

March 13, 2019

***State Taxes Only—See Separate
Analysis of Property Tax Provisions***

	Yes	No
DOR Administrative Costs/Savings	X	

Department of Revenue
Analysis of H.F. 2169 (Marquart)

	Fund Impact			
	<u>F.Y. 2020</u>	<u>F.Y. 2021</u>	<u>F.Y. 2022</u>	<u>F.Y. 2023</u>
		(000's)		
General Fund	\$0	\$0	\$0	\$0

EXPLANATION OF THE BILL

A summary of the bill prepared by the Appeals and Legal Services Division of the Department of Revenue is attached.

REVENUE ANALYSIS DETAIL

The bill is not expected to have an impact on state tax revenues.

Social Security Subtraction

- Article 1, Section 1 would revise the rounding of the Social Security subtraction income thresholds and maximum amounts for married separate filers.
- The impact would vary by tax year, depending on the threshold and maximum subtraction amounts. In some years there would be no change in the rounded amounts. In other years the threshold and maximum could either increase or decrease by a maximum of \$5, which may increase or decrease tax liability for some filers.
- Over time the net impact should be zero.
- The number of taxpayers affected each year is unknown. If this change were implemented in tax year 2019, about 700 returns would be affected, but there would be no measurable change in tax liability, based on the House Income Tax Simulation (HITS 6.7) Model.

Married Separate Income Tax Brackets

- Article 1, Sections 3 and 4 would revise the rounding of the married separate income tax brackets.
- The impact would vary by tax year, depending on the indexed married joint bracket amounts. In some years there would be no change in the rounded amounts. In other years one or more brackets could increase or decrease by a maximum of \$5, which may increase or decrease tax liability for some filers.
- Over time the net impact should be zero.
- The number of taxpayers affected each year is unknown and would depend on which brackets increase or decrease. If the first bracket were to increase or decrease, all married separate filers with income above that threshold would be effected.

REVENUE ANALYSIS DETAIL (Cont.)

- In tax year 2019, there will be about 33,600 married separate returns. Changing the first bracket threshold by \$5 would have a negligible impact on income tax liability, based on the House Income Tax Simulation (HITS 6.7) Model.

Partnership Audits

- Article 3 requires partnerships and partners to file amended returns reporting their share of any income adjustment resulting from a federal partnership audit. This is in response to a 2015 federal law change in the Bipartisan Budget Act of 2015.
- The estimated audit collections in the bill are the same as the baseline amount, which assumes no change in tax paid by the partners. Since the amount assessed on the partnership is assumed to be equal to the amount that would be assessed on the underlying partners, there is no change in revenue associated with the bill.

Minnesota Department of Revenue
Tax Research Division
www.revenue.state.mn.us/research/stats/Pages/Revenue-Analyses.aspx

2019 DEPARTMENT OF REVENUE POLICY AND TECHNICAL BILL SUMMARY



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

HF 2169

ARTICLE 1: INDIVIDUAL INCOME AND CORPORATE FRANCHISE TAX – POLICY

Sections 1, 3 and 4. Married filing separately income tax bracket. Amends Minn. Stat. § 290.0132, subd. 26, to ensure the married filing separately bracket for the social security subtraction is exactly half of the married filing jointly bracket. Amends Minn. Stat. § 290.06, subd. 2c and 2d, to ensure the general tax brackets for married filing separately are exactly half of the married filing jointly brackets. Effective for taxable years beginning after December 31, 2018.

Sections 2 and 3. Accelerated recognition. Amends Minn. Stat. § 290.06, subd. 2c, to provide for the representation of accelerated installment sale receipts in the nonresident apportionment fraction of taxpayers who pay income taxes on accelerated installment sale gains under Minn. Stat. § 290.0137. Also amends Minn. Stat. § 290.0137 to delete the phrase “allocable amount” which is rendered unnecessary as the allocation rules under Minn. Stat. § 290.06, subd. 2c, will provide for the applicable standard. Effective the day following final enactment.

ARTICLE 2: INDIVIDUAL INCOME AND CORPORATE FRANCHISE TAX – TECHNICAL

Section 1. Federal settlements. Amends Minn. Stat. § 289A.38, subd. 7, to provide specifically that taxpayers are required to report adjustments to the department following a settlement or compromise with the Internal Revenue Service under Internal Revenue Code §§ 7121 or 7122. Effective the day following final enactment.

Section 2. Payments to horse racing license holders. Amends Minn. Stat. § 290.92, subd. 28, to correct a cross reference that was moved in a prior session. Effective the day following final enactment.

Section 3. First time homebuyer. Amends Minn. Stat. § 462D.03, subd. 2, to allow a taxpayer to designate the required beneficiary at the same time as they file their income tax return. Effective the day following final enactment.

ARTICLE 3: PARTNERSHIP TAX - POLICY

Sections 1-4 and 10-15. Various conforming changes. Amends Minn. Stat. §§ 270C.445, subd. 6; 289A.31, subd. 1; 289A.37, subd. 2; 289A.38, subd. 10; 289A.42; 289A.60, subd. 24; 290.31, subd. 1; 297F.17, subd. 6; 297G.16, subd. 7; and 469.319, subd. 4; to correct cross references and generally comport with the changes in other sections.

Section 5. Definitions relating to federal adjustments. Amends Minn. Stat. ch. 289A, by adding Minn. Stat. § 289A.381, which contains various definitions relating to the reporting of federal adjustments, and federal adjustments to partnership returns.

Section 6. General rule – reporting federal adjustments. Amends Minn. Stat. ch. 289A, by adding Minn. Stat. § 289A.382, which replaces § 289A.38, subd. 7, and provides the general requirement that taxpayers report federal audit adjustments, and amended federal returns to Minnesota within 180 days. Partnerships having undergone entity level audit are exempt from this provision and are required to report adjustments to Minnesota under § 289A.383.

Section 7. Reporting and payment requirements. Amends Minn. Stat. ch. 289A, by adding Minn. Stat. § 289A.383, which provides for the reporting of federal adjustments following a partnership level audit by the IRS. By default, each partnership will be required to file a federal adjustments report related to federal changes, and submit the report to both Minnesota and its direct partners within 90 days. Each partnership reporting changes must also file amended composite and withholding reports for nonresident partners within 180 days. Each direct partner, other than a tiered partner, receiving an adjustment report as described above is also required to make a federal adjustment report and pay any additional tax due within 180 days of the final determination date.

Each partnership reporting federal adjustments after a partnership level audit is also eligible to make an election to pay the additional tax due to Minnesota at the entity level. A partnership making the election is required to do so on a federal adjustments report filed with the commissioner within 90 days of the final determination date. A partnership making the election must be able to determine and report the residency status of all direct and indirect individual partners, and pay tax on the properly allocated and apportioned share of all income at the highest marginal rate for its individual and corporate partners.

Section 8. Statute of limitations on assessment. Amends Minn. Stat. ch. 289A, by adding Minn. Stat. § 289A.384, which replaces Minn. Stat. § 289A.38, subs. 8 and 9, and provides that when a taxpayer reports federal adjustments pursuant to §§ 289A.382 and 289A.383 in a timely fashion that the statute of limitations on assessment for state tax purposes is extended for a period of 1 year. When a taxpayer files a federal adjustments report in an untimely fashion the statute of limitations is extended for the shorter of 1) one year after the filing of the untimely report; or 2) six years.

Section 9. Statute of limitations on refund claims. Amends Minn. Stat. ch. 289A, by adding Minn. Stat. § 289A.385, which provides that the statute of limitations on refund claims related to

adjustments made by the Internal Revenue Service is equal to the general period of limitations on refund claims in Minn. Stat. § 289A.40.

Section 16. Repealer. Amends Minn. Stat. § 289A.38, by repealing subds. 7, 8, and 9.

Effective date. This article is effective retroactively for taxable years beginning after December 31, 2017, except that for partnerships that make an election under Code of Federal Regulations, title 26, section 301.9100-22T, this article is effective retroactively and applies to the same tax periods to which the election relates.

ARTICLE 4: SALES AND USE TAX - TECHNICAL

Section 1. Ships used in interstate commerce. Amends Minn. Stat. § 297A.68, subd. 17, to clarify an ambiguity created by the chapter 297A recodification in 2000. Effective the day following final enactment.

Section 2. DEED certification of qualified data centers. Amends Minn. Stat. § 297A.68, subd. 42, to clarify that the commissioner of employment and economic development must issue a certification to the commissioner of revenue certifying a qualified data center as such, and the certification must include the date a data center first became qualified so the commissioner of revenue can determine when the data center's electricity became exempt. Effective the day following final enactment.

Section 3. DEED certification of Greater Minnesota businesses. Amends Minn. Stat. § 297A.68, subd. 44, by clarifying that the commissioner of employment and economic development must certify to the commissioner of revenue that a Greater Minnesota business is a qualifying business under Minn. Stat. § 116J.8738, and that any purchase made and delivery received was during the duration of the business subsidy agreement. Effective the day following final enactment.

Section 4. DEED certification of biopharmaceutical manufacturing facilities. Amends Minn. Stat. § 297A.71, subd. 45, to clarify that the commissioner of employment and economic development must certify to the commissioner of revenue that the biopharmaceutical manufacturing facility is qualified. Effective the day following final enactment.

Section 5. Recordkeeping requirement. Amends Minn. Stat. § 297A.77, by adding subdivision 5, which clarifies statutory language in Minn. Stat. § 297A.27, subd. 3, that was inadvertently omitted during the chapter 289A recodification in 1990. Effective the day following final enactment.

ARTICLE 5: TOBACCO TAXES - TECHNICAL

Section 1. Definition of tobacco products. Amends Minn. Stat. § 297F.01, subd. 19, to clarify that this definition specifically includes nicotine solution products. Effective the day following final enactment.

Section 2. Definition of nicotine solution products. Amends Minn. Stat. § 297F.01, by adding subd. 22b, to define nicotine solution products, which includes nicotine products consumed through a means that produces vapor or aerosol from nicotine, electronic pipes and cigarettes, batteries, heating elements, and other products, devices, components, parts and accessories sold with a solution containing nicotine. The definition also includes solutions containing nicotine produced from sources other than tobacco. Effective the day following final enactment except the inclusion of non-tobacco nicotine in the definition is effective January 1, 2020.

Section 3. Definition of wholesale sales price. Amends Minn. Stat. § 297F.01, subd. 23, to clarify that the definition of wholesale sales price of nicotine solution products does not include the cost of electronic pipes and cigarettes, batteries, heating elements, and other products, devices, components parts and accessories sold in a kit with a package of solution containing nicotine if the taxpayer separately sells the package of solution containing nicotine and can isolate its cost. Effective the day following final enactment.

ARTICLE 6: MINNESOTACARE – TECHNICAL

Sections 1, 4, 8, and 10. Wholesale drug distributor. Amends Minn. Stat. § 295.50, to modify the definition of “wholesale drug distributor” in subd. 14, and to create subdivisions 2b, 7a, and 16, to define the terms “emergency medical reasons,” “manufacturer,” and “wholesale drug distribution.” These amendments are necessary to preserve the current tax base for purposes of the wholesale drug distributor tax in chapter 295 due to proposed legislation by the Pharmacy Board to amend chapter 151 to conform with federal requirements regarding drugs and licensure. Effective the day following final enactment.

Sections 2 and 9. Gross revenues and legend drug. Amends Minn. Stat. § 295.50, subd. 3, to replace the term “staff model health carrier” in clause (3) with “staff model health plan company” to allow for consistent use of the term “staff model health plan company” throughout chapter 295, and to remove language related to the term “legend drug” from the definition of “gross revenues” in clause (4) and place it in the definition of “legend drug” in Minn. Stat. § 295.50, subd. 15. Effective the day following final enactment.

Section 3. Health care provider. Amends Minn. Stat. § 295.50, subd. 4, to clarify that the definition of health care provider includes an entity, which may otherwise not be a healthcare provider, who employs or contracts with a health care provider to provide, supervise, oversee, or consult regarding patient services; to clarify that home care providers required to be licensed under chapter 144A are not health care providers as long as the home care services are provided under chapter 144A; and to conform with proposed changes to Minn. Stat. § 295.53 regarding exclusions and exemptions. Effective the day following final enactment.

Section 5. Patient services. Amends Minn. Stat. § 295.50, subd. 9b, to clarify which community support programs and family community support programs are not included in patient services. Effective the day following final enactment.

Sections 6, 7, and 13. Tax expense transfer. Amends Minn. Stat. § 295.582, subd. 1, to

reorganize it for readability and to move the definitions of “pharmacy benefits manager” and “third-party purchaser” to Minn. Stat. § 295.50 to consolidate definitions into one section with the other definitions. Effective the day following final enactment.

Sections 11 and 12. Exclusions and exemptions. Amends Minn. Stat. § 295.53, subd. 1, to clarify which clauses are exclusions and which clauses are exemptions for ease of tax administration. This proposal also clarifies an exemption for payments received for services under the federal Medicare Advantage Program; clarifies that Federal Tricare sourced funds are exempt; deletes unnecessary language, “other than nutritional products and blood and blood components,” because those items are already excluded from the definition of legend drugs in Minn. Stat. § 295.50; and deletes reference to repealed Minn. Stat. § 256B.19, subd. 1c. Also amends statutory references in Minn. Stat. § 295.57, subd. 5, to conform to the reorganization in Minn. Stat. § 295.53. Effective the day following final enactment.

ARTICLE 7: PROPERTY TAX - POLICY

Section 1. Small cities assistance. Amends Minn. Stat. § 162.145, subd. 3, to provide that the commissioner of transportation certify aid amounts for the Small Cities Assistance program to the commissioner of revenue by June 1. Effective for aids payable in 2019 and thereafter.

Section 2. Homestead application. Amends Minn. Stat. § 273.124, subd. 13, by only requiring the Social Security number of the spouse of a property owner when the property owner occupies the property. Effective for applications for homestead filed in 2020 and thereafter.

ARTICLE 8: PROPERTY TAX – TECHNICAL

Sections 1-18. Property tax data reports. Amends Minn. Stat. § 270C.85, subd. 2, to clarify that the commissioner of revenue may collect property tax data at the parcel level or higher in the time, form, and manner as the commissioner may prescribe. This method of collection is consistent with property tax data collection under the Property Record Information System of Minnesota. Sections referencing abstract-level property tax data (see list below) are amended to cross-reference Minn. Stat. § 270C.85, subd. 2.

270C.89, subd. 1	270C.89, subd. 2	270C.91
273.061, subd. 9	273.0755	273.113, subd. 3
273.119, subd. 2	273.1231, subd. 3	273.136, subd. 2
273.1384, subd. 3	273.1387, subd. 3	273.18
274.14	274.16	275.025, subd. 1
290B.09, subd. 1	469.177, subd. 1	

Section 19. Repealer. Minn. Stat. § 275.29, which describes the abstract of tax lists, is repealed.

Effective date. This article is effective the day following final enactment.

ARTICLE 9: FIRE STATE AID - TECHNICAL

Section 1. Definitions. Creates Minn. Stat. § 477B.01, which defines various terms for purposes of chapters 477B, 423A, and 424A. Chapter 477B is a proposed new chapter of the Minnesota Statutes where the recodified provisions of the fire state aid program will reside. Effective for aids payable in 2020 and thereafter.

Section 2. Qualifying for fire state aid. Creates Minn. Stat. § 477B.02, which establishes the criteria that must be met in order for a municipality or an independent nonprofit firefighting corporation to qualify to receive fire state aid. Effective for aids payable in 2020 and thereafter.

Section 3. Calculation of fire state aid. Creates Minn. Stat. § 477B.03, which specifies how fire state aid is to be calculated and apportioned. The appeal process for a municipality, independent nonprofit firefighting corporation, fire relief association, and the voluntary statewide volunteer retirement plan to object to the amount of fire state aid apportioned to it is also explained in this section. Effective for aids payable in 2020 and thereafter.

Section 4. Appropriation, payment, and administration. Creates Minn. Stat. § 477B.04, which describes the process for paying fire state aid. The amount necessary to make the fire state aid payments is appropriated to the commissioner of revenue from the general fund. Effective for aids payable in 2020 and thereafter.

Section 5. Shortfall from general fund. Creates Minn. Stat. § 477B.05, which provides that any volunteer firefighter relief association funding shortfall is to be paid from the state general fund to the extent there is a legislative appropriation for this purpose. Effective for aids payable in 2020 and thereafter.

Section 6. Purpose. An uncodified provision describes the purpose of the fire state aid and police state aid recodification. This provision provides that prior provisions are repealed on the effective date of the new provisions. Effective July 1, 2019.

Section 7. Repealer. Repeals Minn. Stat. §§ 69.011, 69.021, 69.031, and 69.041. The language of these provisions is recodified into new sections of the Minnesota Statutes. Effective for aids payable in 2020 and thereafter.

ARTICLE 10: POLICE STATE AID - TECHNICAL

Section 1. Definitions. Creates Minn. Stat. § 477C.01, which defines various terms for purposes of chapters 477C and 423A. Chapter 477C is a proposed new chapter of the Minnesota Statutes where the recodified provisions of the police state aid program will reside. Effective for aids payable in 2020 and thereafter.

Section 2. Qualifying for police state aid. Creates Minn. Stat. § 477C.02, which establishes the criteria that must be met in order for a municipality to qualify to receive police state aid. Effective for aids payable in 2020 and thereafter.

Section 3. Calculation of police state aid; appeal. Creates Minn. Stat. § 477C.03, which specifies how police state aid is to be calculated and apportioned. The appeal process for a municipality to object to the amount of police state aid apportioned to it is also explained in this section. Effective for aids payable in 2020 and thereafter.

Section 4. Appropriation, payment, and administration. Creates Minn. Stat. § 477C.04, which describes the process of paying police state aid. The amount necessary to make the police state aid payments is appropriated to the commissioner of revenue from the general fund. Effective for aids payable in 2020 and thereafter.

ARTICLE 11: FIRE AND POLICE STATE AID; MISCELLANEOUS TECHNICAL CHANGES

Section 1. Fire and police premium reports. Creates Minn. Stat. § 297I.26, which establishes the filing requirements for the Minnesota Fire Premium Report and the Minnesota Aid to Police Premium Report. Penalties apply if a company fails to file the required report by the due date, if a person whose duty it is to file the report fails or refuses to file the report within 30 days after notification by the commissioner of revenue that the report is late, and if a company knowingly makes and files an inaccurate or false report. Effective for reports filed after December 31, 2019.

Section 2. Financial report; bond; examination. Creates Minn. Stat. § 424A.014, which establishes financial reporting requirements to the state auditor for volunteer firefighters' relief associations and each municipality with an organized fire department that does not have a relief association. Effective July 1, 2019.

Section 3. Authorized administrative expenses from special fund. Amends Minn. Stat. § 424A.05 by adding a new subd. 3b, which provides that payment of certain necessary, reasonable, and direct expenses of maintaining, protecting, and administering the special fund constitutes authorized administrative expenses of a volunteer firefighters' relief association. Effective July 1, 2019.

Section 4. Repealer. Repeals Minn. Stat. §§ 69.33, 69.051, 69.80, and 297I.25, subd. 2. The language of these provisions is recodified into the new provisions of Chapters 297I and 424A. The repeal of sections 69.051 and 69.80 is effective July 1, 2019. The repeal of sections 69.33 and 297I.25 subd. 2, is effective for reports filed after December 31, 2019.

ARTICLE 12: FIRE AND POLICE STATE AID; CONFORMING CHANGES - TECHNICAL

Sections 1-28. Conforming changes. Amends various statutes to update cross-references to the new sections created pursuant to the chapter 69 recodification.

Cross-reference amendments in the following sections are effective for aids payable in 2020 and thereafter.

144E.42, subd. 2

297I.20, subd. 3

353G.01, subd. 9

353G.08, subd. 1	353G.08, subd. 1a	423A.02, subd. 1b
423A.02, subd. 3	423A.022, subd. 2	424A.016, subd. 2
424A.02, subd. 1	424A.03, subd. 2	424A.05, subd. 2
424A.07	424A.092, subd. 3	

Cross-reference amendments in the following sections are effective July 1, 2019.

6.495, subd. 3	353G.05, subd. 2	353G.17, subd. 2
356.20, subd. 4a	356.219, subd. 8	424A.016, subd. 4
424A.02, subd. 3a	424A.02, subd. 10	424A.05, subd. 3
424A.092, subd. 4	424B.09	

Cross-reference amendments in the following sections are effective July 1, 2019, except the references to chapter 477B are effective for aids payable in 2020 and thereafter.

423A.022, subd. 4	424A.091, subd. 3	424A.093, subd. 5
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Section 29. Repealer. Repeals Minn. Stat. § 69.022. The volunteer retention stipend aid pilot program originally created by this section sunset for aid payable after calendar year 2017. The report required to the chairs and ranking minority members of the public safety and taxes legislative committees in the senate and the house of representatives was due on or before January 15, 2018. Effective the day following final enactment.

ARTICLE 13: MISCELLANEOUS - POLICY

Section 1. Disclosure. Amends Minn. Stat. § 270B.08, subd. 2, to expand the commissioner's authority to disclose data identifying the holder of a sales tax permit that has been canceled under Minn. Stat. §§ 270C.722 or 297A.84. Effective the day following final enactment.

Sections 2 and 3. Sales tax permits. Amends Minn. Stat. § 297A.84 and § 297A.85 to prevent a business from evading a sales tax liability by prohibiting the issuance of a new sales tax permit to a business or person that has an unpaid sales tax liability not under appeal and provides for cancellation with notice. Effective for permit applications filed after December 31, 2019.

Sections 4 and 5. Local lodging tax. Amends Minn. Stat. § 469.190, subd. 1, to provide that lodging taxes apply to the entire consideration paid to obtain access to lodging, including ancillary or related services, such as services provided by accommodation intermediaries as defined in Minn. Stat. § 297A.61. Effective the day following final enactment. Also amends subdivision 7 to provide that if the local government adopts by ordinance a once a year filing and remittance for accommodations intermediaries, then the due date for the filing and remittance is October 20, and the local government must inform the accommodations intermediaries of the due date and provide geographic and zip code information. Effective the

day following final enactment.

Section 6 Repealer. Repeals Minn. Stat. § 270C.131. This is a report to Explore Minnesota Tourism that will be developed through an inter-agency agreement and is no longer required to be referenced in statute. Effective the day following final enactment.

ARTICLE 14: MISCELLANEOUS - TECHNICAL

Sections 1-5, 10, 12-13, and 18-27. Persons who are blind or have a disability. Amends the statutes listed below to update language for persons who are blind or have a disability. Effective the day following final enactment.

272.02, subd. 27	272.02, subd. 81	272.032
273.13, subd. 22	273.13, subd. 34	290.0802, subd. 2
290.091, subd. 2	290A.03, subd. 3	290A.09
297A.61, subd. 18	297A.67, subd. 6	297A.67, subd. 12
297A.70, subd. 3	297A.70, subd. 4	297A.70, subd. 16
297A.71, subd. 22	297A.75, subd. 1	297B.01, subd. 14

Sections 6-9, 11, 14-17, and 27-28. Married spouses. Amends the statutes listed below to update gender-specific language for spouses. Effective the day following final enactment.

289A.08, subd. 6	289A.25, subd. 1	289A.31, subd. 2
289A.37, subd. 6	290.0802, subd. 3	290A.03, subd. 4
290A.03, subd. 8	290A.05	290A.08
297B.01, subd. 14	297B.01, subd. 16	

Sections 29, 30, and 31. Net proceeds tax distribution. Amends Minn. Stat. § 298.018, subd. 1, to remove reference to the July 15 net proceeds tax distribution date and add related conforming language to ensure the distributions are administrable. Also amends Minn. Stat. § 298.018 by adding a subdivision to change the net proceeds tax distribution date from July 15 to December 15 to ensure the distributions are administrable. Amends Minn. Stat. § 298.282, subd.1, by adding a conforming paragraph related to the net proceeds tax distribution date. Effective the day following final enactment.

Section 32. Tax Court written orders. Updates the effective date for the change to Minn. Stat. § 271.08, subd. 1, enacted in 2017 Minn. Laws, First Special Session, Chapter 1, Article 8, Section 3, regarding the period of time to file post-trial motions. After June 30, 2019, all cases will have thirty days to file post-trial motions. Effective the day following final enactment.