

# House Research Act Summary

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**SESSION:** 2009 Regular Session

**TOPIC:** Tax policy bill

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**Section****Article 1: Federal Update****Overview**

Conforms Minnesota's individual income tax and corporate franchise tax to most federal changes enacted in the 2009 federal stimulus law, except for deductions for unemployment compensation, deferral of income from discharge of indebtedness, and motor vehicle sales taxes.

- 1 Update of administrative tax provisions.** Adopts federal tax administrative provisions made between December 31, 2008, and March 31, 2009, that Minnesota references for state tax administration purposes under chapter 289A. The 2009 federal stimulus law was the only federal law enacted in that time period, and did not change federal provisions that Minnesota provisions refer to in chapter 289A.

**Effective date:** day following final enactment

- 2 Update to federal definition of taxable income.** Adopts all of the federal changes to taxable income effective when the federal changes became effective, for tax year 2009 and following years. The one new federal law and important changes were:

**The American Recovery and Reinvestment Act of 2009**, Public Law 111-5, enacted February 17, 2009, made the following major changes:

- ▶ Allows deferral of discharge of indebtedness income resulting from reacquisition of business indebtedness in 2009 and 2010. Instead of being recognized in the tax year in which it is received, the income is deferred and recognized in equal parts from 2014 to 2019 (*Minnesota would not conform to this deferral; instead additions to taxable income for individuals and corporations would be required under sections 3 and 5, and corresponding subtractions allowed under sections 4 and 6*).
- ▶ Allows deduction of motor vehicle sales taxes as an itemized deduction for individuals who choose to deduct state income taxes, and as an additional standard deduction for non-itemizers, for purchases from February 17, 2009, through December 31, 2009 (*Minnesota would not conform to this deduction; instead an addition to taxable income would be required under section 3*).
- ▶ Extends 50 percent bonus depreciation amounts to tax year 2009 (*Minnesota would not conform to the extension of bonus depreciation but would retain its current law requirement that taxpayers add-back to taxable income 80 percent of the additional depreciation amount in the first tax year, and then subtract one-fifth of the amount added back in each of the five following tax years*).
- ▶ Allows deduction of the first \$2,400 of unemployment compensation (*Minnesota would not conform to this deduction; instead an addition to taxable income would be required under section 3*).
- ▶ Extends the increased section 179 expensing amount and phase-out threshold to tax year 2009 (allows \$250,000 of property to be claimed as section 179

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expensing, with the allowance phased out dollar-for-dollar for businesses that place more than \$800,000 of qualifying property in service during the tax year). *(Minnesota would not conform to the extension of increased section 179 amounts but would retain its current law requirement that taxpayers add-back to taxable income 80 percent of the expensing amount in the first tax year, and then subtract one-fifth of the amount added back in each of the five following tax years).*

- ▶ Extends the carryback period for 2008 net operating losses (NOLs) for businesses with gross receipts of \$15 million or less from two years to five years.
- ▶ Reduces the holding period for assets of S corporations that converted from C corporations from ten years to seven years, for tax years 2009 and 2010 only, allowing S corporations to sell assets held more than seven years without being taxed on built-in gains.
- ▶ Increases from 50 percent to 75 percent the exclusion for the gain on sale of qualified small business stock held for more than five years for stock acquired between February 18, 2009, and December 31, 2010.
- ▶ Extends the definition of qualified higher education expenses that can be paid from section 529 plans to include computer equipment and software for tax years 2009 and 2010 only (excludes software designed for sports, games, or hobbies unless it is predominantly educational in nature).
- ▶ Increases the maximum amount of benefit that an employer may exclude from gross income for employee transit and vanpool expenses to equal the amount allowed to be excluded for employee parking expenses, for tax years 2009 and 2010 only.
- ▶ Removes the limitation on net operating loss carryforwards and use of built-in losses in the case of an ownership change for manufacturing firms if the ownership change is required under a loan agreement or line of credit entered into with the Treasury Department under the Emergency Economic Stabilization Act of 2008.
- ▶ Expands availability of industrial development bonds and tribal economic development bonds, modifies rules relating to interest expenses of financial institutions for tax-exempt income, and exempts private activity bond interest from alternative minimum taxable income (generally for bonds issued in 2009 and 2010).
- ▶ Reverses IRS Notice 2008-83, which allowed an acquiring bank to use the built-in losses of an acquired bank to reduce its taxable income without regard to the limits in section 382 of the Internal Revenue Code.

**3 Additions to federal taxable income (FTI) for individuals.** Requires the following items to be added to FTI, subjecting this income to Minnesota tax:

- ▶ The first \$2,400 of unemployment compensation
- ▶ Motor vehicle sales taxes allowed as an itemized deduction in computing FTI
- ▶ The additional standard deduction amount for motor vehicle sales tax

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- ▶ Deferred income from the discharge of indebtedness resulting from reacquisition of business indebtedness

The addition for motor vehicle sales taxes would be limited to the amount by which the sum of itemized deductions, less this deduction and the deduction for state income or sales tax, exceeds the standard deduction. Thus, the addition can not be more than total itemized deductions in excess of the standard deduction.

Also requires the new additional standard deduction amount for motor vehicle sales taxes to be added to taxable income. Modifies the definition of the standard deduction used in limiting the addition for state income or sales taxes deducted at the federal level to include the new additional amount for motor vehicle sales taxes.

**Effective date:** tax year 2009

- 4 Subtractions from FTI for individuals.** Allows subtraction of discharge of indebtedness income included in federal taxable income that was included in Minnesota taxable income in an earlier year as a result of the addition required in section 3.

**Effective date:** tax year 2009

- 5 Additions to FTI for corporations.** Requires addition of deferred income from the discharge of indebtedness resulting from reacquisition of business indebtedness.

**Effective date:** tax year 2009

- 6 Subtractions from FTI for corporations.** Allows subtraction of discharge of indebtedness income included in federal taxable income that was included in Minnesota taxable income in an earlier year as a result of the addition required in section 5.

**Effective date:** tax year 2009

- 7 Update to other references to the Internal Revenue Code in chapter 290.** Adopts federal changes to federal adjusted gross income used for computing individual alternative minimum tax and determining withholding on wages. FAGI also is the starting point for calculating household income which is used to compute the dependent care and K-12 education credit for tax year 2009 and following years. The main changes to federal adjusted gross income are described in section 2.

- 8 Nonresident ratio.** Makes conforming changes to the calculation of the ratio used by nonresidents and part-year residents to apportion tax to Minnesota to reflect the new additions and subtraction in response to federal changes.

**Effective date:** tax year 2009

- 9 Household income; dependent care credit.** Adds the disallowed deduction for unemployment compensation to the definition of household income used in calculating the dependent care credit and also the K-12 education credit.

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- 10 Alternative minimum tax; individuals.** Updates references to additions to and subtractions from alternative minimum taxable income, so that the additions for unemployment compensation and deferred discharge of indebtedness income will be included in alternative minimum taxable income, and the subtraction for deferral of discharge of indebtedness income is excluded from alternative minimum taxable income.
- 11 Household income; property tax refund.** Adds the disallowed deduction for unemployment compensation to the definition of household income used in calculating the homeowner and renter property tax refund.
- 12 Update of references to Internal Revenue Code in the property tax refund chapter.** Adopts the federal changes that affect household income, which uses the definition of federal adjusted gross income as a starting point.
- 13 Estate tax; federal conformity.** Changes the date through which Minnesota incorporates the federal estate tax from December 31, 2008, to March 31, 2009. Since there have not been any federal changes to the estate tax since the last update, this change does not have any substantive effect.

**Article 2: Property Tax****Overview**

- ▶ Clarifies eligibility for the property tax exemption for institutions of public charity; requires the commissioner of revenue to prepare a bulletin providing guidance to assessors in determining eligibility for the exemption.
- ▶ Provides an 18-month moratorium on new or increased maintenance of effort (MOE) and matching fund requirements and requires the commissioner of human services to propose a new mechanism for funding the county portion of health and human services.
- ▶ Expands eligibility for the senior deferral program slightly, by allowing one spouse to be over 62 and the other over 65.
- ▶ Provides that land enrolled in “Green Acres” will be subject to a property tax penalty for violations of agricultural chemical or water protection laws for final enforcement actions after January 1, 2010, and before December 31, 2013.
- ▶ Changes the distribution of the wind energy production tax.
- ▶ Provides several new special levies and allows late recertification of levies due to unallotments.
- ▶ Provides a lower classification rate for marinas that provide public access.

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- ▶ Provides for a two-year tax abatement for new residential structures in certain flood-damaged cities.
- ▶ Requires studies on a variety of topics: property tax treatment of horse breeding and boarding facilities; elimination of the time lag in the fiscal disparities program; condition of riparian buffer areas and whether incentives are necessary; and the pollution control exemption for equipment and machinery used by electric generation facilities.

- 1 Interdistrict cooperation.** Provides that school districts with career and technical programs that are part of an interdistrict cooperation agreement must allocate the levy for the program among the participating districts. Effective retroactively for taxes payable in 2008.
- 2 Retired employee health benefits.** Clarifies existing levy authority for certain school district retiree health benefits to reflect the 2008 changes. Effective beginning taxes payable 2010.
- 3 Emergency Medical Services Taxing District Board.** Provides that in cases where only part of a township participates in the medical services district, all partial townships in the district will be represented by a single member on the taxing district board.
- 4 Institutions of public charity.** (a) Provides that institutions of purely public charity that are exempt from federal income taxes under section 501(c)(3) are exempt from property tax if they meet the requirements of this subdivision. When determining whether the real property is exempt, the following factors must be considered, which are a general codification of the “North Star” factors:
  1. Whether the stated purpose of the undertaking is to be helpful without immediate expectation of material reward;
  2. Whether the institution of public charity is supported by material donations, gifts, or government grants for services to the public in whole or in part;
  3. Whether a material number of the recipients of the charity receive benefits or services at reduced or no cost, or whether the organization provides services to the public that alleviate burdens or responsibilities that would otherwise borne by the government;
  4. Whether the income received, including material gifts and donations, produces a profit to the institution that is not distributed to private interests;
  5. Whether the beneficiaries of the charity are restricted or unrestricted, and if restricted, whether the class of persons to whom the charity is made available is one having reasonable relationship to the charitable objectives; and
  6. Whether dividends, in form or substance, or assets upon dissolution, are not available to private interests.

For a property to be exempt under this subdivision, the charitable organization must satisfy the factors in clauses (1) to (6), unless there is a reasonable justification for missing the

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factors in (2), (3), or (5), and the organization provides the assessor with a factual basis for that justification. If there is a reasonable justification for failing to meet the factors in clauses (2), (3), or (5), an organization is a public charity without meeting those factors. An exemption properly granted under this subdivision will remain in effect unless there is a material change in the facts.

(b) Defines “grants” as a written instrument or electronic document defining a legal relationship between a granting agency and a grantee when its principal purpose is to transfer cash or something of value to the grantee to support a public purpose authorized in law in a general manner, instead of acquiring by professional or technical contract, purchase, lease, or barter property or services for the direct benefit or use of the granting agency.

This section, along with sections 7 and 53 respond to a December 2007 Minnesota Supreme Court case (*Under the Rainbow Child Care Center, Inc. v. County of Goodhue* )

Effective for taxes payable in 2010 and thereafter.

- 5 Electric generation facility; personal property.** Modifies an existing exemption for personal property of an electric generation facility by allowing the facility to use gas-fired generating facilities that are adaptable for subsequent incorporation into a facility using coal as a primary fuel. Also provides that construction of the first 100 megawatts, rather than the first 500 megawatts, must commence prior to January 1, 2012.
- 6 Apprenticeship training facilities; property tax exemption.** Provides that the property tax exemption granted in 2008 for apprenticeship training facilities extends to the land on which the building is located, not to exceed five acres. Also modifies ownership of the facilities. Parking areas on the exempt land are exempt to the extent that they are used for the purposes of the training facility. Effective for payable in 2010 and thereafter.
- 7 Nursing homes.** Provides a separate property tax exemption for a nonprofit nursing home or boarding care facility that is certified to participate in the medical assistance program or that certifies to the commissioner of revenue that it does not discharge residents due to their inability to pay. Effective for taxes payable in 2010 and thereafter.
- 8 Railroad wye connections.** Exempts the real and personal property of a railroad wye connection including the track, ties, ballast, switch gear, and related equipment if it meets all of the following:
1. is publicly owned;
  2. is funded, in whole or in part, by state grants;
  3. is located within the metropolitan area;
  4. includes a single track segment that is no longer than 2,500 feet in length;
  5. connects intersecting rail lines; and
  6. is constructed after January 1, 2009.

Effective for assessment year 2009, taxes payable in 2010 and thereafter (property is located in the City of New Brighton, Ramsey County).

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- 9 Electric generation facility; personal property.** Exempts attached machinery and other personal property which is part of an electric generation facility that meets certain conditions from property taxes. (The proposed facility is in Lent Township, Chisago County.) The primary conditions are that the facility:
- ▶ will have installed capacity between 150 and 780 megawatts;
  - ▶ is designed to utilize natural gas as a primary fuel;
  - ▶ is owned by an entity other than a public utility;
  - ▶ is located near existing interstate natural gas pipelines and an electric transmission substation;
  - ▶ have in place an executed interconnect agreement that does not require the acquisition of more than one mile of electric transmission right-of-way, nor provide for any other new routes or corridors for future lines in the county;
  - ▶ be located in a county with an essential services and transmission services ordinance;
  - ▶ is subject to a development agreement with the county board adopted by a two-thirds vote of the county board; and a development agreement with the township board adopted by two-thirds vote of township board;
  - ▶ be designed to use effluent from a wastewater treatment facility as its preferred water source, and collocate its discharge with the outfall of a wastewater treatment facility;
  - ▶ has an agreement in place with the host county, township and school district for payments in-lieu of taxes for an amount not to exceed \$600,000 per year for the operating life of the facility; and
  - ▶ is to be constructed starting sometime after March 1, 2010, and before March 1, 2014.
- 10 Electric generation facility; personal property.** Provides that the personal property of a described electric generation facility will be exempt from property taxation (proposed in Beltrami County) To qualify for the exemption, the facility must:
- ▶ exceed 40 megawatts of installed capacity, but not exceed 125 megawatts of installed capacity;
  - ▶ utilize natural gas as a primary fuel;
  - ▶ be located within two miles of parallel existing 36-inch natural gas pipelines and an existing 115-kilovolt electric transmission line;
  - ▶ be designed to provide peaking, emergency backup or contingency services;
  - ▶ satisfy a resource deficiency identified in an approved integrated resource plan;
  - ▶ have an agreement with host county, township, and school district for payment in lieu of taxes to the host county, township and school district for the operating life of the facility; and
  - ▶ construction must begin after January 1, 2010, and before January 1, 2014.

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- 11 Elderly living facility.** Provides a property tax exemption for the first \$5,000,000 of market value of an elderly living facility that meets the following requirements:
- ▶ the facility consists of no more than 75 living units;
  - ▶ it is located in a city with a population of more than 350,000;
  - ▶ it is owned and operated by a nonprofit corporation;
  - ▶ the owner of the facility is an affiliate of entities that own and operate assisted living and skilled nursing facilities that are located across a street from the facility, are adjacent to a church, include a congregate dining program, and provide assisted living or similar social and physical support;
  - ▶ the residents of the facility must be at least 62 years of age or handicapped;
  - ▶ before the effective date of the subdivision, the facility has received certain approvals from the city.
- The exemption from property taxes would extend for the longer of 25 years or the term of the facility's initial permanent financing. This exemption is for a proposed property facility located in Minneapolis. Effective beginning with taxes payable in 2010.
- 12 Distribution of revenues.** Modifies the formula for distribution of revenues from the wind energy production tax for 2010 and thereafter, so that 80 percent of the revenues are distributed to the county and 20 percent to the city or township. Under current law, the distribution is 80 percent to the county, 14 percent to the city or township, and 6 percent to the school district.
- 13 Indexing agricultural homestead 1<sup>st</sup> tier limit.** Modifies the procedures for indexing the first tier valuation limit for homestead agricultural property. Due to 2008 changes revising agricultural classifications, data will not be consistent after 2009, so the limit is re-set to \$1,140,000 for assessment year 2010; and, the formula resumes for assessment year 2011, with a two year lag for the base year. Effective for taxes payable in 2011 and thereafter.
- 14 Greens Acres; determination of "low" value for nonproductive land.** Eliminates the indexed valuation method for valuing class 2b rural vacant land enrolled in Green Acres, instead requiring the assessor to exclude the influences of commercial-industrial, residential, or seasonal recreational uses when valuing the property, and specifying that the valuation cannot exceed the value prescribed by the commissioner of revenue for class 2a (productive/tillable agricultural land) in the county. Effective for assessment year 2009 and thereafter.
- 15 Cross-compliance with applicable laws (Green Acres).** Provides a property tax penalty for owners of property enrolled in Green Acres who are subject to two final enforcement actions for violations of agricultural chemical or water protection laws within a three-year period. The penalty is equal to the amount of deferred taxes for the current year and the two preceding years on that parcel. Provides that an owner of property enrolled in Green Acres that is subject to a final enforcement action must be notified of the potential property tax penalty in the event of a second offense within three years. Payment of the penalty does not affect the amount of additional taxes imposed when a property is withdrawn from the program. Effective for enforcement actions occurring between January 1, 2010, and December 31, 2013.

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- 16**      **Bovine tuberculosis credit definitions.** Modifies the definitions that apply to the bovine tuberculosis credit. The definition of the zone is no longer referred to as a “proposed” zone, but instead means the modified accredited zone that has been designated by the Board of Animal Health. The reference to “located within” means that the herd is kept in the area for at least part of calendar years 2006, 2007, or 2008; current law is limited to 2007. A new definition of "animal" is added to mean cattle, bison, goats, and farmed cervidae.
- 17**      **Bovine tuberculosis credit calculation.** Clarifies the application of the credit to rural vacant land as well as agricultural land. The amount of the credit will be determined as the greater of: \$5.00 per acre on the first 160 acres of property where the herd had been located, or an amount equal to \$5.00 per acre, times five acres, times the highest number of animals tested on the property for bovine tuberculosis in 2006, 2007, or 2008. The amount of the credit may not exceed the property tax payable on the land where the herd had been located, excluding the tax attributable to residential structures. Effective for payable 2010 and thereafter.
- 18**      **Class 4 (commercial-seasonal classification for marinas).** Extends the class 4c (seasonal recreational) property tax classification to marinas that provide access to the public. The amount of land that can qualify for the classification is limited to 800 feet of lakeshore, and to 6 acres in total. Commercial buildings on the premises continue to be classified as class 3a commercial. Class 4c property has a class rate of 1 percent on the first \$500,000 of market value and 1.25 percent on the value in excess of \$500,000, and is subject to the seasonal-recreational state tax rate. Requires the marina owner provide evidence annually to the assessor that it provides public access.
- Effective for assessment year 2009, taxes payable in 2010, and thereafter.
- 19**      **Recertification due to unallotment.** Allows local governments to recertify their levy by January 15 of the year in which the tax is payable if it has a reduction in its December property tax aid and credit payments due to unallotment by the governor. If the recertification is not reported to the county auditor within two business days of January 15, the original levy certification stands.

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- 20**      **Special levies.** Provides for the following changes to special levies outside of levy limits:
- ▶ puts the existing limit on the special levy for animal shelters into this section since the limit in the cross reference was eliminated in another bill;
  - ▶ modifies the existing special levy for aid and credit reductions due to unallotments to account for any recertification under section 19;
  - ▶ adds a special levy to pay for the state share of the costs of confining sex offenders undergoing the civil commitment process to the extent the state does not fund its share
  - ▶ adds a special levy for counties to pay the first year costs of maintaining and operating a new public safety and courts facility that was funded prior to the imposition of levy limits in 2008. This amount is rolled into the county's levy limit base in subsequent years; and
  - ▶ adds a special levy for reductions in market value credits.
- 21**      **Temporary suspension of new or increased maintenance of effort and matching fund requirements.** Imposes an 18-month moratorium on the implementation of new or increased MOE or matching fund requirements. To avoid causing a problem with the new federal stimulus bill that may require some increased spending, the counties and cities will remain responsible if the city or county is currently providing the federal MOE or match and the federal government increases those requirements. Effective the day after enactment.
- 22**      **Contents of tax statements.** Provides that the property tax statement must not state or imply that property tax credits are paid by the state. Effective beginning payable in 2010.
- 23**      **Property tax installments.** Increases from \$50 to \$250 the minimum property tax amount for which counties must allow payments in two installments. Effective taxes payable in 2010 and thereafter.
- 24**      **Publication corrected.** Provides that if the county auditor discovers an error in the delinquent tax list as published in the newspaper, the auditor does not have to republish the entire list, but only the information that needs to be corrected. The other changes are technical. Effective the day following final enactment.
- 25**      **Apportionment of proceeds to taxing districts.** Allows a county to use a portion of the proceeds from the sale or rental of tax-forfeited lands to replace all or a portion of their county program aid or market value credit reimbursement cuts or unallotments. The provision is limited to a county that received a supplemental transition aid payment in 2009 (Pine County). The amount of the transfer from a county's tax-forfeited fund to its general fund cannot exceed the aid or credit reimbursement loss. Authority expires December 31, 2010. Effective the day following final enactment.
- 26**      **Senior citizen property tax deferral program; qualifications.** Changes the age requirement for the senior deferral program so that at the time deferral is initially granted, only one spouse must be at least 65 years old. Requires the other spouse to be at least 62

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years old. Under present law both spouses must be at least 65 years old for a married couple to qualify for the deferral. Effective July 1, 2009.

- 27 Special service districts; deadline for establishing.** Extends the sunset date for establishing special service districts without special legislation from June 30, 2009, to June 30, 2013. (The sunset of the general law does not affect districts established prior to the sunset date.) Effective day following final enactment.
- 28 Housing improvement areas.** Provides that before establishing a housing improvement area, a city must provide full disclosure of public expenditures, including terms of financing for improvement area projects. Also requires that contracts for housing improvements are subject to the uniform municipal contracting law. Fees imposed must meet the standard for benefits as special assessments and are subject to the same appeal processes.
- 29 Authority; housing improvement area.** Provides that if fees are imposed on housing units within the housing improvement area on a basis other than tax capacity or square footage, the council must make a finding that the alternative basis for the fee is more fair and reasonable.
- 30 Housing improvement districts; deadline for establishing.** Extends the sunset date for establishing housing improvement districts without special legislation from June 30, 2009, to June 30, 2013. (The sunset of the general law does not affect districts established prior to the sunset date.)
- 31 Municipality; certain counties (abatement authorization).** Allows counties to use special assessments to abate nuisances. Allows a county to clean-up nuisances and charge the owner for those costs. Effective the day following final enactment.
- 32 Property tax exemption for leased HRA property.** Clarifies that the law specifying that leased HRA property is taxable as if the lessee owned the property does not apply to residential tenants. These units are subject to payments in lieu of taxes (PILOT) payments based on a percentage of rent (generally 5 percent).
- Effective date:** Retroactive to housing projects constructed or acquired after July 1, 1987, beginning for property taxes payable in 2010.
- 33 Property tax exemption for HRA property; funded from multiple sources.** Clarifies the property tax exemption for HRA properties that include federally subsidized units under the Holman case decree and other property. This is done using a ratio of units constructed with federal funds and receiving federal operating subsidies to the total number of units. Present law provides that the ratio is the number units subsidized under section 5 of the federal housing act to the total number of units. The change allows these Holman decree units to continue to qualify if they are receiving operating subsidy under Section 9 or rental assistance under section 8, rather than just from section 5 sources.
- 34 Duluth Seaway Port Authority levy.** Provides that the Seaway Port Authority of Duluth is a special taxing district with the power to levy a property tax of up to 0.01813 percent of taxable market value on its own, rather than having the city make (and approve) the levy. The levy amount is the same as under current law. Effective for taxes payable in 2010 and thereafter.

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**35**      **Disrupted access abatements.** Allows the governing body of a city to abate the city share of property taxes, in whole or in part, on business property with a market value of \$250,000 or less, if a public transportation project has impeded access to the business for more than three consecutive months resulting in a loss of revenue to the business. Effective for taxes payable in 2010 through 2014.

**36**      **Referendum exemption.** Narrows the exemption from the election requirement for OPEB bonds for cities, counties, towns so that OPEB bonds may only be issued to fund OPEB liabilities that are:

- ▶ Mandated by state law (i.e., the requirement to allow retirees to purchase insurance from the employer's pool at the same price as the cost for active employees)
- ▶ Other OPEB liabilities that have been eliminated for newly hired employees.

This section in addition provides a referendum exemption for emergency debt certificates authorized under section 37.

**Effective date:** August 1, 2009

**37**      **Emergency certificates of indebtedness.** Emergency debt certificates. Authorizes a city, county, or town to issue emergency debt certificates if both of the following occur in a fiscal year:

- ▶ The governmental unit's current year revenues are expected to be reduced below their budgeted amounts (i.e., the amount set in the budget used to set the property tax levy)
- ▶ The reduction is so large that current year expenses will exceed current year receipts.

This authority, for example, could be triggered by a mid-year reduction in state payments of aids or credits, by an unexpectedly high level of property tax delinquencies or a drop in receipts from fees for issuing building permits and similar.

The maximum amount of certificates that may be issued is limited to the expected reduction in receipts, plus the costs of issuance. The certificates must mature (be paid off) within two years of the end of the fiscal year in which they were issued. The certificates are excluded from net debt limits.

A governmental unit issuing emergency debt certificates is adjusted to prohibit it from exercising special levy authority (outside levy limits) for amounts funded with the certificates. Since levies to repay bonded debt (including the emergency debt certificates) are special levies, this prevents a city or county from both receiving an additional direct levy for the same aid reduction.

**38**      **City aid base.** Provides for an increase in the city aid base of \$225,000 for the city of Coon Rapids, and of \$25,000 for the city of St. Paul for aids payable in 2010 only. Coon Rapids was specifically designated for a \$450,000 payment in CY 2008, half of which was lost through the Governor's unallotment. The amount for St. Paul is for a grant to a local

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growers' association that incurred crop damage. States that the payments under these paragraphs cannot be reduced through aid reduction or any future unallotment.

- 39 Red River Watershed Management Board.** Allows the Red River Watershed Management Board to conduct meetings at a public facility within the Red River basin or within a jurisdiction with which the board is authorized to cooperate.
- 40 Extends date; emergency medical service districts.** Removes the sunset on emergency medical services (EMS) special taxing districts. Under current law, EMS districts are sunset after taxes levied in 2011, payable in 2012.
- 41 Effective date; plat law.** Clarifies that the change made to the metropolitan area plat law in the 2008 omnibus tax law only affects land platted after the 2008 omnibus tax law was passed.
- 42 Effective date; plat law.** Clarifies that the change made to the non-metropolitan area plat law in the 2008 omnibus tax law only affects land platted after the 2008 omnibus tax law was passed.
- 43 Rural preserves.** Strikes the limitation that not more than 50 percent of the acreage of an agricultural homestead can be class 2b property enrolled in the rural preserves program.
- 44 County aid payment.** Provides for an additional county aid payment of \$500,00 to Beltrami County in 2009 to be distributed to the Red Lake Band of Chippewa for implementing the Fostering Connections to Success and Increasing Adoptions Act of 2008.
- 45 Minneapolis Convention Center; lease; property tax exemption.** Clarifies a current property tax exemption at the Minneapolis Convention Center for a private entity providing food and beverage services. Effective for taxes payable in 2010 and thereafter.
- 46 Cloquet Fire and Ambulance special taxing district.** Authorizes the City of Cloquet and Perch Lake township to create a special taxing district to provide fire and ambulance services throughout the district. Other adjoining municipalities are authorized to join the district with the approval of the member municipalities. The special taxing district is authorized to levy up to 0.2835 percent of taxable market value for taxes payable in 2010 (which is the amount currently being levied for this purpose). Requires local approval.
- 47 Property tax treatment of horse breeding and horse boarding properties.**

**Subdivision 1. Study.** Requires the Commissioner of Revenue, in consultation with the Commissioner of Agriculture, to study the property tax treatment of properties used for horse breeding and horse boarding under current law. The commissioner is required to report to the Senate and House Tax Committees by February 1, 2010.

**Subd. 2. Appeals to the commissioner.** Allows the owner of property that had been classified as agricultural for taxes payable in 2009 based on its use for horse breeding or boarding to appeal its classification for taxes payable in 2010 to the commissioner if the property's use has not changed substantially.

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**48**      **Proposal for reform of local government funding of human services.** Requires the commissioner of human services, in consultation with county groups, client groups, and the commissioner of revenue, to develop a proposal for establishing and transitioning from the current human services maintenance of effort and matching fund requirements to a new county funding system based on equitable property tax contributions. The report to the legislature is due by February 1, 2010. The law lays out criteria to be used in developing the funding mechanism and some guidelines for the final mechanism. Effective the day after final enactment.

**49**      **Tax abatement; newly constructed residential structures in flood-damaged cities.**

**Subdivision 1. Eligibility.** Provides that a residential structure is eligible for a tax abatement if:

- (1) it is in a city eligible to create a border city enterprise zone;
- (2) it is located in a county designated as an emergency area under presidential declaration FEMA-3304-EM;
- (3) the property is classified as residential or agricultural homestead, residential non-homestead, apartment, or low-income apartment;
- (4) no part of the structure was in existence prior to January 1, 2009, except for spec homes built in 2008 but not yet purchased or inhabited as of the date of the flood; and
- (5) construction is commenced prior to December 31, 2010.

**Subd. 2. Application.** Provides that anyone eligible for an abatement under this section must file an application with the county assessor prior to January 2 of the year following the year in which construction was commenced.

**Subd. 3. Tax abated.** (a) Provides that for a property classified as residential or agricultural homestead or residential non-homestead, the abatement is the tax attributable to \$200,000 of market value or the full value of the structure, whichever is less. Provides that for a property classified as apartment or low-income apartment, the abatement is the tax attributable to \$20,000 of market value times the number of residential units or the full value of the structure, whichever is less.

(b) Provides that the abatement shall be in effect for two taxes payable years, beginning with the taxes payable year that corresponds to the assessment year following the year in which construction began. Also provides that the abatement does not apply to any special assessments levied against the property.

**Subd. 4. Reimbursement.** Requires the auditor to report the total abatement under this section prior to May 1 of each taxes payable year. Requires the commissioner of revenue to reimburse the affected taxing jurisdictions prior to September 1 of each taxes payable year.

**Subd. 5. Appropriation.** Appropriates the amount necessary to make the reimbursement payments to the commissioner of revenue.

Effective date: Provides that this section is in effect for taxes payable in 2011 to 2013.

**Section**

- 50 Report by administrative auditor.** Requires the administrative auditor of the fiscal disparities program (currently Anoka County), in cooperation with the other metro county auditors, to study the feasibility of basing fiscal disparities distributions on current year tax rates, and to report the findings to the House and Senate Tax committees by February 1, 2011, along with any recommendations for statutory changes that would be necessary to implement the change.
- 51 Study; riparian buffer areas.** Requires the drainage working group, facilitated by the Board of Water and Soil Resources, to study the condition of riparian buffer areas statewide, and report on the extent to which they are being maintained in a natural state, and the extent to which they are being used in a way that risks environmental damage to public waters. Requires that as part of the report the group must make recommendations for incentives to promote and preserve buffer areas, if deemed necessary. The report is to be made to the House and Senate Tax committees by March 1, 2010.
- 52 Study; pollution control exemptions.** Requires the Commissioner of Revenue, in consultation with the commissioner of the Pollution Control Agency, to study the process used to determine the eligibility of electric generation personal property for the pollution control exemption. In doing the study, the commissioner is required to compile information on the location, value and tax impact of the exemptions provided to date, and an assessment of the efficacy of the equipment in reducing pollution. The study is to be presented to the House and Senate Tax committees by January 15, 2010.
- 53 Purpose: Commissioner of revenue guidance.** States that the purpose of section 4 is not to contract or expand the definition of “institutions of purely public charity” but to provide clear standards that can be applied uniformly to determine eligibility for exemption from property taxation. Requires the commissioner of revenue to prepare a bulletin providing guidance to assessors as to the commissioner’s interpretation of section 4 and distribute the bulletin to assessors by July 1, 2010.
- 54 Repealer.** Repeals the requirement for the Commissioner of Revenue to make annual reports on the “this old house” exemption and on limited market value.

**Article 3: Truth in Taxation****Overview**

This article eliminates the truth in taxation (TnT) public hearing and the newspaper notice effective for taxes payable in 2010 and thereafter.

- 1 Budgets; form of notification (TnT).** Conforming change related to eliminating the TnT hearing requirement. Effective for taxes payable in 2010 and thereafter.

**Section**

- 2       **Proposed levy.** Requires taxing authorities to announce the time and place of the regularly scheduled meetings at which public testimony will be taken on the budget and levy at the meeting when the proposed levy is adopted.
- 3       **Notice of proposed property taxes.** Provides that since the TnT hearings have been eliminated, each taxing authority must provide the county auditor of the time and place of its scheduled meeting (which occurs after the notice has been mailed) when the budget and levy will be discussed, and the public will be allowed to speak. That meeting shall not be held before 6:00 P.M. Effective for taxes payable in 2010 and thereafter.
- 4       **Adoption of budget and levy (TnT).** Strikes the language prescribing the TnT hearing. Lists two additional exceptions to the proposed levy amounts: the levy to pay emergency debt certificates authorized and issued after the proposed levy was certified, and the amount of unallotment recertified. Effective for taxes payable in 2010 and thereafter.
- 5       **Determination of county tax rate (TnT).** Conforming change related to eliminating the TnT hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 6       **Duties (TnT).** Conforming change related to eliminating the TnT hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 7       **Tax levy for repayment (TnT).** Conforming change related to eliminating the TnT hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 8       **Application of other laws (TnT).** Conforming change related to eliminating the TnT hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 9       **Budget (TnT).** Conforming change related to eliminating the TnT hearing requirement. Effective for taxes payable in 2010 and thereafter.
- 10      **Repealer.** Repeals the provisions related to the TnT hearing and the newspaper notice. Effective for taxes payable in 2010 and thereafter.

**Section****Article 4: Sales and Use Tax****Overview**

Modifies the application of short term motor vehicle lease fees as they apply to car-sharing organizations.

Clarifies the interaction of the new constitutionally dedicated 3/8 sales tax with existing law.

Makes some changes to use and duration of a number of existing local sales and lodging taxes. Adds new local taxes for the city of Rochester.

Makes other minor changes to sales and use tax administrative provisions.

- 1      **Notification requirements.** Requires the Department of Revenue to establish a “listserv” to electronically notify persons holding a sales tax permit of changes in the sales tax law and the issuance of new rules, notices, and fact sheets or similar information related to sales tax. The requirement only applies if the permit holder has provided an email address. A permit holder can request to not be included in the notification. The notification must begin by December 31, 2009.
- 2      **Return required.** Allows a person prohibited due to religious beliefs from using electronics to file a sales tax return by mail without additional fees. Effective for returns filed after June 30, 2009.
- 3      **Constitutionally required additional sales tax.** Adds a subdivision with the 0.375 percent rate increase required under the constitution to the sales tax rate statute so that the total state rate is easily identified.
- 4      **Use tax imposed; rates.** Adds a number of cross-references to specified digital products and other digital products to the existing law related to use tax.
- 5      **Fee imposed (short term motor vehicle rental).** Exempts nonprofit car sharing organizations from the special car rental fee that applies in lieu of the motor vehicle registration tax and makes them subject to the motor vehicle registration tax. Only nonprofit corporation that charges persons or group on an hourly basis to use the vehicles qualify and they must
  - ▶ use unstaffed self-service locations that are available any time of the day;
  - ▶ provide vehicle maintenance, insurance, and fuel; and
  - ▶ not provide discounts or lower rates for increased use.
- 6      **Construction materials; meat processing facility.** Provides a sales tax exemption for construction materials related to a meat processing facility built to replace one destroyed by a fire this year that employed more than 200 people. Requires the tax to be paid and a refund applied for. The refunds issued for this exemption will be refunded after June 30, 2011

**Section**

- 7 Tax collected.** Provides for the refund of the tax paid under section 6 .
- 8 Refund; eligible persons.** Provides that the owner of the meat processing facility is the person that may apply for a refund of the sales tax under section 6.
- 9 Deposit of revenues.** Clarifies that the statutorily dedicated portions of the current sales tax do not include any revenue raised by the imposition of the constitutionally dedicated 0.375 percent tax increase. The main dedications are revenues from motor vehicle leases to transportation, and the revenue from the in lieu tax on lottery tickets.
- 10 Rate (motor vehicle sales).** Removes the link on tax rates between the general sales tax and the motor vehicle sales tax. The motor vehicles sales tax rate will remain at 6.5 percent.
- 11 Use of property ( Minneapolis local sales tax.)** Allows the city of Minneapolis to use revenues from their local sales tax to pay for the purposes in section 12. Deletes obsolete language allowing the city to impose the local tax on a different tax base than the one used for the state tax
- 12 Minneapolis city services and neighborhood projects.** Allows the city to use any local sales tax revenues not needed to pay bonds to:
- ▶ Fund city services in 2009 and 2010, up to an amount equal to the city's aid losses in 2008, 2009, and 2010; and
  - ▶ Fund neighborhood projects in 2011 and thereafter
- 13 Minneapolis downtown taxing area.** Modifies the area in which the special Minneapolis convention center tax applies to exclude properties that are zoned under chapter 546 of the Minneapolis zoning code (this is the chapter that zones residential uses) and contain a restaurant with a wine license. Effective for sales after July 31, 2012, and provides that the taxes collected between July 1, 2009, and July 31, 2012, from that area shall be deposited in the state general fund to recover taxes paid to the city that the state never collected.
- 14 Mankato local sales tax - use of revenues.** Amends the allowed uses of the Mankato local sales tax revenue by deleting the requirement that the performing arts center and a women's hockey arena must be attached to the Mankato Civic Center. The amount allowed to be raised by the local sales tax remains unchanged.
- 15 St. Paul local sales tax - use of revenues.** Extends the city of St. Paul's authority to use up to \$3.5 million annually of its sales tax revenue to pay for bonds for capital projects related to cultural and economic development projects. Currently this authority ends after this year; the bill extends the authority to 2014.
- 16 St. Paul local sales tax - unexpended funds and interest.** Limits the use of interest on loan repayments and returned funds from revenues allocated to the residential, cultural, commercial, and economic development capital projects to other capital projects authorized under the same provision.

**Section**

- 17 Little Falls food and beverage tax.** Allows the city of Little Falls to extend its local food and beverage tax for an additional 15 years and allows it to expand the tax base to include alcoholic as well as non-alcoholic beverages.
- 18 St. Paul local sales tax - requirement.** Amends the citizen review process for the expenditure of St. Paul sales tax revenues dedicated to neighborhood investments to explicitly state that the review process must be open, fair, and competitive and that all proposals must be reviewed before the panel makes a proposal to the city council.
- 19 Rochester lodging tax.** Increases the existing Rochester lodging tax of 1 percent by another 1 percent. The revenues from the increased tax must be used to pay for renovation and expansion of the Mayo Civic Center Complex and related bonds. The bonds must be issued by December 31, 2014. The tax may only be increased if the city approves a total financing package. The authority for the increased tax expires when revenues raised are sufficient to fund the project and pay associated bonds, or earlier if the city desires.
- 20 Owatonna local sales tax – use of revenues.** Modifies the allowed uses of revenue generated by the city of Owatonna’s local sales tax. Currently the city is allowed to use up to \$4.5 million for transportation projects listed in the 2004 U.S. Highway 14-Owatonna Beltline study. This allows the city to use up to \$1.5 million of the \$4.5 million for another road project in the city. The change in use would not require a local referendum. The amount allowed to be raised by the local sales tax remains unchanged.
- 21 Mankato local restaurant and entertainment taxes - use of revenues.** Makes a conforming change to the change in section 14.
- 22 Cook County local sales tax revenue uses.** Eliminates the use for construction and improvement of a county community center and recreation area and replaces it with authority to use it for construction or additions to multiple community centers and public recreation areas. Also adds construction and improvement of a high speed communications infrastructure (Internet) and construction and improvement of a district energy plant for public facilities in Grand Marais to the allowed uses. Increases the amount of revenue that the county can issue for authorized projects from \$14 million to \$20 million.
- 23 Rochester food and beverage tax.** Allows the city of Rochester to impose a food and beverage tax of 1 percent. The revenues from the tax must be used to pay for renovation and expansion of the Mayo Civic Center Complex and related bonds. The bonds must be issued by December 31, 2014. The tax may only be imposed if the city approves a total financing package. The tax expires when revenues raised are sufficient to fund the project and pay associated bonds, or earlier if the city desires.

**Section****Article 5: Local Development****Overview**

This article extends the five-year rule to ten years for redevelopment and renewal and renovation tax increment financing (TIF) districts certified between June 30, 2003, and April 30, 2009, and extends the four-year knockdown rule for districts certified between January 1, 2005, and April 20, 2009. This expanded authority is intended to give cities more flexibility to respond to the recession and the slowdown in real estate development.

The authority to finance tourism projects with economic development districts is extended to region 7E counties. TIF plan requirements and financial reporting is focused on and limited to tax increments, deleting the requirement to budget and report on the TIF forms use of other sources of funding, such as grants or payments from other authority money.

Revenue bond financing is allowed for county C-BED (community-based energy development projects) and two local governments (Winona county and the city of Mt. Iron) are allowed to form limited liability companies (LLCs) to operate and finance C-BED projects.

Special TIF law exceptions are provided for the following cities:

- ▶ Oakdale
- ▶ South Saint Paul
- ▶ Minnetonka (duration extension)
- ▶ St. Louis Park (duration extension)
- ▶ Arden Hills
- ▶ Sauk Rapids
- ▶ Seaway Port Authority of Duluth
- ▶ Mankato
- ▶ Faribault (JOBZ district extension)

- 1 **Definitions; C-BED projects.** Modifies the definition of C-BED projects to apply to all types of renewable energy projects. Present law limits them to solar energy projects only. (This was a cross reference error in the 2008 legislation.)
- 2 **County C-BED financing.** Authorizes counties to enter into joint agreements for purchase of energy or for acquisition of interests in C-BED projects. If the county enters into a multiyear agreement, including C-BED projects (under section 216B.1612, subdivision 9), the county may finance the estimated cost by issuing revenue bonds, including clean renewable energy bonds, if the annual debt service on all of the bonds issued, together with the amounts paid by the county for purchase of energy in any year, do not exceed the project revenues.

The agreement may use any of three alternatives for issuing and securing bonds for the project:

**Section**

- Each county issues bonds to pay its respective share of the cost of the project.
- One of the counties issues bonds for the entire project and the other participating counties pay project revenues to that county.
- A joint powers board issues revenue bonds for the entire project and the participating counties use project revenues to pay the revenue bonds.

**3 TIF for tourism projects.** Expands the authority to use economic development TIF districts for tourism projects to include counties in Region 7E. This will add the counties of Chisago, Isanti, Mille Lacs, Kanabec, and Pine to those now allowed to use this authority. To qualify, projects must also be located in counties with incomes that are no more than 85 percent of the state median income and cannot be in a city with a population of over 20,000.

The following counties are located in regions that now qualify to use the authority:

<b>Counties in Development Regions 2, 3, 4, and 5</b>			
Aitkin	Cook	Koochiching	St. Louis
Becker	Crow Wing	Lake of the Woods	Stevens
Beltrami	Douglas	Mahnomen	Todd
Carlton	Grant	Morrison	Traverse
Cass	Hubbard	Otter Tail	Wadena
Clay	Itasca	Pope	Wilkin
Clearwater			

**4 TIF plan requirement.** Makes the following changes in the required contents of the TIF plan:

- ▶ Eliminates the requirement that the TIF plan include references to the portion of the development or redevelopment that will be financed with non-TIF revenues.
- ▶ Limits the total authorized costs to an estimate of the increments that will be generated by the expected development of the district.

**Effective date:** TIF plans approved after June 30, 2009

**Section**

- 5 TIF annual financial reporting.** Eliminates references in the annual TIF financial report to non-TIF funds, such as special assessments, grants, and transfers from other funds. References to public park and social and recreational facilities are eliminated, since these are no longer purposes for which increments generally may be spent. References to revenue bonds and pay-as-you-go notes are combined, since they are legally indistinguishable.
- Effective date:** TIF reports due after December 31, 2009
- 6 TIF administrative costs.** Clarifies that the county's cost of administration are not counted against the 10-percent limit on TIF administrative expenses.
- Effective date:** All districts, regardless of when the request for certification was made
- 7 Four-year knock-down rule.** Extends the four-year knockdown rule to six years for TIF districts that were certified between January 1, 2005, and April 20, 2009. The knockdown rule requires development activity to take place on a parcel (qualifying activities include private development or the installation of public infrastructure improvements on or adjacent to the parcel) within four years after certification. Failing this, the parcel is dropped from the TIF district and is only recertified (with its then tax value) as part of the district when the requisite activity takes place.
- 8 Five-year rule.** Extends the five-year rule to ten years for districts certified after June 30, 2003, and before April 20, 2009. The five-year rule requires the development authority to complete the district's in-district activities within five years after certification of the district.
- 9 Interfund loans.** Provides that the interest rates on interfund loans are set when the loans are authorized, not when they are made.
- Effective date:** Interfund loans made after June 30, 2009
- 10 JOBZ extension authority.** Allows a 5-year extension of JOBZ designation and tax incentives for any site that meets the following requirements:
- ▶ It is located in a county with an unemployment rate of 10 percent or more or an unemployment rate that is 10 percent above the state average.
  - ▶ The project is for a business that has its headquarters on the site, includes an R&D facility, and involves the manufacturing of energy conservation products using high technology and innovative processes.
  - ▶ The business subsidy agreement is executed after July 1, 2009 and before July 1, 2011.
- This is intended to allow an extension for a project in the city of Faribault for a project involving a manufacturing facility for electrochromatics glass products. The extension will allow the benefits to be provided through 2021, rather than 2016.
- Effective date:** Day following final enactment.
- 11 Oakdale TIF.** Corrects an error in the 2008 special TIF law for the city of Oakdale. It adds references to property tax PINs for two of the parcels, which the city intended to include in one of the TIF districts, but which were not included in the 2008 law.

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**Effective date:** Upon local approval by the city of Oakdale.

- 12 Chisago City and Lindstrom.** Authorizes the cities of Chisago City and Lindstrom, as well as their economic development authorities (EDAs) and housing and redevelopment authorities (HRAs), to enter a joint powers agreement to develop a business park in Chisago City or Lindstrom. The bill allows each of these entities to exercise powers, spend money, issue and pay bonds and so forth (including under the TIF law), as if the project were located within its own corporate boundaries.
- 13 City of Sauk Rapids; TIF.** Authorizes the city of Sauk Rapids to use special rules in meeting the blight test for redevelopment districts by extending the time allowed to certify parcels with previously demolished substandard buildings on them.

**Background**

To qualify as a redevelopment district, 70 percent of the parcels of an area must be occupied by buildings or other improvements and 50 percent of the buildings must be “substandard.” The development authority can treat a vacant parcel as being occupied by a substandard parcel if four conditions are met:

1. The parcel was occupied by a substandard building three years before the district was certified.
2. The substandard building was removed by the authority or by the developer under a development agreement with the authority.
3. The authority made findings, by resolution, that the building was substandard and that it intended to include the parcel in a redevelopment district.
4. The authority notifies the county auditor that the original tax capacity of the district must include the value of the parcel with the building, if this is greater than the bare land value.

**Changes Made by this Section**

The bill extends the time period, as described under item #1 above, so that it runs until at least December 31, 2012, even if the demolition occurred more than three years before that date.

- 14 South St. Paul; TIF.** Authorizes the city of South St. Paul to establish a new redevelopment TIF district with the same area and original tax capacity as its Concord Street TIF district, a pre-1979 TIF district. As a condition for establishing the district, the city must enter an agreement with Dakota County providing for transfer of the increment attributable to the county’s tax rate to the county. The increments from the district would be used to pay the convention center bonds. The district terminates in 2024.

Because this is a new district, it would contribute to the fiscal disparities pool, unlike pre-1979 HRA districts. To prevent the district from affecting local government aid, county program aid, or school aid the captured net tax capacity of the district is included in adjusted net tax capacity for those programs.

- 15 City of Minnetonka; TIF.** Authorizes the city of Minnetonka to extend the Glenhaven TIF district by up to seven years. To exercise this authority, the city must find that the area, at

**Section**

the time of the original approval of the plan, would have qualified to be certified as a redevelopment district. This is a renewal and renovation district, which under general law is allowed a duration of 15 years after the receipt of the first increment. Thus, this would extend the duration to a maximum of 22 years after the receipt of the first increment.

**Effective date:** Local approval by the city, county, and school district

- 16 Arden Hills TIF; authorization.** Authorizes the city of Arden Hills to establish a TIF district on the TCAAP site.

This district will be exempt from several general law TIF rules:

- ▶ It is deemed to be a redevelopment district without meeting the blight test.
- ▶ The five-year rule is extended to ten years.
- ▶ The duration limit of the district is increased from 25 years to 30 years.
- ▶ The city may elect to delay receipt of the first increment (which starts the duration limit running) by up to six years. Under general law, the authority to do this is limited to four years.

The authority to create a district under the special law expires on December 31, 2019.

- 17 Duluth Port Authority; five-year rule.** Allows the Seaway Port Authority to create a TIF district in a defined area that would qualify for special treatment under the five-year rule. The five-year rule requires the development authority to complete the district's in-district activities within five years after certification of the district.

Under this section, the five-year rule would begin to run for the listed parcels from the later of (1) the rule under general law (i.e., from certification of the district) or (2) when all of the qualifying parcels in the district are delisted (i.e., cleaned up). In addition, the 4-year knockdown rule would not start until the parcels are delisted.

- 18 City of Mankato; special TIF authority.** Provides exemptions from the general law rules under the TIF act for a district in the city of Mankato. These exceptions include:

- ▶ **Pooling limitations.** The city is permitted to use revenues from the district to construct street and roadway improvements located within 500 feet or less of the TIF district boundaries, notwithstanding the percentage limits on pooling under general law.
- ▶ **Five-year rule.** The five-year rule is extended to 11 years. The five-year rule requires the development authority to complete the district's in-district activities within five years after certification of the district.

**Effective date:** Upon local approval by the city.

- 19 St. Louis Park.** Extends the duration of a TIF district in St. Louis Park by seven years.

**Effective date:** Upon local approval by the city.

**Section**

**20 Mountain Iron; C-BED.** Authorizes the Mountain Iron Economic Development Authority (EDA) to participate in a Community-Based Energy Development (C-BED) project. It:

- Allows the EDA to form or become part of an LLC.
- Permits the EDA to lease land outside its corporate boundaries.

The project is prohibited from selling power at retail or for end-use of an off-site facility of the EDA or LLC. The bill does not change utility service areas.

**21 Winona; C-BED.** Authorizes the Winona County Economic Development Authority (EDA) to participate in a Community-Based Energy Development (C-BED) project. It:

- Allows the EDA to form or become part of an LLC.
- Permits the EDA to lease land outside its corporate boundaries.

The project is prohibited from selling power at retail or for end-use of an off-site facility of the EDA or LLC. The bill does not change utility service areas.

## **Article 6: Public Finance**

### **Overview**

This article is the annual public finance bill, which proposes changes in the procedures for issuing bonds and related provisions of law, as recommended by the Minnesota Institute on Public Finance. The article also authorizes the Metropolitan Council to issue \$34.2 million of transit bonds.

Unless otherwise noted, all of the provisions are effective the day following final enactment.

**1 Tax credit and interest subsidy bonds.** Authorizes the commissioner of finance to issue state general obligation bonds as tax credit or interest subsidy bonds. These bonds were authorized by the federal American Recovery and Reinvestment Act of 2009 (“ARRA”). They are issued as bonds that are subject to federal tax with the investor qualifying for a 35-percent federal tax credit (for tax credit bonds) or the issuer receiving direct payments from the federal government (for interest subsidy bonds).

These bonds could be sold using negotiated sale underwriting, if the commissioner solicits competitive proposals. By contrast, regular state general obligation must be sold using the competitive bidding process. (The omnibus bonding bill, chapter 93, section 22, allows the commissioner to use negotiated sales for a two-year period.)

A sinking fund must be established for interest subsidy bonds and the federal payments are appropriated to this account. The section also prohibits issuance of the bonds at less than 98 percent of par.

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- 2**      **Extension of sunset on State Fair bonds.** Extends the authority for the State Fair board to issue bonds from 2009 to 2015.
- 3**      **School bond security program.** Provides that if, under the state credit enhancement program, the state pays interest on tax subsidy bonds issued by school districts, the state is subrogated to the federal payments of interest subsidies to the school district until the state is reimbursed for its payments.
- 4**      **Mail election, limit on ballot questions.** Eliminates the restriction that no more than two ballot questions may be submitted to the voters in a mail election.
- 5**      **Airport facility bonds.** Authorizes municipalities to issues bonds for airports without a referendum, if the bonds are approved by a 60 percent vote of the governing body. This parallels the similar exception for airport authorities created by joint powers agreements. This section also extends the existing exemption from the referendum requirement for projects funded 25 percent or more by federal grants to include state grants (i.e., the 25 percent requirement would be applied to the combination of state and federal grants).
- 6**      **Town certificates of indebtedness, maximum maturity.** Increases the maximum maturity for town certificates of indebtedness from 5 to 10 years.
- 7**      **County bonds for public safety radio systems.** Provides that county bonds issued for the public safety radio systems do not count against the dollar limits on the amount of county capital improvement program (CIP) bonds.  
  
**Effective date:** Retroactive to bonds issued after May 22, 2002.
- 8**      **Special service district notices.** Requires notices of charges by special service districts to be mailed to property owners. Present law provides that the notice is to be mailed to individuals or business organizations that are subject to the charges.
- 9**      **Special service district petition requirements.** Restructures the petition requirement to impose special service district charges to make the provisions parallel for both net tax capacity charges and other types of service charges. The petition requirement prevents imposing charges unless 25 percent of those who would be subject to the charges petition for a public hearing on the proposal.
- 10**     **Special service districts, veto power.** Requires notices of special service district resolutions and ordinances to be mailed to all property owners for purposes of the veto authority. Present law provides that the notice is to be mailed to individuals or business organizations that are subject to the charges. This change parallels the change in section 8.
- 11**     **Special service districts, petition and veto power.** Provides that the petition requirement and veto power do not apply to the second and later years of the district or charges.
- 12**     **County bond security program.** Provides that if, under the state credit enhancement program for county bonds, the state pays interest on interest subsidy bonds issued by counties, the state is subrogated to the federal payments of interest subsidies to the county until the state is reimbursed for its payments.

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- 13 County and multicounty HRAs.** Eliminates the veto power of a city housing and redevelopment authority (HRA) over county and multicounty HRA projects. The city itself still could veto these projects by refusing to pass a resolution declaring the need for the project.
- 14 HRA contracting.** Updates the threshold amounts for the exemption from competitive bidding under the HRA statute by providing a cross-reference to the Uniform Municipal Contracting Law (UMCL). This will automatically link the HRA law limits to changes made in the limits under the UMCL.
- 15 HRA contracting.** Same as section 14.
- 16 HRA performance bonds.** Eliminates the special exemption for performance bonds for HRA projects of less than \$50,000.
- 17 Refunding of GO HRA bonds.** Authorizes an HRA to refund its general obligation bonds without making a finding of the adequacy of the pledged revenues or holding a public hearing. This provision is retroactive to July 1, 1992.
- 18 Industrial revenue bonds; permitted projects.** Expands the definition of permitted projects for which industrial revenue bonds may be used to include projects that create or produce intangible property, such as patents, copyrights, processes, designs, and so forth. This is consistent with changes in ARRA.
- 19 Definition of city recreational facilities.** Expands the definition of facilities under city programs for public recreation for athletic and cultural activities to include convention and conference facilities.
- 20 Transit bonding.** Authorizes the Metropolitan Council to issue up to \$34.2 million of bonds or other obligations to finance capital expenditures under its regional transit master plan and transit capital improvement plan, including the cost of issuing the debt obligations. These bonds are primarily used to finance purchases of buses, as well as transit facilities.
- Effective date:** Day following final enactment, but the bonding authority only applies after July 1, 2009.
- 21 Bond allocation.** Modifies the definition of the annual volume cap under the bond allocation statute to include taxable private activity bonds that qualify for federal tax credits or subsidies and directs the staff of the Commissioner of Finance to handle these allocations.
- 22 Bond allocation; manufacturing projects.** Expands the definition of manufacturing projects under the bond allocation statute to include projects that produce or create intangible property, such as patents, copyrights, processes, designs, and so forth.
- 23 Escrow securities.** Establishes a definition of rating category to clarify that long-term categories do not include gradations with those categories.
- 24 St. Paul bond, maturity limit.** Increases the maximum term of the city of the St. Paul bonds from 10 years to 30 years.

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- 25**      **Cook County bond limits.** Increases the amount of bonds that Cook County can issue for authorized local sales tax funded projects from \$14 million to \$20 million. The extra authority may delay the expiration date for the county sales tax since the tax does not expire until the later of (1) 20 years, or (2) when revenues are sufficient to repay the bonds.
- 26**      **St. Paul Port Authority, bond allocation credit.** Directs the commissioner of finance to apply the \$31,800 deposit paid in 2008 for a proposed issue of \$1,590,000 in tax exempt bonds by the St. Paul Port Authority for District Cooling St. Paul, Inc. to an application for an allocation of tax exempt bonds by the St. Paul Port Authority for the same project.
- Background:* Under general law, if an applicant returns its allocation of tax exempt bonds more than 120 days after receiving the allocation, or after the last Monday in November, the application fee is not refundable. When District Cooling applied, project financing was scheduled to close in October 2008. Due to market conditions in the fall of 2008, the bond sale did not proceed as originally planned but District Cooling plans on proceeding in 2009.
- Effective date:** Day following final enactment and expires January 1, 2011.
- 27**      **Temporary extension of 2008 and 2009 bond allocation authority.** Authorizes bond allocation authority of entitlement issuers for 2008 and 2009 to be carried forward through 2011. Amounts not issued by 2011 will be deducted from their 2012 entitlement amounts.
- 28**      **Effective date.** Provides that the default effective date for the article is the day following final enactment.

**Article 7: DOR – Individual Income, Corporate Franchise, and Estate Taxes****Overview**

Makes various changes to individual, corporate franchise and estate tax, and property tax refund, as recommended by the Department of Revenue, including:

- ▶ Extends time for filing estate tax returns
- ▶ Requires qualified intermediaries to report to the commissioner on section 1031 exchanges
- ▶ Clarifies that property tax refunds are allowed for owners of manufactured homes who have entered into a confession of judgment for delinquent taxes and are current on payments (same treatment as allowed for owners of traditional homes)

- 1**      **Designated member for single combined returns.** Allows a corporation without Minnesota nexus that is a member of a unitary business to file and be liable as the designated member for tax matters of the unitary business which is required to file a single combined report. Effective for tax years beginning after December 31, 2008.

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- 2 Information reporting by qualified intermediaries.** Requires qualified intermediaries to report information to the Commissioner concerning section 1031 exchanges facilitated by the intermediary. The reports are due 30 days after demand by the Commissioner. Effective July 1, 2009, and applies to all transactions whether facilitated on before or after that date.
- 3 Returns required.** Adds reports required of qualified intermediaries under section 2 to the list of required returns.
- 4 Estate tax return due date.** Extends the time for filing estate tax returns to the later of
- ▶ 15 months after the decedent's death or
  - ▶ The extension granted at the federal level for filing the corresponding federal estate tax return
- No application for the extension would be required. Does not affect the time for paying the tax, which remains at nine months after the decedent's death. Effective for estates of decedents dying after December 31, 2008.
- 5 Tax due; failure to withhold from employee.** Provides that if an employer who is required to withhold taxes from the wages of an employee fails to do so as a result of treating the employee as not being an employee, the employer must pay withholding tax equal to three percent of the wages paid to the employee. The employer may not recover tax due under this section from the employee, and the amount paid is not credited against the employee's liability.
- 6 Reporting of federal adjustments to withholding tax returns.** Clarifies that the requirement to report federal changes to withholding tax returns applies when there have been changes during a withholding tax period to the wages reported to the Internal Revenue Service. Effective the day following final enactment.
- 7 K-12 education subtraction; transportation expenses.** Clarifies in statute rather than in rule that expenses for transportation in the taxpayer's or the taxpayer's child's vehicle do not qualify for the subtraction.
- 8 Inflation adjustment for working family credit.** Clarifies that inflation adjustments for the working family credit earned income amounts and phase-out thresholds are calculated in a manner consistent with the inflation adjustments for other income tax provisions. The inflation adjustments were modified to be uniform in the 2008 tax law, with this exception. Also removes obsolete language related to working family credit calculations for tax years 2002 through 2007. Effective for taxable years beginning after December 31, 2008.
- 9 Proof of taxes paid; property tax refund.** Clarifies that property taxes on a manufactured home are not considered delinquent for purposes of the property tax refund if the owner has entered into, and is current with, a confession of judgment to pay the delinquency. This is the same treatment provided for owners of traditional homes. Effective the day following final enactment.
- 10 Property tax statement; property tax refund.** In conjunction with section 9, clarifies that property taxes on a manufactured home are not considered delinquent for purposes of the

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property tax refund if the owner has entered into, and is current with, a confession of judgment to pay the delinquency. This is the same treatment provided for owners of traditional homes. Effective the day following final enactment.

- 11** **Repealer.** Repeals Minnesota Rules, part 8009.3000, which provides that the K-12 education subtraction is not allowed for expenses for transportation in the taxpayer's or the taxpayer's child's vehicle do not qualify for the subtraction

## Article 8: DOR – Sales and Use Taxes

### Overview

Expands the exclusion of prepared food and soft drinks from the government and nonprofit sales tax exemptions to alcoholic beverages as well.

Adds a cross reference to the definition of a motor vehicle in the local sales tax statutes for funding transit and transportation projects.

Repeals a redundant reference to exemptions under the U.S. and Minnesota constitutions.

- 1** **Sales to government.** Amends the exemption for sales to certain units of government to exclude alcoholic beverages. Currently the sale of prepared meals and soft drinks are excluded from this exemption. Effective for sales and purchases made after June 30, 2009.
- 2** **Sales to nonprofit groups.** Amends the exemption for sales to nonprofit groups, to exclude alcoholic beverages, except for alcohol purchased by religious groups for sacramental purposes. Currently the sale of prepared meals and soft drinks are excluded from this exemption. Effective for sales and purchases made after June 30, 2009.
- Also provides that the definition of “senior citizen group” eligible for the exemption for nonprofit groups does not include housing groups and requires that the groups be an exempt 501(c) organization. Effective the day after final enactment.
- 3** **Authorization; rates.** Provides a cross-reference to the definition of motor vehicle used in the \$20 excise tax allowed under the metropolitan transportation local sales tax. Effective the day after final enactment.
- 4** **Authorization; rates.** Provides a cross-reference to the definition of motor vehicle used in the \$20 excise tax allowed under the Greater Minnesota transportation local sales tax. Effective the day after final enactment.
- 5** **Repealer.** Repeals the provision that explicitly states that the sale of products and services that are exempt from taxation under the U.S. or Minnesota constitutions are exempt from the sales tax. The department feels this is duplicative and unnecessary. Effective the day after final enactment.

**Section****Article 9: DOR – Special Taxes****Overview**

This article reduces the threshold for making electronic payment from \$120,000 to \$10,000 for the following taxes:

- ▶ Lawful gambling tax
- ▶ Cigarette and tobacco products excise taxes
- ▶ Alcoholic beverage excise taxes
- ▶ Insurance premiums tax
- ▶ Metropolitan solid waste landfill fee

In addition, a number of changes are made in various special taxes.

- 1 **Mortgage registry tax; agricultural loan exemption.** Update the cross-reference to the property tax classification statute for agricultural property to include the new rural vacant land class as qualifying agricultural property.  
**Effective date:** Day following final enactment
- 2 **Mortgage registry tax.** Clarifies the tax treatment when mortgages containing multiple statements that limit the debt secured by the mortgage, the tax obligation, or both, to provide that the tax on the mortgage is based on the actual combined effect of those statements, if any, and not on the statements, or portions of them, taken in isolation.  
**Effective date:** Day following final enactment
- 3 **Deed tax; transfer on death deeds.** Clarifies that the new exemption for transfer on death deeds also includes affidavits and related recorded documents.  
**Effective date:** Day following final enactment
- 4 **Deed tax stamps.** Eliminates the procedure for paying the deed tax by purchasing stamps of given denominations from the county and affixing stamps to the deed. This is an obsolete procedure.  
**Effective date:** Day following final enactment
- 5 **Transfer of accounts receivable; MinnesotaCare taxes.** Add surgical centers and wholesale drug distributors to the entities whose liability is transferred to the transferee, assignee or buyer when accounts receivable are sold.  
**Effective date:** Day following final enactment
- 6 **Exemption for amounts paid for legend drugs.** Adds surgical centers to the entities that may use an alternative method for calculating the cost of legend drugs when the entity cannot determine the actual cost of the drug and corrects a cross reference.

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**Effective date:** Day following final enactment

- 7**      **Petroleum tax; time for commissioner's assessments.** Provides that a petroleum tax return filed before the last day prescribed by law for filing is considered to be filed on the last day for purposes of computing the time period that the commissioner has to make assessment. Under current law, this time period runs from the date the return is filed.

**Effective date:** Day following final enactment

- 8**      **Electronic payments.** Amends the lawful gambling tax to reduce the electronic payment threshold from \$120,000 to \$10,000 per fiscal year.

**Effective date:** Payments due beginning in calendar years 2010

- 9**      **Lawful gambling tax returns; required signatures.** Requires a lawful gambling organization's CEO, gambling manager, and return preparer to sign the organization's tax returns. This identical requirement was contained in a Minnesota rule which was recently repealed.

**Effective date:** Day following final enactment

- 10**     **Lawful gambling; statute of limitations.** Provides that a lawful gambling tax return filed before the last day prescribed by law for filing is considered to be filed on the last day for purposes of the statute of limitation on commissioner orders.

**Effective date:** Day following final enactment

- 11**     **Electronic payments.** Reduces the electronic payment threshold from \$120,000 to \$10,000 per fiscal year for the cigarette and tobacco products excise taxes.

**Effective date:** Payments due beginning in calendar years 2010

- 12**     **Electronic payments.** Reduces the electronic payment threshold from \$120,000 to \$10,000 per fiscal year for the alcoholic beverage excise tax.

**Effective date:** Payments due beginning in calendar years 2010

- 13**     **Insurance tax; extensions for filing returns.** Provides that when good cause exists, the commissioner may extend the time for filing returns for not more than 6 months.

**Effective date:** Day following final enactment

- 14**     **Electronic payments.** Reduces the electronic payment threshold from \$120,000 to \$10,000 per fiscal year for payment of the insurance tax.

**Effective date:** Payments due beginning in calendar years 2010

- 15**     **Distribution of production tax; remainder.** Amends Minn. Stat. § 298.28, subd. 11, to delete obsolete language (the provision was effective for 2003 distributions) and a reference to the deleted language. Effective the day following final enactment.

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- 16**      **Electronic payments thresholds.** Reduces the threshold for which electronic payments are required from \$120,000 to \$10,000 for the metropolitan solid waste landfill fee.  
**Effective date:** Payments due beginning in calendar years 2010
- 17**      **Repealer.** Repeals obsolete provisions of the mortgage registry and taconite production tax laws:  
  
Sections 287.26 and 287.27, subdivision 1, relate to the obsolete procedure for paying mortgage registry tax using tax stamps.  
  
Section 298.28: Subdivision 11a provided for prorated distributions in production years 1994 through 1999. Subdivision 13 required a deduction of credits authorized under section 298.24, subdivision 3, which was repealed in 2003.  
  
**Effective date:** Day following final enactment

**Article 10: DOR – Property Taxes and Aids****Overview**

Makes miscellaneous changes to laws governing property taxes and state aids.

- 1**      **Aggregate resource preservation act.** Clarifies that land classified as class 2e is eligible for deferred valuation under the aggregate resource preservation property tax law if the land was class 1a or 1b immediately before becoming 2e. Effective for taxes payable in 2010 and thereafter.
- 2**      **Abatements and credits for damaged properties.** Clarifies that “utility property” for these purposes – i.e., authorizing the commissioner of revenue to grant a disaster-related abatement or credit -- is limited to property that is valued and classified by the commissioner of revenue on an order. Effective the day following final enactment.
- 3**      **Cooperative associations; homesteads.** Adds a reference to chapter 308B to clarify that cooperatives organized under 308B may obtain separate property tax statements for each unit not used for commercial purposes. Current law only references cooperatives organized under chapter 308A.
- 4**      **Cooperative associations; manufactured homes.** Adds a reference to chapter 308B to clarify that manufactured home park cooperatives organized under 308B may claim homestead status for each lot occupied by a shareholder. Current law only references cooperatives organized under chapter 308A.

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- 5 Trust-held homesteads.** Clarifies that the provisions of this subdivision, which specify when trust-held property can qualify for the homestead classification, applies to personal property as well as real property. The remaining changes are technical. Effective the day following final enactment.
- 6 Class 2 properties.** Clarifies that the presence of a minor ancillary nonresidential structure will not disqualify property from the managed forest land class. Provides a May 1 deadline for the applications required from owners of managed forest land. Makes technical changes related to forest land for readability and clarity. Clarifies that land with a commercial aggregate deposit only qualifies for class 2e if it is located in a county that is participating in the aggregate preservation program. Also provides that the commissioner’s definition of “minor, ancillary structures” is exempt from the rulemaking process. Effective the day following final enactment.
- 7 Class 4 properties.** Includes organizations described in IRC § 501(c)(8) in the definition of “community service organizations” under clause (d)(3) – Class 4c(3). Makes several technical clarifications in clause (d)(1) covering seasonal-recreational-residential properties – i.e., Class 4c(1) – so that the requirements in the clause apply only to those properties instead of to all class 4c properties. Effective the day following final enactment.
- 8 Vacant land.** Clarifies the requirements of current law to classify vacant land according to its “highest and best” use by adding an exception for unimproved rural lands, because those lands have a specifically-designated classification. Effective the day following final enactment.
- 9 Date for sending pipeline values to counties.** Changes the date when the Department of Revenue must send the ordered and assessed values of pipelines to the counties from June 30 to August 1. The change is needed because current timing allows a very short time for review by the companies and counties prior to issuance of the orders resulting in the department having to send out revised orders. Effective for assessment year 2009 and thereafter.
- 10 Date for sending power line values to counties.** Same date change from June 30 to August 1 for electric transmission and distribution lines as was made for pipelines in section 9. Effective for assessment year 2009 and thereafter.
- 11 Special boards of appeal and equalization.** Provides that a special board of equalization is subject to the same training and quorum requirements that apply to county boards of equalization. Effective the day following final enactment.
- 12 County and special boards of appeal and equalization.** Provides that if a county board of appeal and equalization or special board of equalization fails to satisfy the training and quorum requirements, owners and taxpayers who could have appealed to that board can appeal to the commissioner. A fee of \$500 per tax parcel will be assessed to the county. Effective for taxes payable in 2010 and thereafter.

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- 13 County boards of appeal and equalization.** Allows county boards of appeal and equalization to meet for up to ten days after the second Friday in June, rather than requiring them to meet for a full “ten consecutive days”. Effective the day following final enactment.
- 14 Date for sending utility values to counties.** Technical change related to the deadline changes in sections 9 and 10.
- 15 Sustainable Forest Incentive Act; calculation of annual average market value.** Conforms to changes made in 2008 that created a new forest land classification (2c property) titled “managed forest land” in Minn. Stat. § 237.13, subd. 23(d). Under the Sustainable Forest Incentive Act the department must calculate the annual average market value of forest land. These changes are needed to make sure that the calculation is consistent with prior years’ calculations. The new classification contains roughly the same type of land that was formerly included in 2b property (timberlands) which is referred to in the original calculation. Effective for calculations made in 2010 and thereafter.
- 16 Sustainable Forest Incentive Act; calculation of incentive payment.** Conforms to changes made in 2008 regarding classification of forest land. The changes are necessary so that the statutory calculation will remain the same as under current law. Prior law that referred to 2b property was amended and now includes different property. The references in § 290C.07 to the class rate for 2b property have been changed to “a class rate of 1%” which was the class rate for 2b property under the pre- 2008 changes. References to “timberlands” have been changed to refer to “managed forest land.” Effective for calculations made in 2010 and thereafter.
- 17 Local government aid.** Corrects the placement in law of the \$285 minimum amount for city revenue need. This provision was included in paragraph (c) but should have been placed in paragraph (a).
- 18 City jobs base.** Corrects a cross-reference in Minn. Stat. § 477A.011, subd. 42, to the “regional-center aid base.”
- 19 City formula aid.** Eliminates two internal conflicts with other pre-existing provisions by clarifying that the levies used to determine the minimum/maximum aid-change caps are the levies for taxes payable in the year the aid is calculated (i.e., the year prior to the year the aid is distributed). Clarifies that the population data to be used in the aid calculations are the data available as of July 15 of the year the aid is calculated. Effective assessment year 2009 and thereafter.
- 20 Repealer.** Repeals Minn. Rules chapter 8115 because those rules applied to different levy limits that were repealed in 1997. Effective the day following final enactment.

**Section****Article 11: DOR – Miscellaneous****Overview**

This article makes a number of minor changes in relating to Department of Revenue administration of tax laws.

- 1 Disclosure to law enforcement authorities of harassment.** Authorizes the Commissioner of Revenue to disclose tax data to law enforcement officials in cases involving harassment of DOR employees. Disclosure is limited to the name, address, and phone number of the harasser, name of the employee, and the circumstances involved. Harassment is defined as “purposeful conduct” directed at an individual that makes him or her feel frightened, threatened, oppressed, or intimidated.  
**Effective date:** Day following final enactment
- 2 Income tax microdata coordinating committee.** Exempts the income tax microdata coordinating committee from the general sunset on commissions and similar groups.
- 3 DOR list of preparers committing tax crimes.** Clarifies that the published list of tax preparers who have committed tax crimes only relates to crimes for returns they prepared as a paid preparer, not to their personal returns. Thus, a tax preparer who is convicted of a tax crime based on his or her personal return would not be subject to publication.  
**Effective date:** Day following final enactment
- 4 Removal of names from DOR list of preparers who have committed tax crimes.** Clarifies that a tax preparer must demonstrate to the commissioner that conditions for removal from the list have been met, including satisfaction of any sentence imposed.  
**Effective date:** Day following final enactment
- 5 Personal liability for penalty and interest assessments.** Clarifies that all applicable penalties and interest may be assessed for personal liability in the same manner as the underlying tax.  
**Effective date:** Day following final enactment
- 6 Bankruptcy; suspension of time.** Clarifies that the suspension of the running of the time DOR is permitted to file notices applies to the termination or expiration of the automatic stay as well as notice that the bankruptcy proceedings have been closed or dismissed.  
**Effective date:** Day following final enactment

**Section****Article 12: Miscellaneous****Overview**

Makes various changes, including:

- ▶ Modifies disclosure requirements for refund anticipation loans and refund anticipation checks, prohibits actions of tax preparers, and modifies penalties and civil damages for violations by tax preparers
- ▶ Establishes a new procedure for filing claims for refunds of payments made under the law that imposes personal liability on responsible officers and directors for unpaid taxes of a business entity
- ▶ Changes the employer reporting requirement for the health premiums credit
- ▶ Increases the threshold for audits of gambling tax returns from \$300,000 of receipts to \$500,000, and reduces the time for license suspension for filing a late return
- ▶ Increases the revenue threshold for audited financial statements from nonprofits from \$350,000 of revenue to \$750,000
- ▶ Modifies allowed uses of the taconite environmental fund
- ▶ Exempts service charges for a city owned and operated waste-to-energy facility from the solid waste management tax
- ▶ Provides ongoing appropriations for local police and firefighters relief association amortization state aid.
- ▶ Clarifies that the statutory definition of “tax” does not exempt nonprofits from fees and assessments
- ▶ Allows the White Community Hospital District to continue to exercise the powers authorized under current law if its name changes.
- ▶ Creates a special account in the general fund to compensate for timing consequences of state tax treatment of bonus depreciation and section 179 expensing.

**1 Tax preparation services.**

**Subdivision 1. Scope.** Provides that the statute governing tax preparation does not apply to:

- ▶ a person who provides services to fewer than ten clients per year;
- ▶ a person who provides services only to immediate family members;
- ▶ an employee who prepares the employer’s return as part of his job;
- ▶ a fiduciary acting on behalf of an estate;
- ▶ nonprofit organizations providing services under IRS volunteer tax assistance programs.

With the exception of the nonprofit organizations, these individuals are exempt under current law under subdivision 8 of this section, relating to exemptions from the statute. The changes to this subdivision move these exemptions to the scope subdivision, and

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increase the number of clients an individual may provide services for while remaining exempt from fewer than six to fewer than ten. [Note: since “tax preparation services” is defined as services for a fee or other consideration, nonprofit organizations participating in IRS volunteer programs are exempt under current law since they do not charge for their services.]

**Subd. 2. Definitions.** Adds definitions necessary for the disclosure requirements of this section to apply to refund anticipation checks and for the proposed requirement that disclosures be made in the client’s primary language, if the preparer advertises in that language. Current law imposes disclosure requirements on refund anticipation loans (“RALs”).

**Subd. 3. Standards of conduct.** Prohibits tax preparers from:

- ▶ Establishing an account to receive a client’s refund solely in the preparer’s name (makes an exception consistent with statute allowing taxpayers to assign K-12 credits to another party);
- ▶ Failing to act in the client’s best interests;
- ▶ Failing to safeguard and account for any money handled for the client;
- ▶ Failing to disclose material facts;
- ▶ Taking any action prohibited for collection agencies;
- ▶ Including in any agreement to provide tax preparation services a hold harmless clause, confession of judgment, waiver of a right to a jury trial, assignment of wages for services, provision preventing the client from asserting claims, waiver of any provision of statute relating to tax preparers, or waiver of the client’s right to relief;
- ▶ Failing to provide disclosures required under the federal Truth in Lending Act as part of offering RALs.

**Subd. 3a. Written agreements required; RALs and refund anticipation checks (“RACs”).** Requires RAL and RAC agreements to be in writing and prohibits the loans and checks from requiring payment of any item other than tax preparation fees or other related fees and the anticipated refund amount that is advanced via the loan or check. If a RAL or RAC agreement includes a mandatory arbitration clause, requires a separate written notice that arbitration is the only means of dispute resolution, that the client has 30 days to opt out of the arbitration clause, and that the arbitration clause does not apply if the client’s dispute involves a violation on the part of the tax preparer or if the client pursues a civil action as provided in subdivision 7. Requires the preparer to notify the client orally and in writing of how to opt out of the arbitration clause.

**Subd. 4. Required disclosures.** Restructures the current subdivision 4, which requires disclosures for RALs, to instead specify the format for disclosures for RALs (which are provided in the proposed subdivision 4a) and disclosures for RACs (which are provided in the proposed subdivision 4b). Disclosures for both kinds of advance payments of refunds must be in writing on a single sheet of paper, and signed and dated by both the client and the tax preparer. These requirements are in current law

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with regard to refund anticipation loans; the changes to this section and the proposed subdivision 4b would extend the same requirements to refund anticipation checks. Also requires disclosures to be provided in the client's primary language, if the tax preparer advertises in that language.

**Subd. 4a. RAL disclosures.** Restates the disclosure requirements for RALs that are stricken in subdivision 4 in the proposed subdivision 4a, with the following additions:

- ▶ Requires an explicit statement that the RAL is not the client's tax refund;
- ▶ Notifies the client of the right to cancel the RAL by returning the loan check or the amount of the loan in cash to the preparer within one business day.

**Subd. 4b. RAC disclosures.** Provides disclosure requirements for refund anticipation checks, different from the requirements for refund anticipation loans. Statements required on the disclosure:

- ▶ The client is not required to purchase a RAC in order to get their tax refund
- ▶ The IRS can direct deposit the refund to the client's account within 8 to 15 days
- ▶ Clients who purchase a RAC will have access to their tax refund within 8 to 15 days
- ▶ The RAC is not a loan
- ▶ The cost of the RAC
- ▶ The option to the client of paying for the RAC at the time of filing or having it withheld from the refund
- ▶ That the cost of return preparation does not change if the client purchases a RAC

Also provides that preparers who offer products that meet the definition of a refund anticipation check but use a different product name must substitute the product name for the term 'RAC' in the required disclosure.

**Subd. 5. Itemized bill required.** Adds fees associated with a RAC to the list of items required to be itemized on the bill for tax preparation services.

**Subd. 5b. Right to rescind refund anticipation loan.** Authorizes clients to rescind a RAL within one business day of entering an agreement by providing written notification to the preparer and either returning the check or conveying the same amount in cash to the preparer. Allows a tax preparer to charge a fee for rescinding a loan only if the preparer established an account at a financial institution to receive the refund and limits the fee to the amount the financial institution charged to open the account.

**Subd. 6. Enforcement; penalties.** Applies the existing \$1,000 administrative penalty in current law to violations of the new written agreement requirement and right to rescind loans proposed in subdivisions 3a and 5b. Provides that the administrative penalty does not apply if the conduct is also subject to civil penalties under section 289A.60, including termination of the preparer's authorization to submit returns electronically.

**Subds. 6a to 6c. Exchange of data.** Extends the requirement that the

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commissioner of revenue, the State Board of Accountancy, and the Lawyers Board of Professional Responsibility exchange information about complaints they receive about accountants and lawyers who are preparers to apply to violations of proposed subdivisions 3a, 4a, and 5b.

**Subd. 7. Enforcement; civil actions.** Provides that an action taken by the attorney general to enforce this section of statute is in the public interest. Also expands the amount a court finding for a plaintiff must award to include statutory damages equal to tax preparation fees, interest and fees for RAL times two. Under present law, plaintiffs are awarded actual damages, attorney fees, court costs, and any other relief the court finds reasonable.

**Subd. 8. Limited exemptions.** Strikes exemptions for various classes of individuals who will still be exempt as a result of changes to subdivision 1. Provides that the proposed written agreement requirement in subdivision 3a and the proposed right to rescind RALs in subdivision 5b apply to attorneys, certified public accountants, and enrolled agents. Provides a new exemption for employees and supervisors who assist people exempt under this subdivision in preparing returns.

- 2 Time for filing.** Establishes a procedure for filing claims for refunds of payments made under the law that imposes personal liability on responsible officers and directors for unpaid taxes of a business entity. The personal liability statute generally applies to individuals who are responsible (by themselves or with others) for filing and paying the specified taxes on behalf of the business. This liability most frequently arises with regard to sales tax and withholding tax, but also applies to some other tax types. If the business fails to pay, the Department of Revenue (DOR) issues an order assessing personal liability for the tax against the director or officer.

Authorizes individuals, subject to personal liability assessments, to file claims for refunds (which will enable them to appeal administratively or file a lawsuit), if they do so within 120 days of making a payment and if this is no more than 3½ years after DOR issued the assessment. The ability to claim a refund applies to both voluntary payments and to amounts collected by DOR (e.g., by garnishing wages or levying on a bank account). It does not require paying the full assessment to file a claim for a refund.

**Background.** Under present law, directors and officer have 60 days to appeal the DOR order. If they fail to appeal within the 60-day period, they lose their right to contest the liability (e.g., by claiming that they are not “responsible” within the meaning of the statute). Although it is somewhat unclear, the law does not provide the authority for an assessed individual to pay the liability and, then, seek a refund as an alternative method of contesting their liability. (Taxpayers can contest most other tax liabilities in two ways – either by appealing before payment or by paying and seeking a refund.)

Effective for personal liability assessments issued after the day following final enactment.

- 3 Mortgage registry tax; property located in multiple counties.** Modifies the distribution of the mortgage registry tax (MRT) when a mortgage covers real property located in more than one county. The threshold for redistributing the nonstate portion of the tax (i.e. the 3 percent that the counties retain) is increased from \$1 million to \$10 million. If the principal debt or

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obligation secured by a multiple county mortgage exceeds that threshold, the nonstate portion must be redistributed to each of the counties where the property is located, by the county treasurer who initially receives the total payment, based on the ratio that the portion of the market value in each of the counties is to the total market value of the entire property. Requires this settlement be done on or before the 20<sup>th</sup> day of each month when these transactions occur.

Effective the day following final enactment.

- 4 Health premiums credit.** Replaces the requirement that employers who offer section 125 plans provide statements of premiums to all participating employees to instead require employers to provide statements on request to employees who may be eligible for the health premiums credit. Also provides for a transfer from the health care access fund to the general fund for the amount of the credits. The transfer language was included in language proposed in the 2008 but omitted from Laws 2009, chapter 3, and reflects how the credit is being carried in the Department of Finance fund balance statement.
- 5 Gambling taxes-reports and records.** Raises the threshold for annual financial audits from \$300,000 receipts to \$500,000. Allows the Commissioner of Revenue to require a financial audit of organizations with less than \$500,000 of gross receipts for various violations of gambling tax compliance requirements. Organizations licensed under chapter 349 must now perform a certified inventory and cash count each year. The Commissioner of Revenue will prescribe the standards for these requirements.
- 6 Solid waste management tax; exemptions.** Exempts service charges imposed by a home-rule or statutory city that owns and operates a solid waste-to-energy resource recovery facility from the solid waste management tax. Effective for taxes imposed after March 31, 2007.
- 7 Taconite economic development fund.** Allows funds loaned for a specific biomass energy facility to be used for “other project costs” in addition to construction costs. Extends the deadline by which the loan must be made from July 1, 2009 to July 1, 2010. Also deletes obsolete language.
- 8 City or town where quarried or produced.** Provides that the amount of a school district’s taconite aid that would be used to offset state aid will instead be reallocated to the cities and towns within the school district, based on a formula with 50 percent allocated to the cities or towns where the mining occurs and 50 percent to the cities or towns where the plant/processing occurs. Effective for distributions beginning in 2010.
- 9 School districts (taconite aid).** Technical change necessary with section 8.
- 10 Aggregate tax; Rock County.** Allows Rock County to impose an aggregate tax at the rate of 10 cents per cubic yard or seven cents per ton (instead of the current rates of 21.5 cents per cubic yard and 15 cents per ton. Expires December 31, 2014.
- 11 Charitable organizations-financial statement requirements.** Raises the threshold that triggers an audited financial statement for a nonprofit organization from annual revenue of \$350,000 to \$750,000. All organizations are required to submit a financial statement; annual

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revenues in excess of the threshold specified trigger the requirement that the statement be audited and examined by an independent certified public accountant.

- 12**     **Gambling taxes; license suspension.** Shortens the time for suspension of a lawful gambling license for filing a late tax return from three months to 45 days.
- 13**     **Gambling taxes; audit requirement.** Amends the annual audit requirement to discontinue the requirement for a financial review of lawful gambling organizations, but maintains the requirement for an annual financial audit.
- 14**     **Local police and firefighters relief amortization state aid.** Provides corrective language clarifying that the distribution of amortization state aid is an open and standing appropriation, along with sections 15, 16, and 17. This section provides that the amounts to be paid are the amounts annually appropriated. Effective retroactively for aids payable in 2003 and thereafter.
- 15**     **Local police and firefighters relief amortization state aid.** Provides corrective language clarifying that the distribution of supplementary amortization state aid is an open and standing appropriation. This section provides that the amounts to be paid are the amounts annually appropriated. Effective retroactively for aids payable in 2003 and thereafter.
- 16**     **Local police and firefighters relief amortization state aid.** Strikes existing appropriation language for amortization aid and supplementary amortization aid, which is replaced with a more conventional appropriation in section 14. Effective retroactively for aids payable in 2003 and thereafter.
- 17**     **Local police and firefighter’s relief amortization state aid.** Provides new standing appropriation language for \$4.72 million annually for amortization state aid and \$1 million annually for supplementary amortization state aid. Effective retroactively for aids payable beginning in 2003.
- 18**     **Fee and tax.** Clarifies that the chapter 645 definition of “tax” to include fees does not exempt nonprofit organizations from payment of fees or other assessments that otherwise validly apply under the law imposing the fee or assessment.
- 19**     **White community hospital district.** Adds a reference to a successor entity to the special law authorizing the establishment of the White Community Hospital District. This will permit the district to change its name or to allow a new entity to exercise its powers. Effective without local approval.
- 20**     **White community hospital district.** Adds a reference to a successor entity to the special law authorizing the White Community Hospital District to levy property taxes. Effective without local approval.
- 21**     **Special account; timing differences.** Creates a special timing account in the general fund. Directs the commissioner to deposit in the account up to \$10.149 million of the additional revenue received as a result of requiring taxpayers to include in taxable income 80 percent of the federal bonus depreciation and section 179 expensing allowances increased at the federal level under the American Recovery and Reinvestment Act of 2009 (ARRA, the federal

**Section**

stimulus law). The money in the account is then released to the general fund in fiscal year 2012, when affected taxpayers will be allowed subtractions from taxable income to offset the additions required in fiscal year 2010.

*Background.* Federal bonus depreciation and increased section 179 expensing allowances in ARRA permit taxpayers to accelerate recognition of the cost of capital equipment from future tax years into tax year 2009. The total amount depreciated or expensed remains the same as in prior law, but more is claimed in the first year and less in subsequent years. When the federal government first enacted bonus depreciation in 2001, Minnesota chose not to conform to the federal change. Rather than require taxpayers to carry separate accounts for federal and state depreciation, Minnesota instead required taxpayers to add 80 percent of the bonus amount to taxable income in the first year, and then subtract one-fifth of the amount added-back in each of the next five years. The result is that the full amount is recognized at the state level over six years rather than in one year. This same treatment was applied to increased section 179 expensing amounts beginning in tax year 2006. At the state level, this approach raises revenue relative to current law in the first year (when the 80 percent add-back happens), and then results in decreased revenue to the state in following years (when the subtractions occur). Over the six year time period the revenue change at the state level nets to zero.

**22**        **Appropriation.** Appropriates \$680,000 in both FY2010 and FY2011 to the commissioner of natural resources to cover the costs associated with issuing mining permits. This amount is one-time and is not added to the DNR's base budget.

**23**        **Repealer.** Repeals:

- (a) a provision naming the White Community Hospital,
- (b) the reclamation fee on taconite ore produced, and
- (c) a provision reducing state aid to school districts in the taconite area by a portion of the taconite aid received.