

1.1 moves to amend H.F. No. 1170, the first engrossment, as follows:

1.2 Page 15, after line 22 insert:

1.3 "Sec. 2. Minnesota Statutes 2010, section 289A.31, subdivision 5, is amended to read:

1.4 Subd. 5. **Withholding tax, withholding from payments to out-of-state**

1.5 **contractors, and withholding by partnerships and small business corporations.** (a)

1.6 Except as provided in paragraph (b), an employer or person withholding tax under section
1.7 290.92 or 290.923, subdivision 2, who fails to pay to or deposit with the commissioner a
1.8 sum or sums required by those sections to be deducted, withheld, and paid, is personally
1.9 and individually liable to the state for the sum or sums, and added penalties and interest,
1.10 and is not liable to another person for that payment or payments. The sum or sums
1.11 deducted and withheld under section 290.92, subdivision 2a or 3, or 290.923, subdivision
1.12 2, must be held as a special fund in trust for the state of Minnesota.

1.13 (b) If the employer or person withholding tax under section 290.92 or 290.923,
1.14 subdivision 2, fails to deduct and withhold the tax in violation of those sections, and later
1.15 the taxes against which the tax may be credited are paid, the tax required to be deducted
1.16 and withheld will not be collected from the employer. This does not, however, relieve the
1.17 employer from liability for any penalties and interest otherwise applicable for failure to
1.18 deduct and withhold. This paragraph does not apply to an employer subject to paragraph
1.19 (g), ~~or to a contractor required to withhold under section 290.92, subdivision 31.~~

1.20 (c) Liability for payment of withholding taxes includes a responsible person or entity
1.21 described in the personal liability provisions of section 270C.56.

1.22 (d) Liability for payment of withholding taxes includes a third-party lender or surety
1.23 described in section 270C.59.

1.24 (e) A partnership or S corporation required to withhold and remit tax under section
1.25 290.92, subdivisions 4b and 4c, is liable for payment of the tax to the commissioner, and a
1.26 person having control of or responsibility for the withholding of the tax or the filing of
1.27 returns due in connection with the tax is personally liable for the tax due.

2.1 (f) A payor of sums required to be withheld under section 290.9705, subdivision
2.2 1, is liable to the state for the amount required to be deducted, and is not liable to an
2.3 out-of-state contractor for the amount of the payment.

2.4 (g) If an employer fails to withhold tax from the wages of an employee when
2.5 required to do so under section 290.92, subdivision 2a, by reason of treating such
2.6 employee as not being an employee, then the liability for tax is equal to three percent of
2.7 the wages paid to the employee. The liability for tax of an employee is not affected by
2.8 the assessment or collection of tax under this paragraph. The employer is not entitled to
2.9 recover from the employee any tax determined under this paragraph.

2.10 **EFFECTIVE DATE.** This section is effective for payments made after June 30,
2.11 2011."

2.12 Page 16, after line 9, insert:

2.13 "(c) Minnesota Statutes 2010, section 290.92, subdivision 31, is repealed.

2.14 **EFFECTIVE DATE.** Paragraph (c) is effective for payments made after June
2.15 30, 2011."

2.16 Renumber the sections in sequence and correct the internal references

2.17 Amend the title accordingly