure to file the report is intentional. The first annual report is for calendar year 2007 and is due by February 28, 2008. Effective the day following final enactment.

**Section 5. Sale and Purchase of Certain Services Currently Part of Telecommunication Services; Aggregate Delivery and Pest Control Services.** Amends Minn. Stat. § 297A.61, subd. 3, as follows:

Telecommunication Services: Provides in paragraphs (g)(2) and (i) that the following services,

which are currently considered taxable as telecommunication services under the more broad definition of telecommunication service found in Minn. Stat. § 297A.61, subd. 24, are still taxable: the furnishing a guest of a lodging facility with access to telecommunication services, the furnishing of ancillary services associated with telecommunication services, the furnishing of cable television and direct satellite services, and ring tones. This is necessary to assure they remain in the tax base, since conformity with the streamlined sales tax agreement requires an amendment to the definition of telecommunication services, to exclude them from the definition of telecommunication services. Also clarifies that the telecommunication services that are defined in Minn. Stat. § 297A.669 are subject to tax. Effective for sales and purchases made on or after January 1, 2008.

**Aggregate Delivery:** Clarifies in paragraph (g)(5) that the delivery of aggregate materials by a third party are subject to the sales tax unless the aggregate materials are deposited substantially in place. The language provides that the aggregate must be deposited directly from the transporting vehicle or through spreaders from the transporting vehicle at the actual place where it will be graded or compacted in order to be deposited substantially in place. Effective for sales and purchases made after June 30, 2007.

**Pest Control Services:** Paragraph (g)(6) is amended to clarify that the imposition of the sales tax on exterminating services also includes pest control services. Effective for sales and purchases made after June 30, 2007.

**Section 6. Retail Sale of a Bundled Transaction, Possible Exception Based on the Products and the Books and Records of the Seller.** Amends Minn. Stat. § 297A.61, subd. 4, to provide that a sale of a bundled transaction is a retail sale where one of the products in the bundle is a taxable product. This amendment is necessary to clarify or maintain current tax treatment, which would otherwise be altered with related amendments in this article, of Minn. Stat. § 297A.61, subs. 7 and 24. Adds a provision that if one of the products in the transaction is a telecommunication service, ancillary service, internet access or audio or video programming services, and the seller has the required books and records to show the portion of the price of the distinct products, then the products will not be considered part of a bundled transaction, so that only the otherwise taxable portion will be subject to tax. Effective for sales and purchases made on or after January 1, 2008.

**Section 7. Sales Price: Allocation of Delivery Charges, Bundled Transactions, Consideration Received by Seller from Third Parties.** Amends Minn. Stat. § 297A.61, subd. 7, the definition of “sales price,” to provide as follows: as it relates to delivery charges, it includes only the percentage of the charge allocated to the taxable property, where the allocation is based on either sales price or weight; deletes language that included the value of tax exempt property when part of a bundled transaction [note, however, that the amendment described above to Minn. Stat. § 297A.61, subd. 4, generally treats the sale of a bundled transaction as a retail sale]; and includes consideration received by the seller from third parties under the specific criteria. All of these amendments are made to conform with the streamlined sales tax agreement. The provision relating to delivery charges is effective the day following final enactment, and the remaining amendments are effective for sales and purchases made on or after January 1, 2008.

**Section 8. Prepaid Calling Cards.** Amends Minn. Stat. § 297A.61, subd. 10, to delete “prepaid calling cards” from the definition of tangible personal property. In conformity with the streamlined sales tax agreement, the sale of such a card will be treated instead as a sale of a prepaid calling service or a prepaid wireless calling service (telecommunication services). This will not affect the

current tax treatment. Effective for sales and purchases made on or after January 1, 2008.

**Section 9. Telecommunication Services.** Amends Minn. Stat. § 297A.61, subd. 24, the definition of telecommunication services, to conform with the streamlined sales tax agreement. Provisions that are deleted in this amendment are moved to other sections within Minn. Stat. ch. 297A, as needed, to maintain current law. Effective for sales and purchases made on or after January 1, 2008.

**Section 10. Bundled Transaction.** Amends Minn. Stat. § 297A.61, to add a subdivision 38, that defines “bundled transaction” to conform with that definition in the streamlined sales tax agreement. To meet the definition, the two or more products in the transaction must otherwise be distinct and identifiable, and be sold for one non-itemized price. The products may include tangible and intangible property, services, and digital goods, but do not include real property or services to real property. Further defines “distinct and identifiable” and “one non-itemized price,” and provides exceptions from the definition using a “true object” test, a “de minimus” test, and for transactions that include food or medical products, a “50%” test. Effective for sales and purchases made on or after January 1, 2008.

**Sections 11, 12, 13, 14, 15, 16, and 17. Ancillary Services Definitions; Ring Tones Defined.** Amends Minn. Stat. § 297A.61, by adding seven new subdivisions to define “ancillary services,” “conference bridging service,” “detailed telecommunications billing service,” “directory assistance,” “vertical service,” “voice mail service,” and “ring tones.” All of the services listed here except for ring tones are defined as ancillary services. These items are currently taxed but would not be included under the new definition of telecommunication services. The imposition of tax on ring tones and ancillary services under present law is continued with amendments to Minn. Stat. § 297A.61, subd. 3, above. Effective for sales and purchases made on or after January 1, 2008, except Section 17 is effective the day following final enactment.

**Sections 18 and 26. Fur Clothing.** Amends Minn. Stat. § 297A.61, to add a subd. 18, defining fur clothing for purposes of making it subject to sales and use tax, and amends Minn. Stat. § 297A.67, subd. 8, to exclude fur clothing from the definition of clothing so it is no longer exempt from sales and use tax. This is in conjunction with the repeal of the 6.5% gross receipts tax on fur clothing—see sections 37 and 38, para. (a) below. Conforms with the streamlined sales tax agreement. Effective for sales and purchases made on or after July 1, 2007.

**Section 19. Imposition of Use Tax; Certain Taxable Products Purchased by Seller for \$100 or More.** Amends Minn. Stat. § 297A.63, subd. 1, to add a provision that imposes use tax on the purchase by a seller, where the purchase price is equal to or greater than \$100, of an otherwise taxable product or taxable tangible personal property that but for Minn. Stat. § 297A.61, subd. 38, paragraph (d), would be considered part of a bundled transaction. While an amendment above to Minn. Stat. § 297A.61, subd. 6, makes the sale of most bundled transactions subject to tax, the amendment to Minn. Stat. § 297A.61, at the new subd. 38, para. (d), excepts certain transactions from the definition of bundled transactions based on the value of the otherwise taxable products. See sections 6 and 10 above. This amendment will maintain the taxability of higher priced taxable items when they are a part of a transaction that is excepted from the definition of a bundled transaction by requiring the seller to pay use tax on their cost of the taxable item when the cost is equal to or above \$100. Effective for sales and purchases made on or after January 1, 2008.

**Section 20. Seller Liability Relief and Exemption Certificates.** Amends Minn. Stat. § 297A.665,

to relieve the seller of liability if within an additional 90 days after the time of sale the seller obtains a fully completed exemption certificate or the required data elements from a purchaser; to relieve the seller of liability if, within 120 days after the commissioner of revenue requests substantiation, the seller obtains a fully completed exemption certificate or the information required by Minn. Stat. § 297A.72 from a purchaser or proves by other means that the transaction was not subject to tax. Conforms with the streamlined sales tax agreement. Effective for sales and purchases made on or after January 1, 2008.

**Sections 21, 22, 23, and 24. Definitions of Prepaid Wireless Calling Service, Prepaid Calling Service, and Postpaid Calling Service.** Amends Minn. Stat. § 297A.669, subds. 3, 13, and 14, and adds a new subdivision, subd. 14a, to conform to the streamlined sales tax agreement as follows: adds “prepaid wireless calling service” to the provision regarding sourcing of telecommunication services; amends the definition of “postpaid calling service” to clarify it does not include prepaid wireless calling services; amends the definition of prepaid calling service to clarify that it is a telecommunication service; and defines prepaid wireless calling services. Sections 21, 22, and 24 are effective for sales and purchases made on or after January 1, 2008. Section 23 is effective the day following final enactment.

**Section 25. Sourcing Ancillary Services.** Amends Minn. Stat. § 297A.669, to add a subd. 17, to source ancillary services to the customer’s place of primary use. “Ancillary services” is defined at the amended Minn. Stat. § 297A.61, at the new subd. 39; see section 11 above. Effective for sales and purchases made on or after January 1, 2008.

**Section 27. Breast Pumps.** Amends Minn. Stat. § 297A.67, subd. 9, to include breast pumps as an exempt baby product. Previously, the department of revenue interpreted durable medical equipment to include breast pumps, but is no longer allowed this interpretation under the streamlined sales tax agreement. Retains the current tax treatment. Effective for sales and purchases made on or after the day following final enactment.

**Section 28. Advertising Materials.** Amends Minn. Stat. § 297A.68, subd. 11, to provide that the exemption for advertising materials that are mailed or transferred outside the state for use solely outside the state includes all types of shipping materials including boxes, tubes, labels or cartons. Currently the exemption only applies to mailing and reply envelopes and cards. The section also clarifies that materials having a primary purpose other than advertising would not qualify as advertising materials. Effective the day following final enactment.

**Section 29. Packing Materials.** Amends Minn. Stat. § 297A.68, subd. 16, to clarify that the exemption for packing materials only applies to materials that remain with the customer of a for-hire carrier and to clarify that it would not include equipment that is owned or used by the for-hire carrier. The section further clarifies that the exemption only applies if the packing materials do not return to Minnesota. The section provides that the exemption does not apply to tools, pads, or equipment owned or leased by the for-hire carrier. Effective for sales and purchases made after June 30, 2007.

**Section 30. Equipment Used Directly in Providing Cable Television or Direct Satellite Services.** Amends Minn. Stat. § 297A.68, subd. 35, to maintain the tax exemption for machinery or equipment used directly by a cable television or direct satellite service provider primarily in the provision of cable television or direct satellite services that are to be sold at retail. Currently, the

term telecommunication services includes cable television and direct satellite services, but the definition of telecommunication services will be narrowed with the amendment to the definition of Minn. Stat. § 297A.61, subd. 24. Effective for sales and purchases made on or after January 1, 2008.

**Section 31. Hospital and Non Profit Units.** Amends Minn. Stat. § 297A.70, subd. 7, to provide that the exemption for hospitals and outpatient surgical centers applies to an entity that is composed of a licensed nonprofit hospital and a nonprofit unit provided that the nonprofit unit would have qualified as an organization exempt from the sales tax under section 297A.70, subdivision 4 and the items purchased would have qualified for the exemption. Effective the day following final enactment.

**Section 32. Private Communication Services for State Lottery.** Amends Minn. Stat. § 297A.70, by adding a subdivision, subd. 17, to maintain the tax exemption for private communication services purchased by an agent acting on behalf of the state lottery. Currently, the term telecommunication services specifically excludes private communication services for the state lottery, but the amendment to the definition of telecommunication services at Minn. Stat. § 297A.61, subd. 24 will delete this exclusion, so a specific exemption is created to maintain tax treatment. Effective for sales and purchases made on or after January 1, 2008.

**Section 33. Fully Completed Exemption Certificate.** Amends Minn. Stat. § 297A.72, subd. 2, to conform to the streamlined sales tax agreement regarding the elements of a fully completed exemption certificate, whether in paper or electronic form; and by adding a subdivision, subd. 3, to clarify that a purchaser is required to update exemption certificates used by the purchaser, including blanket exemption certificates, when the purchaser's information changes. Effective the day following final enactment.

**Section 34. Liquor Reporting Requirements.** Amends Minn. Stat. ch. 297A, by adding a section that requires liquor distributors to file an annual report with the commissioner of revenue indicating the volume of intoxicating liquor sold to retailers in the previous calendar year. The first report would be due by February 28, 2008, and would apply to liquor sales made in calendar year 2007. The form and manner of the report would be prescribed by the commissioner and penalty provisions would apply for failure to file the report with the commissioner. Effective the day following final enactment.

**Section 35. Sales Price.** Amends Minn. Stat. § 297A.90, subd. 2, to provide that when interstate motor carriers compute their use tax under a motor carrier direct pay permit, the sales price may only be reduced by taxes that are directly imposed upon the carrier and that are separately stated on the billing or invoice that they are given. Effective the day following final enactment.

**Section 36. Motor Vehicle Resale Exemption.** Amends Minn. Stat. § 297B.035, subd. 1, to clarify that the exemption from the tax under Minn. Stat. ch. 297B is for motor vehicles purchased solely for resale in the ordinary course of business by licensed dealers and is not limited to vehicles bearing dealer plates. If the vehicle is not held solely for resale and is put to use by the dealer, the provisions of Minn. Stat. § 297B.035, subdivision 5 would apply. Effective the day following final enactment.

**Section 38. Final Returns for Fur Tax.** This uncodified provision provides for the last installment of estimated returns on July 15, 2007, and a revised date of September 15, 2007, for the consolidated annual return that would otherwise be due on March 15, 2008, for the gross receipts fur tax, Minn.



Stat. § 295.60, in conjunction with the July 1, 2007, repeal of this tax. Conforms with the streamlined sales tax agreement. Effective July 1, 2007, for sales and purchases made prior to July 1, 2007.

**Section 39. Repealer.** Repeals Minn. Stat. § 295.60, the gross receipts tax on fur clothing. This section is no longer needed as fur clothing will be subject to sales tax. See Sections 18 and 26. Effective for sales and purchases made on or after July 1, 2007.

Repeals Minn. Stat. § 297A.61, subd. 20, which defines “prepaid telephone calling card.” This term is not needed as the sale of such a card will not be treated as a sale of tangible personal property, but as a sale of either a prepaid calling service or a prepaid wireless calling service. See sections 23 and 24 above. Effective for sales and purchases made on or after January 1, 2008.

Repeals Minn. Stat. § 297A.668, subd. 6, which provided for multiple points of use sourcing for a digital good, service or electronically delivered computer software, which will now be sourced under § 297A.668. Effective the day following final enactment.

Repeals Minn. Stat. § 297A.67, subd. 22, that provides an exemption for property brought into Minnesota by persons who were nonresidents of Minnesota immediately prior to bringing the property into Minnesota for personal use. The exemption is not needed since Minn. Stat. § 297A.63 only imposes the use tax on a person who has purchased property for use, storage, distribution or consumption in Minnesota. Effective the day following final enactment.

### **ARTICLE 3: SPECIAL TAXES**

#### **Insurance**

**Section 1. Deficit Assessments.** Amends Minn. Stat. § 62I.06, subd. 6, to add the statutory reference authorizing the joint underwriting association offset to the insurance premium tax. Effective for tax returns due on or after January 1, 2008.

**Section 2. Reciprocal or Interinsurance Contract.** Amends Minn. Stat. § 71A.04. Deletes reference to in lieu of all other taxes. Effective the day following final enactment.

**Section 10. Insurance Policies Surcharge.** Amends Minn. Stat. § 297I.06, subd. 1, to clarify that none of the surcharges are subject to retaliation. Effective July 1, 2007, and applies to policies written or renewed on or after July 1, 2007.

**Section 11. Exemptions.** Amends Minn. Stat. § 297I.06, subd. 2, to clarify that the mutual property and casualty companies that are authorized to make an election must remit the total surcharge collected, and clarifies the timelines for making the election. The requirement for certain insurers to make an election before July 1, 2007, is effective the day following final enactment. The rest of this section is effective July 1, 2007, and applies to insurance policies written or renewed on or after that date.

**Section 12. Joint Underwriting Association Offset.** Amends Minn. Stat. § 297I.20, subd. 2, to require the joint underwriting offset to be used against premium tax liability for the first succeeding year to the extent that the premium tax liability for that year exceeds the amount of the allowable

offset for the year. This is what is done for the guarantee association assessment offsets. Effective for tax returns due on or after January 1, 2008.

**Section 13. Insurance Premiums Tax Underpayment Penalty.** Amends Minn. Stat. § 297I.40, subd. 5, that contains a definition of “tax” used to calculate the underpayment of installment penalty, to include the retaliatory tax and certain credits if utilized. Also corrects an erroneous cross reference. Effective for tax returns due on or after January 1, 2008.

**Section 14. Insurance Premiums Tax Penalty for Failing to File Information Return.** Amends Minn. Stat. § 297I.85 by adding a new subdivision 8, to provide authority to impose penalty of \$50 for failure to file informational returns even if no tax is due. Effective for tax returns due on or after January 1, 2008.

## **Deed Tax**

**Section 3. Exemption for Redeeming Debtors.** Amends Minn. Stat. § 287.22(12), to clarify the exemption from deed tax for a debtor who redeems their property from a mortgage or other lien foreclosure sale. The exemption currently uses the word “lienee” to describe the exempt party, but that term has undergone a change of usage in recent years. This section will ensure that the exemption only applies if a person who used to own the property, or their assignee, heir, personal representative, or successor, redeems it; not a junior creditor. Effective the day following final enactment.

**Section 4. Deeds to Governmental Subdivisions for Public Use.** Amends Minn. Stat. § 287.2205, to state that the deed tax on conveyances of tax-forfeited land to governmental subdivisions for authorized public uses, without the payment of monetary consideration, is \$1.65. Effective the day following final enactment.

## **MinnesotaCare**

**Section 5. Use Tax.** Amends Minn. Stat. § 295.52, subd. 4, to clarify that a person that receives drugs from a nonresident pharmacy is not subject to tax. Under paragraph (b), which became effective for purchases made after July 31, 2005, the use tax is no longer imposed on purchases by individuals for personal consumption. Under paragraph (a), a person that receives prescription drugs for resale or use in Minnesota, other than from a wholesale drug distributor who is subject to tax, remains subject to the use tax. Effective the day following final enactment.

**Section 6. Use Tax Collection.** Amends Minn. Stat. § 295.52, subd. 4a, to clarify that a nonresident pharmacy is not required to collect the use tax. Since individuals who purchase drugs for their own use, are no longer required to pay the use tax, nonresident pharmacies are not required to collect the tax. Effective the day following final enactment.

**Section 7. Pharmacy Refund.** Amends Minn. Stat. § 295.54, subd. 2, to clarify that the refund claimed by pharmacies for amounts paid for drugs delivered outside of Minnesota will be applied against the health care provider tax, as provided under Minn. Stat. § 295.52, subd. 2. Under current law, the refund is applied against the pharmacy tax under subdivision 1b. Subdivision 1b has been repealed. Effective the day following final enactment.

## **Cigarettes and Tobacco**

**Section 8. Tobacco Products Use Tax.** Amends Minn. Stat. § 297F.06, subd. 4, to limit the exemption from the tobacco products use tax to \$50 provided that the products were carried into the state by the consumer. Effective for the possession, use, or storage of tobacco products on or after July 1, 2007.

**Section 9. Cigarette Consumer Use Tax.** Amends Minn. Stat. § 297F.25, by adding a new subdivision 3a, to require cigarette consumer use tax on consumer use of cigarettes if the cigarette sales tax has not been paid. Effective for cigarettes which a consumer has acquired title to or possession of on or after July 1, 2007.

### **ARTICLE 4: PROPERTY TAXES AND AIDS**

**Sections 1 and 47. Metro County Wheelage Tax.** Amends Minn. Stat. § 163.051, subd. 5, to clarify the estimated and actual amounts of wheelage tax collections that must be used to offset county road and bridge property tax levies. When the wheelage tax is first imposed by a county, the county must offset its property tax levy for property taxes payable in the same year by the estimated amount of wheelage tax to be collected through June 30 of that year. In subsequent years, the offset is equal to the actual collections during the 12-month period ending on June 30 of the year in which the levy is voted. Effective retroactively for taxes payable in 2007 and thereafter, with an allowance for taxes payable in 2007 only, that the estimate may have been for any reasonable time period. Amends Minn. Stat. § 275.065, subd. 5a, to allow the commissioner to prescribe alternate language for the Truth-In-Taxation public advertisements so that the wheelage tax levy offsets, and other similar situations in the future, can be explained. Effective for advertisements in 2007 and thereafter for proposed taxes payable in 2008 and thereafter.

#### **Sections 2 through 9, 22 and 62(a). Airflight Property Tax Recodification.**

Amends Minn. Stat. § 270.071, subd. 7, to clarify that taxable flight property includes computers and computer software used to operate, control or regulate the aircraft. Effective the day following final enactment.

Amends Minn. Stat. § 270.072, subd. 2, to clarify that the taxable flight property of a company includes flight property used by it whether as owner or lessee, or flight property that is otherwise made available to it. Effective the day following final enactment.

Amends Minn. Stat. § 270.072, subd. 3, to put into the statute the current deadline for the airline company annual reports of July 1, which is the date currently fixed by the commissioner under the discretionary authority in this subdivision. Effective for reports due in 2007 for airflight taxes payable in 2008, and thereafter.

Amends Minn. Stat. § 270.072, subd. 6, relating to the lien for airflight property taxes to delete references to Minn. Stat. §§ 270C.62 and 270C.63. Those sections refer to taxes collected by the commissioner of revenue. The tax is credited to the state airports fund and collection decisions are made by the aeronautics division of Minnesota department of transportation. Effective January 2, 2007, for airflight property taxes payable in 2008 and thereafter.

Amends Minn. Stat. ch. 270 by enacting the new section 270.0725 to enact new penalties for this tax, currently not provided for: (1) a penalty for repeated instances of late filing is imposed at 10% of the tax eventually assessed; (2) a penalty for a frivolous annual report is imposed at 25% of the tax eventually assessed; and, (3) a penalty for fraudulent annual reports is imposed at 50% of the tax eventually assessed. All penalties are added to the tax and collected as such. Effective for annual reports due in 2007 and thereafter.

Repeals Minn. Stat. § 270.073, and enacts the new section 270.0735, to provide that the commissioner's general examination and investigation powers in section 270C.31 and 270C.32 will apply when administering this tax; and, to eliminate the more limited grant of similar powers to the commissioner in the repealed section 270.073, which relates only to this tax. Effective January 2, 2007, for taxes payable in 2008 and thereafter.

Amends Minn. Stat. § 270.074, subd. 3, to clarify that the reduced class rate applicable to Stage 3 "quiet" aircraft also applies to Stage 4 aircraft, which must meet even more stringent noise-attenuation standards.. Effective January 2, 2007, for taxes payable in 2008 and thereafter.

Amends Minn. Stat. § 270.076, subd. 1, to clarify that the notices of net tax capacity and of tax that the commissioner is required to issue to airline companies are "orders" of the commissioner that may be appealed to Tax Court. Effective January 2, 2007, for taxes payable in 2008, and thereafter.

Amends Minn. Stat. § 270C.34, subd. 1, to empower the commissioner to abate penalties imposed because the company was late in submitting its annual report for reasonable cause or if the company is located in a presidentially declared disaster area. Effective July 1, 2007.

## **Board of Assessors**

The following sections 10 through 20, 25 and 26 all deal with the Board of Assessors and are all effective the day following final enactment.

**Section 10. Purpose and Powers of Board of Assessors.** Amends Minn. Stat. § 270.41, subd. 1, to strike the words "establish" and "conduct" from the list of Board of Assessors' duties because the board does not establish or conduct training courses.

**Sections 11 and 16. Definition of the Term "Board".** Adds a new subdivision to Minn. Stat. § 270.41 to define the term "board" to mean "Board of Assessors" and amends Minn. Stat. § 270.45 to refer to "board" instead of "Board of Assessors."

**Section 12. Composition of the Board.** Amends Minn. Stat. § 270.41, subd. 2, to delete an obsolete reference to the Minnesota Association of Assessors, which no longer exists. Clarifies that a member of the board who is no longer engaged in the capacity for which he or she was nominated to the board is disqualified from membership on the board, deletes a reference to the secretary and adds a reference to the vice chair.

**Section 13. Basis for License Revocation.** Amends Minn. Stat. § 270.41, subd. 3, to provide that the Board of Assessors may refuse to grant or renew a license or may suspend or revoke a license for failure to comply with the Code of Conduct and Ethics for Licensed Minnesota Assessors adopted by the board.

**Section 14. Prohibited Activity.** Amends Minn. Stat. § 270.41, subd. 5, to streamline the language by referring to “an assessor”, “deputy assessor”, “assistant assessor” or “appraiser” as “a licensed assessor” because all of the other designations are licensed assessors.

**Section 15. Charges for Courses, Examinations and Materials.** Amends Minn. Stat. § 270.44 to delete references to fees for course challenge examinations and retests of board sponsored educational costs because the board does not conduct these courses or retests.

**Section 17. Training Courses.** Amends Minn. Stat. § 270.46 to make technical changes reflecting the fact that the board reviews and approves courses but does not establish courses and to expand the list of entities offering training courses that the board reviews and approves.

**Section 18. Rules.** Amends Minn. Stat. § 270.47 to resolve inconsistencies and redundancies with section 270.41, subd. 4, which is being repealed so that the subject of rules is dealt with in one section and to strike the last two sentences that refer to giving examinations.

**Section 19. Licensure of Qualified Persons.** Amends Minn. Stat. § 270.48 to state that the board “may” license persons as possessing the necessary qualifications of an assessing official. Current language stated that the board “shall license...”. The more correct term is “may” because the board’s powers to license are discretionary. Other technical grammatical changes are made.

**Section 20. Employment of Licensed Assessors.** Amends Minn. Stat. § 270.50 to make a minor grammatical change and to strike sentences that require counties and local districts to pay the cost of training courses and that allow cities or towns 90 days from the date of incorporation to employ a licensed assessor because these provisions do not relate to the board’s licensing function. The stricken language is being moved to Minn. Stat. ch. 273 to be near similar provisions. A sentence stating that if the governing body of a township or city fails to employ an assessor the assessment shall be made by the county assessor, is stricken because this is already provided for in Minn. Stat. § 273.05.

**Sections 21 and 24. Certificates of Real Estate Value.** Amends Minn. Stat. §§ 270C.306 and 272.115, subd. 1, to provide that a married person who is not an owner of record and who is signing a deed or other conveyance instrument along with their spouse solely because of the requirement in Minn. Stat. § 507.02 that spouses sign certain conveyances, is not a grantor for the purpose of the certificate of real estate value (CRV). The effect of this change is that these people will no longer need to provide their social security number on the CRV form. Effective for CRV’s filed on or after July 1, 2007.

**Section 23. JOBZ Property Tax Exemptions.** Amends Minn. Stat. § 272.02, subd. 64, to require that newly-qualified businesses notify the assessor by July 1 of the assessment year in order to begin receiving the property tax exemption that applies to JOBZ property. Properties already having a JOBZ exemption for taxes payable in 2007 are not affected. The new requirement only affects properties that first become exempt for taxes payable in 2008 or thereafter. Effective the day following final enactment.

**Section 25. Cities and Townships; Employment of Licensed Assessors.** Moves language allowing cities or towns 90 days from the date of incorporation to employ a licensed assessor, that

was stricken from Minn. Stat. § 270.50, to a new subdivision in Minn. Stat. § 273.05. Some minor grammatical changes are also made to the language moved.

**Section 26. County or Local Assessing District to Assume Cost of Training.** Moves language requiring counties and local districts to pay the cost of training courses, that was stricken from Minn. Stat. § 270.50, to new Minn. Stat. § 273.0535. Some minor grammatical changes are also made to the language moved.

**Section 27. Green Acres.** Amends Minn. Stat. § 273.111, subd. 3, to strike a portion of paragraph (b) and all of paragraph (c). These were transitional provisions enacted in 1983 and 1997, respectively. Effective the day following final enactment.

**Section 28. Valuation Reduction for Property Subject to a Conservation Easement.** Amends Minn. Stat. § 273.117 to remove the requirement that property subject to a conservation easement is entitled to a reduced valuation. This would allow the assessor to determine the value of the property subject to the easement. Effective the day following final enactment.

**Sections 29, 46, and 49. Electronic Value Notices, Proposed Tax Notices, and Property Tax Statements.** Amends Minn. Stat. §§ 273.121, 275.065, subd. 3, and Minn. Stat. § 276.04, by adding the new subd. 5, so that a county may send out value notices, notices of proposed taxes, and property tax statements by electronic means upon written request by the owner of the property. Effective for notices sent out in 2007 for taxes payable in 2008 and thereafter.

**Sections 30 and 31. Reassessment of Damaged Homesteads.** Amends Minn. Stat. § 273.123, subs. 2 and 3, to eliminate inadvertent references to property tax assessments that take place on “January 1.” Since New Year’s Day is a state holiday, the assessments do not take place “as of” that date. Effective the day following final enactment.

**Section 32. Homesteads.** Amends Minn. Stat. § 273.124, subd 13, to clarify the homestead application must contain the social security numbers of each occupying spouse of an owner or owner’s relative. Also removes obsolete language and makes minor changes to an annual electronic data file required from the counties. Effective the day following final enactment.

**Section 33. Special Agricultural Homestead.** Amends Minn. Stat. § 273.124, subd. 14, paragraphs(b) and (g), to require that in order to qualify for the special agricultural homestead, the owner, trust or person who is actively farming the land must farm at least 40 acres. Effective for taxes payable in 2008 and thereafter.

**Section 34. Homesteads for Trust-held Property.** Amends Minn. Stat. § 273.124, subd. 21, to allow homestead treatment for property held by a trust, rented to an authorized farming entity, and actively farmed by a member of that entity who is also a grandchild of the trust’s grantor. Under current law, grandchildren are not mentioned in this section of the law; however, if a grandchild is actively farming land which is not held under a trust, the land qualifies for homestead treatment under comparable existing provisions. This change will eliminate that difference between the provisions so that all the “actively farming” statutes are the same, to reflect how they are administered. Also requires that in order to qualify for the special agricultural homestead, the grantor, spouse or surviving spouse of the grantor or the child or grandchild of the grantor actively farming the land must farm at least 40 acres. Effective the day following final enactment, except

that the requirement that at least 40 acres must be farmed by an eligible person is effective for taxes payable in 2008 and thereafter.

**Section 35. Low Income Rental Property.** Amends Minn. Stat. § 273.128, subd.1, to provide that low-income rental units will be classified as class 4d if 25 percent of the units in the rental housing property meet the statutory qualifications. Current law requires 75 percent of the units to meet the qualification. Effective for taxes payable in 2008 and thereafter.

**Section 36. Homesteads of Blind and Disabled Persons; Resorts.** Amends Minn. Stat. §§ 273.13, subd. 22, to accommodate the fact that beginning in 2008 persons seeking to qualify for a class 1b homestead will be applying to the county assessor rather than the commissioner of revenue, if separate legislation is enacted. Properties already receiving the class 1b benefits will continue to receive those benefits until the property no longer qualifies. Also amends the definition of class 1c resorts. Effective for taxes payable in 2009 and thereafter.

**Section 37. Resorts; Indoor Fitness, Health, Social or Recreational Property.** Amends Minn. Stat. § 273.13, subd. 25, to amend the definition of class 4c resorts. Minn. Stat. § 273.13, subd. 25, is also amended to eliminate the unused property tax classification for certain qualifying indoor fitness, health, social or recreational property. The changes for resorts are effective for taxes payable in 2009 and the other change is effective for taxes payable in 2008 and thereafter.

**Section 38. Disparity Reduction Credit.** Amends Minn. Stat. §273.1398, subd. 4, to clarify that the population parameters for the bordering cities in the other state are based on the 1980 census. Effective retroactively for taxes payable in 2001 and thereafter.

**Sections 39, 40, 41, and 42. Clarify Which Utility Values are Recommended Rather than Ordered Values.** Amends Minn. Stat. §§ 273.33, 273.37 and 273.371 to clarify that values required to be listed and assessed by the commissioner shall be provided by order. Adds a new section 273.3711 which provides that all values not required by statute to be listed and assessed by the commissioner of revenue are recommended values. Effective the day following final enactment.

**Section 43. Prohibit Members of Local Boards from Acting on Their Own Appeals.** Amends Minn. Stat. § 274.01 to prohibit a local board member or the member's spouse, parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece from participating in any actions of the board that result in market value adjustments or classification changes to property owned by the board member or to property in which a board member has a financial interest. Effective the day following final enactment.

**Section 44. Prohibit Members of County Boards from Acting on Their Own Appeals.** Amends Minn. Stat. § 274.13, subd. 1, to prohibit a county board member or the member's spouse, parent, stepparent, child, stepchild, grandparent, grandchild, brother, sister, uncle, aunt, nephew or niece from participating in any actions of the board that result in market value adjustments or classification changes to property owned by the board member or to property in which a board member has a financial interest. Effective the day following final enactment.

**Section 45. Training; County Boards of Appeal and Equalization.** Amends Minn. Stat. ch. 274 by adding a new section 274.135 extending the current training requirements that apply to local

boards to county boards of appeal. Requires the department of revenue to develop a handbook detailing procedures, responsibilities, and requirements for county boards of appeal and equalization by January 9, 2009. Counties that conduct county boards of appeal and equalization meetings will need to provide proof to the commissioner by December 1, 2009, and each year thereafter, that they are in compliance and that there was a quorum of voting members at each meeting. Counties that are out of compliance would be required to appoint a special board of equalization. Effective the day following final enactment.

**Section 48. Notification by Newly Organized Special Taxing Districts.** Amends Minn. Stat. § 275.067, to require that special taxing districts must notify and specify their borders to the county auditor by July 1 of the year they are organized or if their borders change in order to certify a tax levy that year. Effective for taxes payable in 2008 and thereafter.

**Sections 50 and 51. Partial Payments of Property Taxes.** Amends Minn. Stat. §§ 277.01, subd. 2 and 279.01, subd. 1, to provide uniform treatment for partial payments of non-delinquent taxes. The prescribed treatment is that the payment (a) must be applied first to the oldest unpaid installment, and (b) must be applied first to penalty or interest if the payment is less than the full amount due for that installment. Effective for payments made on or after the day following final enactment.

**Sections 52 through 55. Use Deeds.** Amends Minn. Stat. § 282.01, subds. 1a, 1d and 1e, and enacts the new subd. 1g, to change the laws regarding tax-forfeited property that is conveyed to a governmental subdivision for a public use. (1) Use deeds will only be issued for direct utilizations of the property for such things as parks, roads, beaches, trails. (2) Governmental subdivisions must reconvey property if they abandon the public use and do not purchase the land. (3) The governmental subdivision has to pay a \$25 deed fee and the recording fees if a declaration of reversion is issued. (4) Property offered for sale but unsold after 24 months (6 months if the county board recommends it) will be conveyed to governmental subdivisions upon application. The changes are generally effective for deeds, deed applications, and declarations of reversion issued on or after July 1, 2007; except that the requirement for local units to pay recording fees is effective July 1, 2008 and thereafter.

**Section 56. Senior Citizen Property Tax Deferral Program.** Amends Minn. Stat. § 290B.03, subd. 2, to prevent persons who are (i) owners of a life estate, or (ii) purchasing the homestead under a contract for deed, from being eligible for the program. Effective for applications that are submitted on or after January 1, 2007.

### **Sustainable Forest Incentive Act**

**Section 57. Auxiliary Forests.** Amends Minn. Stat. § 290C.02, subd. 3, to add owners of land previously covered by an auxiliary forest contract to the definition of claimant and adds cross references to the auxiliary forest provisions which currently provide that certain land previously covered by an auxiliary forest contract is automatically eligible for inclusion in the Sustainable Forest Incentive program. Owners of such land would be required to notify the commissioner of revenue in writing of the expiration of the auxiliary forest contract. Requires the owners to file an application by August 15 in order to receive a payment by October 1 of that same year. Effective the day following final enactment.

**Sections 58, 60, and 61. Sustainable Forest Act Appeals.** Adds a new section 290C.13 to



provide administrative procedures for appeals. The procedures are similar to those used for taxpayers. Appropriate cross references are added in Minn. Stat. §§ 290C.04 and 290C.11 and language made obsolete due to the new section is stricken. Effective the day following final enactment.

**Section 59. Annual Certification.** Amends Minn. Stat. § 290C.05 to clarify that the one-year waiting period in order to receive a payment only applies to the person who filed the first application to enroll the land in the Sustainable Forest Incentive program. Effective the day following final enactment.

## **Section 62. Repealer.**

**Paragraph (a).** Repeals Minn. Stat. § 270.073 dealing with airflight property taxes because it is being replaced by references to Minn. Stat. §§ 270C.31 and 270C.32. Effective January 2, 2007 for taxes payable in 2008 and thereafter.

**Paragraph (b).** Repeals Minn. Stat. § 270.41, subd.4, and the language is moved to Minn. Stat. § 270.47.

Repeals Minn. Stat. § 270.43(members of the board receive no compensation but do receive expenses) because it conflicts with Minn. Stat. § 270.42 (compensation of members shall be as provided in Minn. Stat. §§ 214.07-214.09). Minn. Stat. § 214.09 states that board members may be paid a per diem of \$55 plus expenses if approved by the board. The board's practice is to follow section 214.09.

Repeals Minn. Stat. § 270.51 because it is an obsolete transitional provision.

Repeals Minn. Stat. § 270.52 that deals with the cost of making assessments because the subject is now dealt with in Minn. Stat. ch. 273.

Repeals Minn. Stat. § 270.53 because it is an obsolete transitional provision.

All repealers in paragraph (b) relate to the Board of Assessors and are effective the day following final enactment.

**Paragraph (c).** Repeals Minn. Stat. § 279.01, subd. 2, to eliminate a conflict between that subdivision and Minn. Stat. § 375.192, subd. 2. The repealed subdivision allowed the county treasurer to unilaterally abate property tax penalty amounts. The retained subdivision requires both the county treasurer and the county auditor to approve abatements of penalty. Effective the day following final enactment.

## **ARTICLE 5: MISCELLANEOUS**

**Section 1. Tax Refunds Not Subject to Attachment or Garnishment.** Amends Minn. Stat. ch. 270C by adding a new section 270C.435, to technically clarify longstanding administrative procedure that tax refunds are not assignable or subject to attachment, garnishment or other legal process except as provided by law. Effective the day following final enactment.

**Section 2. Publication of Names of Tax Preparers Knowingly Filing False Returns.** Amends Minn. Stat. § 270C.446, subd. 2, to require the commissioner to publish the name of tax preparers who have been assessed and are not challenging the assessment of over \$1,000 of penalties for willfully prepared Minnesota returns that understate the Minnesota tax or overstate a claimed refund. Effective for penalties on returns filed after December 31, 2007.

**Section 3. State Reimbursement of Supplemental Firefighter Benefits.** Amends Minn. Stat. § 424A.10, subd. 3, to provide that the commissioner of revenue will transmit the reimbursements to the applicable municipality instead of directly to the relief association. The municipality is then responsible for either timely transmitting the payment to the relief association or for delaying the payment until the association has filed its required financial report. This conforms the payments to the process currently required by statute for the other state fire pension aids paid by the commissioner. Effective for aid payments in 2007 and thereafter.