

House Research Act Summary

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TOPIC: Omnibus tax bill

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Analyst: Pat Dalton, 651-296-7434 Joel Michael, joel.michael@house.mn Nina Manzi, 651-296-5204 Steve Hinze, steve.hinze@house.mn

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Table of Contents

Summary Act

Article 1: Income and Estate Taxes.....	2.....	2
Article 2: Federal Update.....	5.....	9
Article 3: Sales and Use Taxes.....	12.....	22
Article 4: Local Taxes.....	15.....	38
Article 5: Property Taxes.....	19.....	51
Article 6: Aids, Credits, Payments, and Refunds.....	22.....	73
Article 7: Minerals.....	26.....	89
Article 8: Insurance Taxes.....	28.....	93
Article 9: Science and Technology Program.....	30.....	98
Article 10: Miscellaneous.....	33.....	103
Article 11: Tobacco Bonds.....	35.....	108

1 Data disclosure; income tax reciprocity benchmark study. Authorizes the commissioner of revenue to share data with the Wisconsin secretary of revenue in conducting the income tax reciprocity benchmark study under section 9. Prior law, which authorized the commissioner to share data with other states for purposes of enforcing tax laws, did not authorize data sharing since no reciprocity agreement is in effect with Wisconsin.

2 Nonresident entertainer tax. Exempts a nonresident entertainment entity from withholding if the compensation received is less than \$600 and exempts a public speaker or nonresident entertainment entity, if its total compensation for performances in Minnesota is less than the income tax filing requirements for nonresidents. Under prior law, nonresident entertainers were subject to withholding on all compensation but were allowed a nonrefundable credit of \$120. Section 13 repeals the credit, which this section replaces with a comparable exemption.

Effective for compensation received after December 31, 2011.

3 **Minnesota adjusted taxable estate.** Modifies the definition of Minnesota adjusted taxable estate to exclude the value of qualified small business property, as defined in section 6, and qualified farm property, as defined in section 7. The sum of the two amounts cannot exceed \$4 million.

4 **Small business and farm property exclusion.** Provides that the value of a qualified small business property, as defined in section 6, and qualified farm property, as defined in section 7, (but not to exceed in combination \$4 million) is excluded from calculation of Minnesota estate tax.

5 **Definitions.** Defines terms for purposes of the small business and farm exemptions:

- **Family member** (defined by reference to federal law) means a spouse, ancestor, lineal descendent, or a spouse of a lineal descendent of the decedent.
- **Qualified heir** is a family member who acquired the farm or small business property and agreed to continue using the property as a small business or farm.
- **Qualified property** refers to the small business property or farm property that meets the requirements of sections 6 or 7.

6 **Qualified small business property.** Requires small business property to satisfy the following requirements:

- Its value was included in the federal adjusted taxable estate.
- It consists of trade or business property (or shares of stock or other ownership interests that were not publicly traded within three years of decedent's date of death) and the decedent or spouse materially participated in the operation of the business.
- It had gross annual sales for the most recent taxable year of \$10 million or less.
- Any cash or equivalents are deducted from the value of the business.
- Decedent owned the business for three years before the date of death.
- A family member continuously uses the property for three years after the date of death.
- The estate and the qualified heir agree to pay recapture tax if a family member fails to satisfy the requirement to use the property for the three-year period.

7 **Qualified farm property.** Requires qualified farm property to satisfy the following requirements:

- Its value was included in the federal adjusted taxable estate.

- The property consists of a farm, as defined by Minnesota law, and was classified as the decedent's or decedent spouse's agricultural homestead for property tax purposes.
- Decedent continuously owned the property for the three-year period before the date of death.
- A family member continuously uses the property for three years after the date of death.
- The estate and the qualified heir agree to pay recapture tax if a family member fails to satisfy the requirement to use the property for the three-year period.

8 **Recapture tax.** Imposes a recapture tax, if the qualified heir disposes of the property (except by transferring it to a family member) or if a family member fails to satisfy the three-year use requirement. The tax equals 16 percent of the value of the exclusion and is due six months after the property is disposed of or the qualifying use stops.

9 Income tax reciprocity benchmark study. Directs the Department of Revenue to work with the Wisconsin Department of Revenue to conduct an income tax reciprocity benchmark study. The study will use information from Minnesota and Wisconsin 2011 income tax returns of individuals who are residents of one state and have earnings in the other state. Requires the study to include:

- The number of residents of each state with earnings in the other state;
- The income earned by residents of one state who work in the other state;
- The change in tax revenue in each state if a reciprocity agreement were implemented under which taxpayers were required to pay income tax only in their state of residence.

Makes the study contingent on Wisconsin's department of revenue agreeing to participate. Requires the report to be submitted to the legislature by March 1, 2013.

10 Estate tax study. Requires the commissioner of revenue to prepare an estate tax study and report to the legislature by February 1, 2013. This study is to evaluate the tax using standard tax policy methods and is to consider revenue neutral ways to restructure or replace the tax (e.g., an inheritance tax structure, complementary gift tax, and so forth). The commissioner is directed to consult with the probate and estate tax section of the bar association in conducting the study.

11 New income tax reciprocity agreement. Directs the commissioner to initiate negotiations with Wisconsin, with the objective of entering into a new reciprocity agreement that would be effective for tax year 2012. Requires the commissioner to provide the chairs and ranking minority members with the proposed agreement at least 30 days before the agreement is finalized, and to consider their comments.

12 Appropriation. Appropriates \$291,000 in fiscal year 2012 and \$314,000 in fiscal year 2013 to the commissioner for the income tax reciprocity benchmark study in section 9. These are onetime appropriations.

13 Repealer. Paragraph (a) repeals the refundable credit for qualifying taxpayers who purchase health care insurance through an employer-sponsored section 125 health care plan. Effective beginning in tax year 2012.

Paragraph (b) repeals the \$120 nonrefundable credit allowed for nonresident entertainers, effective for compensation received after December 31, 2011. Section 2 replaces the credit with a comparable exemption from withholding. Effective for compensation received after December 31, 2011.

Article 2: Federal Update

Overview

Conforms to federal law definitions of federal taxable income, effective through April 14, 2011, for tax year 2011 and following years, and to a federal change retroactive to tax year 2009 allowing an income exclusion for state loan forgiveness programs for health care professionals. Laws 2011, chapter 8, conformed to federal law changes for tax year 2010 only.

Adopts the federal tax changes enacted in the two 2010 federal health care acts, the Small Business Jobs Act of 2010, the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (TRUIRJCA), and the Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011 (Comprehensive 1099 TPRESOA). Minnesota will conform to all federal changes, with the exceptions of:

- Increased section 179 expensing for tax year 2011
- 50 percent bonus depreciation for tax years 2011 to 2013, with temporary 100 percent bonus depreciation for property placed in service after September 8, 2010, and before January 1, 2012
- Extension of the elimination of the limitation on itemized deductions and the phaseout of personal and dependent exemptions to tax years 2011 and 2012.
- Extension of marriage penalty relief in the standard deduction for married filers to tax years 2011 and 2012

Modifies the phaseout range for married joint filers in the working family credit to correspond to the expanded phaseout range in effect for the federal earned income tax credit, for tax year 2011 only.

- 1 Update of administrative tax provisions.** Adopts federal tax administrative provisions made between March 18, 2010, and April 14, 2011, that Minnesota references for state tax administration purposes under chapter 289A, for tax year 2011 and following years.

The Patient Protection and Affordable Care Act of 2010 (PPACA) expanding 1099 reporting requirements to apply to

- Payments of \$600 or more to non tax-exempt businesses
- Gross proceeds paid for property

The Comprehensive 1099 Taxpayer Protection and Repayment of Exchange Subsidy Overpayments Act of 2011(Comprehensive 1099 TPRESOA) repealed the new reporting requirements.

Chapter 289A authorizes the commissioner of revenue to demand 1099s authorized under federal law. Conforming to federal changes through April 14, 2011, ensures that the commissioner will not be able to demand 1099s that were required under the expanded reporting requirements in PPACA 2010, but for which the requirement was subsequently repealed in the Comprehensive 1099 TPRESOA.

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 with the following exceptions:

- Increased section 179 expensing for tax year 2011

- 50 percent bonus depreciation for tax years 2011 to 2013, with temporary 100 percent bonus depreciation for property placed in service after September 8, 2010, and before January 1, 2012
- The extension of the elimination of the limitation on itemized deductions and the phaseout of personal and dependent exemptions to tax years 2011 and 2012
- Extension of marriage penalty relief in the standard deduction for married filers to tax years 2011 and 2012

The four new federal laws that affected the definition of net income and important changes were:

The Patient Protection and Affordable Care Act of 2010, Public Law 111-148, enacted March 23, 2010, and **The Health Care and Education Reconciliation Act of 2010**, Public Law 111-152, enacted March 30, 2010, made the following major changes that affected tax years other than tax year 2010, which Minnesota addressed in Laws 2011, chapter 8:

- Extended the income exclusion for health insurance to benefits for adult children up to and including age 26, effective for plan years beginning on or after September 23, 2010. Under prior federal law, the exclusion was limited to coverage for dependents who were under age 19, students under age 24, or permanently and totally disabled.
- Disallowed reimbursement from health savings accounts, flexible spending accounts, and health care reimbursement accounts for over-the-counter medicines, effective tax year 2011.
- Increased the maximum exclusion for employer-provided adoption assistance to \$13,170 for tax year 2010, and extended the increased amount adjusted for inflation to tax year 2011.
- Allowed an income exclusion for state loan forgiveness programs for health care professionals intended to increase the availability of health professionals in underserved areas, retroactive to tax year 2009.
- Increased the floor on deductibility of medical expenses by itemizers from 7.5 percent to 10 percent of adjusted gross income, effective in tax year 2013.
- Codified the economic substance doctrine, requiring transactions to which the doctrine is relevant to change the taxpayer's economic position in a meaningful way, excepting the effects on federal income tax liability, and requiring the taxpayer to have a substantial purpose, excepting the corresponding change in federal income tax liability, from entering into the transaction.

The Small Business Jobs Act of 2010, Public Law 111-240, enacted September 27, 2010, made the following major changes that affected tax years other than tax year 2010, which Minnesota addressed in Laws 2011, chapter 8:

- Increased the 75 percent exclusion for the gain on sale of qualified small business stock held for more than five years for stock acquired after February 18, 2009, and before January 1, 2011, to 100 percent for stock acquired after September 27, 2010, and before January 1, 2011. The exclusion will revert to 50 percent for stock acquired on or after January 1, 2011.
- Reduced the minimum holding period to avoid the tax on built-in gains on sales of assets of S corporations that converted from C corporations from ten years to five years, for tax year 2011 only, allowing S corporations to sell assets held more than five years without

being taxed on built-in gains. Effective for tax year 2011 only.

- Increased the section 179 expensing amount and phase-out threshold for tax years 2010 and 2011 to \$500,000 and \$2 million. (*Laws 2011, chapter 8, did not conform to the extension of increased section 179 amounts for tax year 2010. Minnesota will continue to not conform for tax year 2011, but will retain its current law requirement that taxpayers add 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.*)
- Removes cell phones and similar devices from "listed property," so that the employer deduction for cell phone expenses is not reduced by personal use of the phone by the employee. Effective beginning in tax year 2010.
- Allows annuity holders to annuitize, or take payment of, a portion of the assets in an annuity while keeping the remaining assets in the contract; previously annuity holders wishing to take payments from only a portion of the annuity had to exchange the annuity for two separate annuities. Effective beginning in tax year 2011.
- Reduces the share of income on guarantees that can be sourced outside the United States, effective for guarantees issued after September 27, 2010.

The Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, Public Law 111-321, enacted December 17, 2010, made the following major changes that affected tax years other than tax year 2010, which Minnesota addressed in Laws 2011, chapter 8:

- Extends provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) and of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (JGTRRA) that were scheduled to sunset after tax year 2010 for two years, to tax years 2011 and 2012. The major EGTRRA provisions that affect Minnesota's income definition are:
 - § Increase in the standard deduction for married joint filers to be twice that for single filers (from \$9,650 to \$11,600 in tax year 2011, and from \$9,850 to \$11,800 in tax year 2012), with a corresponding increase in the standard deduction for married separate filers to equal the amount allowed for single filers. (*Minnesota will not conform to the extension of the increased standard deduction for married filers but will require taxpayers to add the difference between the "old" and "new" federal standard deduction amounts to taxable income in section 3.*)
 - § Elimination of the phaseout of personal and dependent exemptions, and the limitation on itemized deductions. (*Minnesota will not conform to the extension of the elimination of the phaseout of exemptions and the limitation of deductions but will require taxpayers to add the amounts phased-out and limited under prior federal law to taxable income in section 3.*)
 - § Increased income limits and unlimited time period for deduction of student loan interest - for married joint filers, income eligibility for the deduction would otherwise decrease from \$120,000 to \$70,000 in tax year 2011, and for single filers income eligibility would decrease from \$60,000 to \$45,000.
 - § Exclusion of up to \$5,250 of employer-provided educational assistance.
 - § Exclusion of awards under the National Health Service Corps scholarship program and related awards for health-care professionals.

§ Increased contribution limit for education savings accounts and allowing use of education savings accounts for elementary and secondary school expenses.

- Extends 50 percent bonus depreciation to tax years 2011 to 2013, with temporary 100 percent bonus depreciation for property placed in service after September 8, 2010, and before January 1, 2012. (*Minnesota will not conform to the extension of bonus depreciation but would retain its current law requirement that taxpayers add 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*). *The Small Business Jobs Act of 2010, P.L. 111-240, extended 50 percent bonus depreciation to tax year 2010.*)
- Increases the section 179 expensing amount and phase-out threshold for tax year 2012 to \$125,000 and \$500,000, indexed from 2007 to 2012, estimated at \$138,000 and \$551,000. (*Minnesota will not conform to the extension of section 179 expensing but would retain its current law requirement that taxpayers add-back to taxable income 80 percent of the additional 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 teacher classroom expense deduction of up to \$250 to tax years 2010 and 2011.
- Extends the option for taxpayers to claim an itemized deduction for sales taxes rather than income taxes paid to tax years 2010 and 2011. *Minnesota taxpayers will be unaffected by this, since present law requires any deducted sales tax to be added back in computing Minnesota tax; the same addition is required for income taxes deducted at the federal level.*
- Extends the increase in the federal adjusted gross income limit on the amount of qualified conservation easements that may be claimed as a charitable deduction to tax years 2010 and 2011. General law limits deduction of contributions of capital property to 20 or 30 percent of adjusted gross income, depending on the type of recipient organization. Beginning in 2006, the limit was increased to 50 percent for donations of qualified conservation easements by most taxpayers, and to 100 percent for donations made by farmers and ranchers, defined as individuals with 50 percent of gross income from farming/ranching.
- Extends the higher education tuition expense deduction to tax years 2010 and 2011. The deduction applies to up to \$4,000 of qualifying expenses for taxpayers with adjusted gross income up to \$65,000 (\$130,000 for married joint filers), and to up to \$2,000 of qualifying expenses for taxpayers with adjusted gross income over \$65,000 but less than \$80,000 (\$130,000 to \$160,000 for married joint filers).
- Extends the authority for individuals age 70½ or older to transfer up to \$100,000 from a traditional IRA or Roth IRA directly to a qualified charity, while excluding that amount from adjusted gross income, to tax years 2010 and 2011, and provides that distributions made before after December 31, 2010, and before February 1, 2011, may be recognized in tax year 2010.
- Extends 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 year 2011 only.
- Extends to tax years 2010 and 2011 various provisions related to depreciation and expensing, including more generous rules for leasehold and restaurant improvements,

including new restaurant property and improvements to retail property (15-year straight-line recovery), motorsports entertainment complexes (seven-year recovery period), advanced mine safety equipment, accelerated depreciation for business property on Indian reservations, brownfields environmental remediation costs, suspension of the net income limit on depletions of oil and natural gas properties, and qualified film and television productions expenses.

- Extends to tax years 2010 and 2011 the enhanced deductions for contributions of food inventory, book inventory, and computers.
- Extends preferential treatment of dividends of regulated investment companies to tax years 2010 and 2011.
- Extends to tax years 2010 and 2011 the limit on basis adjustments in S corporation stock when S corporations donate appreciated property to the tax basis of the property rather than the fair market value (this reduces capital gain on later sales of the S corporation stock, compared with prior law).
- Extends the 100 percent exclusion for the gain on sale of qualified small business stock held for more than five years for stock acquired after September 27, 2010, and before January 1, 2011, to apply to stock acquired before January 1, 2012. The exclusion will revert to 50 percent for stock acquired on or after January 1, 2012.
- Extends the itemized deduction for mortgage insurance premiums to tax year 2011.
- Extends the exception under Subpart F for active financing income to tax year 2011.
- Extends increased credit rates and maximum credit amounts for the federal dependent care credit, which affect calculation of the state dependent care credit, to tax years 2011 and 2012.

3 Additions to federal taxable income (FTI) for individuals. Conforms Minnesota's income tax to federal deductions for teacher classroom expenses and higher education tuition expenses by restricting the additions to taxable income for these items to tax years before 2010. Requires new additions for

- the amount of itemized deductions that would be limited and personal and dependent exemptions that would be phased out had the two-year extension to these elements of EGTRRA 2001 not been enacted, and
- the increase in the standard deduction for married joint and married separate filers over the amount scheduled to be in effect prior to passage of TRUIRCA.

Also limits the addition for subsidies received by companies that provide retiree drug benefits to tax years before 2013; changes to federal law that take effect in 2013 eliminate the federal exclusion for subsidies, making the state tax addition duplicative.

Effective date: tax year 2011

4 Additions to taxable income for corporations. Conforms Minnesota's income tax to the enhanced federal deduction for the donation of computer equipment by restricting the addition to taxable income for this item to tax years before 2010. Also limits the addition for subsidies received by companies that provide retiree drug benefits to tax years before 2013; changes to federal law that take effect in 2013 eliminated the federal exclusion for subsidies, making the state tax addition duplicative.

Effective date: tax year 2011

- 5 Internal revenue code.** Adopts federal changes to federal adjusted gross income (FAGI) made between March 18, 2010, and April 14, 2011. FAGI is used for computing individual alternative minimum tax and determining withholding, and is the starting point for calculating household income, which is used to compute the dependent care and K-12 education credit. The main changes to federal adjusted gross income are described in section 2.
- Also ties references to foreign source income to the Internal Revenue Code, as amended through March 18, 2010. These references are used in the foreign operating corporation and foreign royalty provisions. The 2010 federal legislation limited the rules applying to (and thus the definition of) "active foreign source income" to corporations that qualified under prior law.
- 6 Working family credit; phaseout.** Reduces the marriage penalty in the working family credit phaseout by increasing the income at which the credit begins to phase out for married joint filers by \$5,000, with the \$5,000 amount indexed for inflation from 2008 to 2011, so that the additional phaseout amount for tax year 2011 is estimated to be \$5,080. This parallels for tax year 2011 only federal changes enacted as part American Recovery and Reinvestment Act of 2009 (ARRA) for tax years 2009 and 2010, and extended as part of TRUIRJCA to tax years 2011 and 2012. *(Minnesota did not conform to the ARRA changes as they affected tax years 2009 or 2010 and conforms in this section to the TRUIRJCA extension for tax year 2011 only).*
- 7 Marriage credit.** Modifies the marriage penalty credit calculation to reflect the addition required in section 3 for married joint filers of the difference between the federal and state standard deduction amounts.
- 8 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.
- 9 Estate tax.** Adopts federal changes in the Internal Revenue Code that affect the estate tax chapter. These changes extended EGTRRA's changes (e.g., repeal of the state death tax credit and enactment of the deduction for state death taxes), which Minnesota has not conformed to, or affected the federal rates and exclusion amount, which do not directly affect computation of the Minnesota estate tax, because Minnesota decoupled from federal law in 2001.

Article 3: Sales and Use Taxes

Overview

Brings the state into compliance with the Streamlined Sales and Use Tax Agreement (SSUTA) by removing "ring tones" from the definition of taxable telecommunication services.

Clarifies that sellers of lodging, including online sellers, must collect the sales tax on their total charge to the customer; including on any service charges paid by the customer related to the sale of the lodging.

Changes sourcing rules for florists.

Expands an exemption for processing materials used in taconite refining to refining of other ores and minerals.

Provides a sales tax exemption for technology equipment and electricity for large data centers.

Modifies the sales tax treatment of resold tickets of admission.

Expands the sales tax exemption for certain goods and services to local governments to include water used directly for public safety purposes, and most purchases by towns.

Expands the sales tax exemption on ambulance leases to leases of emergency response vehicles.

Extends the MSHSL sales tax exemption on tickets to regional and state wide events for four more years.

- 1 Sales and purchase. Makes the following two changes to the definition of a sales or purchase for sales tax purposes:
 - includes lodging related services paid by the customer when an online lodging seller or other type of accommodation intermediary makes a sale of lodging, effective the day after final enactment; and
 - exempts the purchase of ring tones from sales and use tax; effective for sales after September 30, 2011. This change brings Minnesota into compliance with the SSUTA definition of taxable telecommunication services.
- 2 Accommodations intermediary. Defines "accommodations intermediary" to be someone who charges a fee to facilitate sales of lodging to customers. This includes resellers of hotel rooms (e.g., the online sites that directly charge a purchaser for the room, that is, the payment is made to the intermediary, rather than the hotel.)
- 3 Accommodations provider. Defines "accommodations provider" to be anyone who sells lodging to the general public for compensation. Effective the day after final enactment.
- 4 Lodging services. Requires an accommodations intermediary to collect sales tax on services provided in connection with selling lodging located in the state. Effective the day after final enactment.
- 5 Florist sales. Changes the sales tax sourcing rules for florist sales to source the sale to the location of the retailer taking the order from the customer, rather than to the location of the flower delivery. This is the current practice in most states and is preferred by the industry. Effective for sales after September 30, 2011.
- 6 Taconite, other ores, metals, or minerals; production materials. Extends a current sales tax exemption for certain milling and grinding materials used in taconite production to refining of other ores, metal, and minerals. Effective for sales after September 30, 2011.

- 7 Qualified data centers. Provides a sales tax exemption for technology equipment, computer software, and electricity used by a qualifying data center. This is an upfront exemption for electricity purchases but administered as a refund for the equipment and software. A "qualified data center" is a center consisting of at least 30,000 square feet with an initial investment of at least \$50 million in a two-year period. The exemption expires July 1, 2042, and a facility can only get this exemption for the lesser of 20 years or until July 1, 2042. Effective for sales and purchases after June 30, 2012, and before July 1, 2042, however no refunds will be paid until after June 30, 2013.
- 8 Resold admission tickets. Eliminates double taxation on resold tickets of admission by allowing a ticket reseller to claim a refund or give the ticket purchaser a credit for any sales tax paid on the original ticket sale. Limits the refund or credit to the lesser of (1) the tax paid at the time of the original ticket sales, or (2) the tax charged by the reseller. Requires the reseller to charge the sales tax on the full price of the ticket resale if the sales tax was not paid on the original ticket sale. Requires the ticket reseller to maintain records necessary to document the price and tax paid by the ticket reseller when they purchase a ticket and when they resell a ticket. Effective after September 30, 2011.
- 9 Scope. Makes a technical correction by explicitly listing "local governments" in the scoping subdivision of the government and nonprofit sales tax exemption statute. Effective for sales made after September 30, 2011.
- 10 Sales to local governments. Expands the sales tax exemption for certain goods and services to local governments to include purchases by towns, except when the purchase is an input to a good or service generally provided by a private business and the purchase would be taxable if purchased by a private business engaged in the same activity. Effective for purchases made after September 30, 2011.
- 11 Sales of goods and services to governments. Eliminates a sales tax exemption for gravel and road repair vehicles purchased by a town which is unnecessary with the general town exemption in section 10. Also exempts water used directly in providing fire protection by a fire department, fire protection district, or fire company providing services to the state or a political subdivision.
- The changes related to town purchases is effective for purchases made after September 30, 2011. The exemption for the water is retroactive to June 30, 2007; however, no refunds will be made for taxes paid on water used for fire protection before January 30, 2010.
- 12 Ambulances (emergency response vehicles). Extends the current sales tax exemption for ambulance services on the lease of motor vehicles used as ambulances to the lease of motor vehicles used for emergency response. This makes the sales tax treatment consistent with the registration tax exemption enacted in 2008. Effective for purchases made after September 30, 2011.
- 13 Tax collected. Allows owners of qualified data centers to apply for the refund of taxes paid under the exemption in section 7. Effective for purchases made after June 30, 2012.
- 14 Refund; eligible persons. Limits the persons who can apply for the refund of taxes paid under the data centers exemption in section 7 to the owner of the data center. Effective for purchases made after June 30, 2012.
- 15 Application. Requires contractors, subcontractors, and builders to supply the owner of a qualifying data facility with the information necessary to apply for the refund of tax associated with the data centers exemption in section 7. Effective for purchases made after June 30, 2012.
- 16 Exemptions (motor vehicle sales tax). Extends the current exemption for the purchase by ambulance services of motor vehicles used as ambulances to the purchases of motor vehicles used for emergency response. This is parallel to the provision in section 12. This makes the motor vehicle sales tax treatment consistent with the registration tax exemption enacted in 2008. Effective the day after final enactment.
- 17 Effective date (MSHSL tickets). Extends the current Minnesota State High School League (MSHSL) sales tax exemption for tickets to regional and statewide events to July 1, 2015. This exemption expired July 1, 2011. Effective retroactive to June 30, 2011.

Article 4: Local Taxes

Overview

Prohibits local governments, from spending money to promote a local sales tax and limits their spending to the costs of conducting the required referendum. Also requires that the required referendum for imposing a local sales tax be held at a general election prior to the city coming to the legislature for the needed authorization.

Modifies the authorized uses for sales tax revenues for the existing Clearwater and Hennepin County ballpark taxes.

Allows an increase in the existing sales tax rate in the city of Hermantown.

Extends the existing tax and increases the projects funded by the existing Rochester sales tax.

Authorizes new local sales taxes for the cities of:

- Cloquet
- Fergus Falls
- Hutchinson
- Lanesboro
- Marshall
- Medford

- 1 Prohibition on promoting local sales taxes. Strikes obsolete language that prohibited political subdivisions from spending money to promote new local sales tax provisions until after May 31, 2010.
It adds a new provision prohibiting a local government from spending money to promote a local sales tax referendum, and limits it to spending money only on conducting the vote. Effective the day after final enactment and applies to all sales tax referenda, including those contained in this article.
- 2 Requirements for adoption, use, termination. Requires voter approval of a local option sales tax at a general election before the local government asks the legislature to authorize a sales tax. Effective the day after final enactment.
- 3 Limit on deposits to reserve fund; Hennepin County ballpark tax. Imposes a limit on the amount of reserves that may be maintained for the baseball park equal to (1) the net present value of all obligations to fund the ball park authority operating costs, youth sports, extension of library hours, and required capital improvements for a thirty year period starting from when the first bonds were issued, minus (2) the amount of these obligations already paid. This limit will ensure that the ballpark bonds will be paid off and the sales tax ended at the earlier possible date consistent with meeting all other obligations related to the sales tax revenue. Effective the day after final enactment.
- 4 City of Hermantown; sales tax. Authorizes the city of Hermantown to increase the local sales tax rate from the current 1/2 percent rate to the originally authorized one percent rate if approved by the voters at a general election held by the end of calendar year 2012.
- 5 City of Rochester; use of sales tax revenues. Allows the city to use its local sales tax revenues to fund the following additional projects:
 - \$47 million for transportation infrastructure improvements (highways and airport), but prohibits any money to be used to fund a railroad bypass that would affect rail traffic in the city of Rochester;

- \$26.5 million for higher education facilities;
- \$20 million for the Destination Medical Community initiative;
- \$8 million for construction of regional public safety facilities;
- \$20 million for a regional recreation/senior center;
- \$10 million for an economic development fund; and
- \$8 million for downtown infrastructure.

\$5 million of the \$10 million earmarked for economic development must be used for development grants to the surrounding communities of Byron, Chatfield, Dodge Center, Dover, Elgin, Eyota, Kasson, Mantorville, Oronoco, Pine Island, Plainview, St. Charles, Stewartville, Zumbrota, Spring Valley, West Concord, and Hayfield.

- 6 City of Rochester; bonding authority. Allows the city to hold the election to issue bonds for the projects in section 5 at the same time they hold the election for the extension of the local sales tax. The amount of the bonds is limited to \$139.5 million plus associated bond costs.
- 7 City of Rochester; termination of sales taxes. Allows the city to extend the current tax beyond the date necessary to raise sufficient funds for current authorized projects. The tax is extended to December 31, 2012, so it does not expire before the required referendum is held at the 2012 general election. If the tax extension is approved by the voters, the tax is extended until sufficient revenues are raised to fund the additional \$139.5 million in projects plus associated bond costs.
- 8 City of Clearwater; sales tax. Expands the authorized uses of the Clearwater sales tax to include improvements to regional parks, bicycle trails, park land, open space, and walkways included in the city improvement plan adopted in December 2006. This includes all the projects included in the city's original 2008 request but ties the projects to a particular planning document.
- 9 Authorization (Marshall). Extends the date by which the city of Marshall must go to the voters for approval of local lodging and food and beverage taxes authorized in the 2010 tax bill. This will allow the city to hold this vote with the vote on its local sales tax authorized in section 14.
- 10 City of Cloquet; sales and use tax authorized. Allows the city to impose a local sales tax of up to 1/2 of one percent, subject to approval at a general election. The imposition and administration of the tax is subject to the provisions in Minnesota Statutes, section 297A.99.
- The city may also impose a flat \$20/vehicle tax on motor vehicles sold by dealers located in the city. Revenues from the taxes must be used to pay the costs of administration and to pay for the following projects:
- \$4.5 million for the following park improvements: the Veteran's Park, a soccer complex, baseball complex, hockey arena, recreation center, and pedestrian trails throughout the city;
 - \$5.8 million for extension of utilities and other improvements related to property development adjacent to Highway 33 and Interstate 35; and
 - \$6.2 million for engineering and construction of infrastructure improvements identified in the city's comprehensive land use plan.

The city may issue up to \$16.5 million in bonds for the projects listed based on the voter approval of the sales tax imposition. No separate vote is required for issuing the bonds and the bonds are not included in any debt or levy limit on the city.

The taxes expire at the earlier of (1) 30 years or (2) when the revenues collected are sufficient to pay for the projects and retire any associated bonds and bond costs. Because of the timing requirements for termination, any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date.

- 11** City of Fergus Falls; sales and use tax authorized. Allows the city to impose a local sales tax of one-half of one percent to finance a regional ice arena, as approved by their voters at the 2010 general election. The imposition and administration of the tax is subject to the provisions on Minnesota Statutes, section 297A.99, including the requirement for approval by the voters at a general election.
- The city may use up to \$6.6 million in revenues from the taxes to pay the costs of collection and to pay for the acquisition and betterment of a regional ice arena facility, including associated bond costs. Allowed costs include furnishing and equipment costs as well as acquisition, design, and construction costs, and associated bond costs.
- The tax expires when the revenues collected are sufficient to pay for the project and retire any associated bonds and bond costs. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date.
- 12** City of Hutchinson, sales tax authorized. Allows the city to impose a local sales tax of one-half of one percent to pay for its wastewater treatment facility, as approved by their voters at the 2010 general election. Allows the city to impose a complementary flat \$20/vehicle tax on motor vehicles sold by dealers located in the city.
- Revenues from the taxes must be used to pay the costs of collection and to pay for the construction and renovation of the city's wastewater treatment facility, including construction, engineering, and associated bond costs. The taxes end at the earlier of (1) 18 years, or (2) when revenues raised are sufficient to pay for the project, including all associated bond costs. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date.
- 13** City of Lanesboro; sales and use tax. Allows the city to impose a 1/2 of one percent sales tax in the city of Lanesboro, as approved by the voters at the 2010 general election, for the indicated projects.
- Revenues from the taxes must be used to pay the costs of collection and to pay for the following projects:
- street and utility improvements along a number of specified streets,
 - street lighting on State Highways 250 and 16;
 - wastewater treatment facility improvements;
 - utility improvements to the Lanesboro High Hazard Dam; and
 - improvements to the community center, library, and city hall.
- Total improvements under this section are limited to \$800,000 and associated bond costs.
- Allows the city to issue up to \$800,000 in bonds for the projects listed in subdivision 3, based on the voter approval of the sales tax imposition and the bonds are not included in any debt or levy limit on the city. The taxes end when revenues raised are sufficient to pay for the projects, including all associated bond costs. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date.
- 14** City of Marshall; sales and use tax. Allows the city to impose a 1/2 of one percent sales tax in the city of Marshall for the indicated projects if approved by voters at a general election held in the next two years. The city is required to present separate ballot questions for the two authorized projects which are:
- new and existing facilities of the Minnesota Emergency Response and Industry Training Center and
 - new facilities of the Southwest Minnesota Regional Amateur Sports Center.
- Allows the city to issue up to \$17.29 million in bonds for the projects listed in subdivision 3, based on the voter approval of the sales tax imposition and the bonds are not included in any debt or levy

limit on the city. The local sales tax ends at the earlier of (1) 15 years, or (2) when revenues raised are sufficient to pay for the projects, including all associated bond costs. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date.

15

City of Medford; sales and use tax. Allows the city to impose a 1/2 of one percent sales tax in the city of Medford to repay Minnesota Public Facility Authority Loans, if approved by the voters at the next general election. The loans were used to finance \$4.2 million of improvements to the city's water and wastewater systems. The local sales tax ends at the earlier of (1) 20 years, or (2) when revenues raised are sufficient to repay the loans, including interest. Because of the timing requirements for termination; any excess revenues will be deposited in the city general fund. The city may choose to end the taxes at an earlier date.

Article 5: Property Taxes

Overview

Expands the market value valuation exclusion for disabled veterans to a family caregiver under certain circumstances; also extends the benefit to surviving spouses from two years to five years, and allows surviving spouses of service persons killed in action to qualify for the benefit for five years.

Authorizes a 2011 property tax abatement for homes damaged by the May 22 tornadoes, with state reimbursement.

Authorizes the city of Minneapolis to add up to 200 additional parcels from the storm-damaged area to its housing replacement TIF district, and provides a 36-month exemption from the general TIF-pooling limits to allow pooled TIF funds to be used to offset storm-related spending.

Provides a property tax exemption for attached machinery of an electric generation facility proposed to be built in the city of Fairmont.

Provides a reduced property tax classification (4c) for certain seasonal inns, located near a state trail.

Provides for a reduction of certain county and city maintenance of effort (MOE) requirements.

- 1 Referendum market value. Technical change in the definition of referendum market value to accommodate cleanup of class 4c language in section 7.
- 2 Property tax working group. Removes the Commissioner of Revenue as a member of the Property Tax Working Group, and extends the deadline for the group to submit its final report from February 1, 2012, to February 1, 2013.
- 3 Economic development; public purpose. Increases from 8 years to 9 years the maximum allowable holding period for property that is held by a political subdivision for later resale for economic development purposes to be exempt from property taxation, when the property is located in the metropolitan area, or in a city of 5,000 or more outside the metropolitan area. (For all other cities, the maximum allowable period is 15 years.) Effective payable in 2012 and thereafter.
- 4 Electric generation facility; personal property. Provides an exemption for attached machinery of an electric generation facility proposed to be built in the city of Fairmont. The facility must be designed for between 20 and 30 megawatts of power, run on natural gas, and be operated by a municipal power agency, among other requirements. Construction is required to commence after December 31, 2011, and before January 1, 2015.

- 5 Valuation notice. Provides that the notice of property valuation sent out each spring must contain a specific notification when a property's classification has changed from what it was in the previous year. Also deletes a number of obsolete provisions in the valuation statement requirements.
- Effective for notifications for assessment year 2012, taxes payable in 2013, and thereafter.
- 6 Class 2. Makes technical changes related to provision allowing farms raising game birds to qualify for agricultural classification (provision was enacted in Laws 2011, chapter 112).
- 7 Class 4. Provides a reduced property tax classification (4c) for commercial properties consisting of not more than 20 residential units that are used for less than 250 days a year, and that are located in a city or town with a population under 2,500 located outside the metropolitan area, provided that a state trail passes through the city or town. 4c classification provides for a class rate of 1.5 percent, and provides that the property pays the state seasonal recreational tax rate rather than the state commercial-industrial tax rate.
- Also makes a number of technical changes to eliminate redundancies in statute.
- 8 Homestead of disabled veteran or family caregiver. Expands eligibility for the market value exclusion for disabled veterans in the following ways:
- The surviving spouse of a disabled veteran is allowed to continue to receive the benefit for five full years after a disabled veteran's death (under current law the surviving spouse continues to receive the benefit for two full years).
 - The surviving spouse of a service member who dies of service-connected causes while serving honorably in active military service is allowed to receive the exclusion for the same five-year period as the surviving spouse of a disabled veteran that dies.
 - A disabled veteran's *primary family caregiver*, if one exists, is allowed to receive the market value exclusion if the veteran has no homestead of her or his own (Congress recently enacted the "*Caregivers and Veterans Omnibus Health Services Act of 2010*," establishing a program of assistance to the approved family caregiver of a service member who is being medically discharged from the military, or a veteran, having a serious injury incurred or aggravated in the line of duty since 9/11/2001, if the VA determines that it is in the best interest of the veteran to do so).
- The section also provides that the market value exclusion terminates in the year after a surviving spouse remarries.
- The application date for the first category of recipients (surviving spouses of qualifying disabled veterans) is extended from July 1 to August 15 for 2011 only to allow recipients to receive the benefit for taxes payable in 2012.
- The de facto effective date for the other two categories of recipients is taxes payable in 2013 because it is past the application deadline for taxes payable in 2012.
- 9 Seasonal residential recreational tax capacity. Makes technical change in state general levy statute related to technical changes in section 7.
- 10 **Maintenance of effort requirements.** Permanently reduces county maintenance of effort (MOE) requirements for regional libraries, mental health services, child welfare targeted case management, and family service collaboratives to 90 percent of the amount required for 2011. Provides that an MOE reduction does not apply if it would result in increased state costs or cause a reduction in federal funding. Also permanently reduces the city MOE requirement for regional libraries to 90 percent of the amount required for 2011.
- 11 Minneapolis; housing replacement TIF. Authorizes the city of Minneapolis to designate up to 200 additional parcels under its housing replacement TIF district in the area of the city designated by the president as a major disaster area, as a result of the June tornado. This authority is a one-time increase

and will not permanently increase the 500 parcel limit on Minneapolis's authority.

Effective date: Local approval by the city of Minneapolis

12

Minneapolis, TIF pooling for disaster response. Provides the city of Minneapolis a 36-month exemption from the general law percentage limits on pooling of tax increments (spending increments on activities outside of the geographic area of the district) to be used to respond to the June 2011 tornado in North Minneapolis. This exemption may be used to:

- Assist businesses and individuals in to reconstruct or rehabilitate damage caused by the disaster and
- Pay for the city's recovery cost, such as property acquisition and demolition related to the disaster, as well as its related administrative costs.

Before using this authority, the city must write a spending plan and hold a public hearing after published notice.

Effective date: Local approval by the city of Minneapolis

13

Property tax relief for homes damaged by tornado. Authorizes Anoka and Hennepin counties to grant abatements for property taxes payable in 2011 to homes damaged by the May 22 tornadoes. Provision applies to homes that sustained losses of less than 50 percent of the building value (homes and other properties sustaining losses greater than 50 percent of value already qualify for payable 2011 abatements under current law). Provides that the state will reimburse taxing jurisdictions for abatements authorized under this section. Provides that homes receiving abatements under this section forfeit their eligibility for a disaster credit for taxes payable in 2012 based on the tornado damage.

Article 6: Aids, Credits, Payments, and Refunds

Overview

Reduces LGA payments to each city in 2011 and 2012 to the lesser of its paid 2010 aid or its certified 2011 aid. Provides for permanent reduction in LGA of about \$101 million per year in 2013 and thereafter.

Reduces county program aid (CPA) payments to each county in 2011 and 2012 to the lesser of its paid 2010 amount or its certified 2011 amount. Provides for a permanent reduction in county program aid of \$32 million per year in 2013 and thereafter.

Converts the market value homestead credit from a state-paid credit to a homestead market value exclusion that provides substantially the same benefit to homestead property as the credit, effective for taxes payable in 2012 and thereafter.

Permanently sets payments in lieu of tax (PILT) payments per acre on natural resource lands to the allowed per acre payments in calendar year 2011 and removes future inflation adjustments from the program.

Expands the homeowner property tax refund program by increasing the maximum refund from \$2,410 to \$2,460, expanding the income range at which the increased maximum applies, and decreasing the copayment percentage for most claimants.

Reduces the percent of rent constituting property taxes for renter property tax refund claims from 19 percent to 17 percent for claims beginning with claims based on rent paid in 2011, filed in 2012.

Extends the suspension of the political contribution refund for two years, to fiscal years 2012 and 2013.

Reduces the per-acre payments under the Sustainable Forest Incentive Act (SFIA) program to \$7 and limits the annual payment to each enrollee to \$100,000, effective for the October 2011 payment.

- 1 Applicability; amount. Removes the inflation adjustment to the per acre PILT payments on public hunting lands and game refuges. Effective beginning with aids payable in 2011.
- 2 Referendum market value. Clarifies that the market value exclusion under section 3 does not reduce referendum market value, the tax base for school operating referendum levies.
- 3 Homestead market value exclusion. Provides for the exclusion of a portion of each homestead's market value in determining its net tax capacity-based tax. The exclusion is equal to forty percent of market value, for homes valued up to \$76,000. For homes above \$76,000 in market value, the exclusion is \$30,400 at \$76,000 of market value, and phases down at a uniform rate to \$0 at a market value of \$413,800. The exclusion formula mimics the formula for the market value homestead credit in current law (which is repealed in section 27). Effective beginning with taxes payable in 2012.
- 4 Credit reimbursements. Provides that the agricultural market value credit will continue to be a state-paid credit, while the homestead market value credit will no longer be a state-paid credit since it is repealed in section 27.
- 5 Payment. Provides that the agricultural market value credit will continue to be a state-paid credit, while the homestead market value credit will no longer be a state-paid credit since it is repealed in section 27. Effective beginning with credits payable in 2012.
- 6 Computation of net property taxes. Eliminates the market value homestead credit from the list of credits to be subtracted from a property's gross tax to determine its net tax. Effective beginning with taxes payable in 2012.

- 7 Content of tax statements. Provides for showing the amount of the homestead market value exclusion and eliminating the market value homestead credit on the property tax statement.
- 8 Renter property tax refund; rent constituting property taxes. Reduces the percent of rent constituting property taxes used in calculating the property tax refund for renters from 19 percent to 17 percent, beginning with claims based on rent paid in 2011 and following years. Claims based on rent paid in 2011 are typically filed in 2012.
- Background. The percent of rent constituting property taxes was reduced from 19 percent to 15 percent for 2010 refunds based on rent paid in 2009 only under the June 2009 unallotment. This reduction was subsequently enacted into law in Laws 2010, 1st special session, chapter 1.
- 9 Renter property tax refund; manufactured homes. Reduces the percent of rent constituting property taxes for rent paid on the site on which a manufactured home or park trailer taxed as a manufactured home is located from 19 percent to 17 percent. Effective for refund claims based on rent paid in 2011 and following years.
- 10 Homeowner property tax refund. Increases the maximum refund allowed under the homeowner property tax refund from \$2,410 to \$2,460, and expands the income range at which the \$2,460 maximum applies from \$3,090 to \$37,280. Decreases the copayment percentage for claimants with household income from \$10,880 to \$93,240. Effective for refunds based on taxes payable in 2012.
- Background. The homeowner property tax refund equals a percentage of property taxes paid over a threshold of income, up to a maximum refund amount. The income measure used is household income, a broad measure that includes most forms of taxable and nontaxable income, after adjustment for household size. The refund schedule has 27 income brackets: the threshold percentage increases as income increases, the percentage of taxes over the threshold paid by the homeowner (the copayment) also increases as income increases, and the maximum refund decreases as income increases. For refunds based on taxes payable in 2012, the maximum income eligible is projected to be \$100,779.
- 11 Property tax refund; inflation adjustment. Updates the annual inflation adjustment of the income brackets and maximum refunds for homeowners to be calculated relative to the schedule provided in section 10. Retains the inflation adjustment of the income brackets and maximum refund amounts for renters as in current law.
- 12 SFIA payments. Changes the calculation of payments under the Sustainable Forest Investment Act (SFIA) program from a formula based on alternative calculations related to average tax capacities for managed forest lands and average township tax rates to the lesser of:
- \$7 per acre; or
 - A \$100,000 annual limit per enrollee.
- Effective for payments in calendar year 2011 and thereafter. Program participants who are subject to the \$100,000 cap may opt out of the program and its restrictive covenant through the end of the calendar year. Termination of the covenant is effective immediately (or on 12/31/2011 if the landowner certifies its participation in order to receive its 2011 payment). In addition, those opting are allowed to apply for class 2(c) treatment up until August 31, 2011.
- 13 Alternative process for county consolidation. Allows an alternative way for counties to begin the process for consolidation by filing a unanimous resolution from each county board with the secretary of state. Currently they need to have a petition signed by 25 percent of the voters in the last general election from each county in order to start the process.
- 14 City net tax capacity. Clarifies that the net tax capacity used in the LGA formula is after the subtraction of the homestead market value exclusion in section 3.
- 15 Aid payments in 2011 and 2012 (counties). Limits the total county program aid (CPA) paid to each county in 2011 and 2012 to the lesser of its paid CPA in 2010, after reductions, or the amount it was certified to receive in Pay 2011. Total CPA payments in 2011 and 2012 are reduced from \$197

million to \$161 million.

- 16** City aid distribution. Clarifies the starting point for calculating maximum aid increases and decreases to aid payments in pay 2013 and later.
- 17** Aid payments in 2011 and 2012. Limits the LGA payments to cities in 2011 and 2012 to the lesser of paid 2010 LGA, after reductions and adjusted for any onetime payments made in 2010, or the amount it was certified to receive in Pay 2011.
- A special provision is made for calculating aid payments to the city of Houston for pay 2011 and 2012 to accommodate its extra one-time pay 2011 aid payment authorized in the 2010 omnibus tax bill.
- 18** Appropriation. Sets the LGA appropriation in pay 2013 and thereafter to the amount paid after reductions in pay 2010. The annual appropriation beginning in pay 2013 is \$426,438,012.
- Sets the county program aid appropriation for pay 2013 and later years at the 2010 level after reductions (approximately \$165 million).
- The appropriations for both programs will again be distributed to local governments via the formulas in law beginning with aids payable in 2013.
- 19** Terms. Eliminates a cross reference to the inflation factor for PILT payments that is repealed in section 27.
- 20** Types of land, payments. Permanently codifies the aid payments on natural resource PILT lands at the adjusted rates under current law for calendar year 2011 and eliminates future growth based on inflation. The 2011 rates are:
- \$5.133/acre or 0.75 percent of assessed value for acquired land;
 - \$1.283/acre for county administered other natural resources land and land utilization project (LUP) land; and
 - \$0.642/acre on commissioner administered other natural resource land.
- Effective beginning with aids payable in 2011.
- 21** General distribution. Updates and makes permanent the allocation rates of PILT payments to the county and the townships to reflect the current inflation adjusted rates in 2011 under current law. Effective beginning with aids payable in 2011.
- 22** Political contribution refund. Extends the suspension of the political contribution refund for two years, for campaign contributions made from July 1, 2011 through June 30, 2013. Laws 2010, 1st special session, chapter 1, suspended the political contribution refund program for campaign contributions made from July 1, 2009, to June 30, 2011.
- 23** Credit reductions and limitations; counties and cities. Reduces county and city pay 2011 market values credit reimbursements to the same amount received in pay 2010, after reductions. Effective for credit reimbursements in pay 2011.
- 24** Property tax statement for taxes payable in 2012 only. Provides that for purposes of the 2012 tax statement only, in depicting property taxes payable in 2011, the market value homestead credit will not be explicitly shown. Instead, the credit will be subtracted from the amount shown as the gross tax.
- 25** Delay in certain July state payments to local governments. Delays the first half of calendar year 2011 LGA and CPA payments from July 20th to July 27th, to allow the payments to accurately reflect the reductions to those programs contained in this article.
- 26** Sustainable Forests Incentive Act. Provides a purpose statement and transition provision related to section 12's reductions in the SFIA program (the reduction in the per acre amount and the \$100,000 cap on the amount any one landowner can claim):
- States the legislature's rationale for reducing the SFIA program is the modest public

benefits of the program relative to its costs; in particular, this conclusion is based on evidence that many larger owners of managed forest lands (e.g., under industry marketing programs) engage in similar management practices without regard to whether they receive the SFIA payments.

- Allows SFIA enrollees that are subject to the \$100,000 cap until August 31, 2011 to apply for and enroll in class 2c for managed forest land (class rate of 0.65%) for taxes payable in 2012. To enroll, application would normally be required by May 1, 2011, to qualify for taxes payable in 2012.

27

Repealer.

Paragraph (a) repeals the wetland reimbursement and the inflation factor used to adjust PILT payments.

Paragraph (b) repeals the homestead market value credit, and the permanent market value credit reductions for cities and towns, both effective for taxes payable in 2012.

Article 7: Minerals

Overview

This article makes a number of changes related to the taxation of nonferrous mining, clarifying that the net proceeds tax is in lieu of the property tax and that the occupation tax is in lieu of the corporate franchise tax. The base of the net proceeds tax is clarified and extended to refining. Deductions under the net proceeds tax are made identical to those under the occupation tax on nonferrous mining.

1

Property tax exemption. Exempts the following property used in nonferrous mining from property taxation if the business is subject to the net proceeds tax under section 298.015:

- Ore deposits and the lands in which they are contained
- Real and personal property used in the mining, production, and refining
- Concentrates and direct reduced ores

Effective date: Taxes payable in 2012

2

Exempt entities; corporate franchise tax. Provides businesses that conduct mining, producing, or refining of nonferrous ores, metals, and minerals are exempt from the corporate franchise tax. These businesses will be subject to the occupation tax imposed under section 298.01, subdivision 3. This is consistent with the treatment of taconite and iron mining companies, which similarly pay an occupation tax in lieu of the corporate franchise tax.

Effective date: Tax year 2011

3

Refining. Establishes a definition of "refining" of nonferrous minerals and ores for purposes of the net proceeds and occupation taxes.

Effective date: Tax year 2011

4

Occupation tax, nonferrous mining. Expands the occupation tax on nonferrous mining to include references to refining, metals, minerals, and hydrometallurgical processes used in nonferrous mining.

Effective date: Tax year 2011

5

Gross income; nonferrous occupation tax. Modifies the definition of gross income that is used in the nonferrous occupation tax to include refining, metals, and minerals and to remove the reference to energy resources.

Effective date: Tax year 2011

- 6 Net proceeds tax, imposition. Adds references to ores, metals, and minerals to the net proceeds tax to make the base of the tax consistent with the changes in the occupation tax in section 4.
- 7 Net proceeds; nonferrous. Provides that the same deductions apply to the net proceeds tax as are provided under the occupation tax. This increases the allowable deductions to include depletion and interest expenses.
- 8 Metal or mineral products; definition. Defines metals or mineral products to mean all of those that are subject to the nonferrous net proceeds tax and eliminates definitions that are no longer used in the statute.
- 9 Repealer. Repeals the deductions for computation of the nonferrous net proceeds tax, which is replaced by section 7's tying those deductions to the occupation tax (298.017, subd. 2).

Article 8: Insurance Taxes

Overview

This article modifies the premiums tax on "surplus lines" insurance (insurance provided by insurance companies that are not licensed in Minnesota) to conform to the requirements enacted in the federal Dodd-Frank financial reform legislation. These changes provide that Minnesota will tax the full premiums when Minnesota is either the principal place of business of the insured or, for an individual, the principal place of residence. In other instances, no Minnesota tax will apply. Under current law, the tax can be apportioned or allocated for out-of-state risks.

These changes are all effective for policies that go into effect (including renewals of existing policies) beginning on July 20, 2011, the enactment date of the act.

- 1 Affiliated group, definition. Defines the term "affiliated group" for purposes of the insurance tax as an entity or group of entities that are controlled by the insured (e.g., a typical situation would be a "captive insurance subsidiary" that the business uses to provide its coverage). Control is defined as the ownership of or power to vote 25 percent or more of any class of voting securities or the ability to control election of a majority of the directors or trustees of the entity.
- 2 Gross premiums, definition. Modifies the definition of the term "gross premiums" for surplus lines insurance in two ways: first, it changes the reference from "surplus lines insurance" to "nonadmitted insurance" (this term is defined in section 5) and clarifies that gross premiums refer to the total consideration paid for that insurance, including deposits and assessments.
- 3 Home state, definition. Defines the term "home state" for purposes of the insurance tax as the state in which the principal place of business of the insured is located or, for an individual, his or her principal place of residence. But two alternatives to this default rule can apply:
- If all of the insured risk is located in a different state (than the location of the principal office or state of principal residence), then the home state is the state to which the largest share of the premium is allocated; or
 - If more than one insured in an affiliated group is covered under one contract, then it's the home state (principal office location) of the insured with the largest share of the premium.
- 4 Independently procured insurance, definition. Defines the term "independently procured insurance" for purposes of the insurance tax as insurance obtained directly by the insured from a nonadmitted insurer (e.g., without using an agent or broker).
- 5 Nonadmitted insurance, definition. Defines "nonadmitted insurance" for purposes of the insurance tax as property and casualty insurance coverage placed with a nonadmitted insurer (a term defined in

section 7).

- 6 Nonadmitted insurance premiums tax, definition. Defines "nonadmitted insurance premiums tax" for purposes of the insurance tax as any governmental tax, fee, assessment or other charge directly or indirectly imposed on surplus lines insurance coverage.
- 7 Nonadmitted insurer, definition. Defines "nonadmitted insurer" for purposes of the insurance tax as an insurer that is not licensed in Minnesota, but the term does not include "risk retention groups" under federal Liability Risk Retention Act of 1986.
- 8 Surplus lines broker, definition. Defines "surplus lines broker" for purposes of the insurance tax as an individual or entity licensed by a state to sell insurance in that state provided by nonadmitted insurers (defined in section 7).
- 9 Taxpayer, definition. Modifies the definition of "taxpayer" with regard to surplus lines agents to be consistent with the definition of surplus lines brokers in section 8.
- 10 Surplus lines premiums tax. Makes the following changes in the statute imposing tax on surplus lines insurance:
- Modifies the terms to be consistent with the definitions and changes in definitions in sections 1 through 8.
 - Imposes the tax on nonadmitted insurance premiums paid by insured individuals or entities whose home state is Minnesota (defined in section 3) and provides that none of the premiums are allocated to other states (section 3's definition provides limited exceptions to this). Current law imposes the tax proportionately based on the location of the risk, rather than the home state.
 - Provides that a tax rate of 2 percent applies to insurance procured directly from a nonadmitted insurer. This replaces the equivalent tax under a subdivision repealed by section 14.
 - Prohibits taxation by any other state than the home state of the insured.
- 11 Conforming change. Changes a reference to be consistent with the change in the term from "licensee" to "broker" in section 8.
- 12 Conforming change. Deletes references to subdivisions repealed by section 14 and makes cross references changes consistent with the modifications of the tax in section 10.
- 13 Conforming changes. Changes a reference to be consistent with the change in the term from "licensee" to "broker" in section 8 and makes cross references changes consistent with the modifications of the tax in section 10.
- 14 Repealer. Repeals two surplus lines insurance tax provisions that are replaced by the provisions in section 10.

Article 9: Science and Technology Program

Overview

This article establishes a new science and technology program to encourage technology start-up businesses, funded with a \$500,000 appropriation for the FY 2012-2013 biennium.

- 1 Citation. Names the law proposed in sections 2 through 10 the "Minnesota Science and Technology Program."
- 2 Definitions. Defines the following terms for purposes of the program:

Authority is the Minnesota Science and Technology Authority, an existing state entity that is established in Minnesota Statutes, section 116W.03.

College or university is a private or public postsecondary education institution that grants academic degrees and conducts research and development in science and technology.

Commercialization includes all of the activities involved with developing, producing, and selling a new product, ranging from basic research at the "conceptual stage" through selling the product.

Commercialized research project is research conducted in a college or university or at a nonprofit research institution or by a qualified science and technology company that has shown advanced commercial potential in the form of licenses, patents, or similar and for which a qualified science and technology company is being or has been formed.

Fund is the Minnesota science and technology fund created under section 3.

Nonprofit research institution is a 501(c) organization with its principal place of business in Minnesota that conducts significant research and development activities in Minnesota.

Program is the Minnesota science and technology program established by the article.

Qualified science and technology company is a business with fewer than 100 employees engaged in research, development, or production of science or technology in Minnesota.

3 Minnesota Science and Technology Fund. Establishes the Minnesota Science and Technology Fund as a special revenue fund in the state treasury. Payments from the fund may only be made at the request of the authority.

4 Authorized uses of the fund. Authorizes the fund to be used for:

- The commercialized research program under section 5
- The federal research and development support program under section 6
- The industry innovation and competitiveness program under section 7
- Carrying out the powers of the authority in support of the programs under sections 5 to 7

5 Commercialized research program. Authorizes the authority to establish a commercialized research program to encourage the creation of science and technology jobs. This program can provide grants of up to \$250,000 per project for:

- Research projects to assist in the commercialization of science and technology, developed by a college, university, or nonprofit organization and transferred to a qualified science and technology company; or
- Projects developed directly by a qualified science and technology company.

This program is subject to the following limits:

- The authority must establish written criteria for award and use of the grants;
- The recipient (college, university, nonprofit organization, or private company) must provide matching funds;
- No more than 15 percent of the funds may be used for overhead costs; and
- Recipients must report to the authority on the uses and outcomes of the grant within one year.

6 Federal research and development support program. Authorizes the authority to establish a federal research and development support program to increase and coordinate efforts to obtain federal funding for research of primary benefit to qualified science and technology companies, colleges and universities, and nonprofit research organizations.

Specifically, this program is to:

- Identify potential federal funding sources;
- Make grants to qualified science and technology companies;
- Help develop federal Small Business Innovation (SBIR) or Small Business Technology Transfer (STTR) proposals; and
- Match SBIR and STTR awards (subject to an annual \$1.5 million funding limit).

7

Industry innovation and competitiveness program. Authorizes the authority to create an industry technology and competitiveness program to:

- Provide matching funds to help startup qualified science and technology companies;
- Fund efforts to retain engineering, science, and technical jobs in Minnesota; and
- Fund science and technology industry growth clusters.

This program is subject to the following limits:

- The authority must establish written criteria for the award and use of the grants;
- The recipient (college, university, nonprofit organization, or private company) must provide matching funds; and
- Recipients must report to the authority on the uses and outcomes of the grant within one year.

8

Minnesota science and technology authority; powers. Grants the authority the powers necessary to carry out its purposes, including the power to make grants and loans and to pay for reasonable administrative expenses, including staff and professional fees. Administrative costs are limited to five percent of the first \$5,000,000 in the fund and two percent of any balance in excess of \$5,000,000.

In making grants, the authority is to give priority to qualified science and technology businesses that have "demonstrable economic benefits to the state" by creating jobs, attracting federal money, or creating new businesses.

In making grants to colleges, universities, and nonprofit research organizations, the authority is to give priority to proposals that:

- Promote collaboration with private businesses;
- Attract new research entities, talent, or resources to Minnesota; or
- Attract significant researchers and resources from outside of Minnesota.

Grant and loan agreements must be in writing and provide for repayment, if the recipient does not use them for the purposes intended. Interest charged on the loans and other revenues from the fund's transactions, including required repayments, go back to the corpus of the fund.

The authority may adopt administrative rules to implement the programs.

9

Repayment. Requires the recipient of an award, grant, loan, or other financial assistance to repay all or part of it, if the recipient moves out of Minnesota or ceases operation in the state within four years after it received the grant. If the relocation or closing occurs within three years of receipt, the entire amount must be repaid. Relocations or cessation of operation that occur after three years and before four years require repayment of 75 percent of the amount.

10

Expiration. Provides the law expires when the Minnesota Science and Technology Authority expires by law (June 20, 2018). If the authority expires any unused money in the fund are returned to the general fund.

11

Appropriation. Appropriates \$500,000 from the general fund to the Minnesota science and technology fund for fiscal year 2012. This appropriation carries over to fiscal year 2013 and up to \$107,000 of it may be used for administrative expenses of the authority, notwithstanding the percentage limits on administrative expenditures in section 8.

12 Effective date. Day following final enactment.

Article 10: Miscellaneous Overview

This article:

- Requires the *Tax Incidence Study* prepared by the Department of Revenue to include information on federal tax burden, and provides an appropriation for the additional cost.
- Transfers amounts in the Budget Reserve Account and Cash Flow Account to the general fund.
- Appropriates \$9 million to match federal funds for disaster relief for the spring floods and tornadoes.
- Extends various time deadlines and statutes of limitations as a result of the government shutdown.

1 Tax incidence study. Requires the Department of Revenue's biennial *Tax Incidence Study*, which is presented to the legislature in March of odd-numbered years, to include information on the distribution of federal taxes paid by Minnesota residents. Effective beginning with the study due in March of 2013.

2 Budget reserve account reduction. Directs the commissioner of management and budget to cancel \$8.665 million from the statutory budget reserve account to the general fund retroactive to July 1, 2011.

3 Cash flow account reduction. Directs the commissioner of management and budget to cancel \$171 million from the statutory cash flow account to the general fund retroactive to July 1, 2011.

4 Appropriation. Appropriates \$30,000 for the biennial cost of section 1's expansion of the tax incidence study.

5 Appropriation; disaster relief. Appropriates \$9 million for fiscal year 2012 to the commissioner of public safety to pay for the state and local match for federal disaster relief for:

- Spring floods in southern and western Minnesota (\$5 million of the appropriation is reserved for this purpose)
- The May 22, 2011, tornado in Minneapolis and Anoka county
- The July 1, 2011, storms and tornadoes.

Unexpended money from the 2010 disaster relief appropriation may be transferred to the commissioner of public safety.

6 Shutdown related modifications. Extends the time to take various actions related to tax statutes of limitation and other requirements because of the state government shutdown:

- Taxpayer claims. Tolls the running of tax statutes of limitation on refund claims and appeals for 30 days after the end of the government shutdown, if the commissioner determines that shutdown contributed to the inability to timely file.
- Commissioner actions. Extends the time period for the commissioner to take action (excluding the assessment of tax) until August 19, 2011, for actions the commissioner was required to take between July 1, 2011, and 30 days after final enactment (i.e., August 19, 2011).
- Property tax administration. Authorizes the commissioner to waive or extend, by order,

time limits under the property tax in 2011, if the commissioner determines the state shutdown has made doing otherwise impractical and that the waiver or extension will not prejudice the affected taxpayers. These commissioner orders are not appealable. The section does not apply to deadlines for property tax appeals.

- 7 Purpose statements for tax expenditures. Provides purpose statements for various tax expenditures added by the bill as follows:
- Estate tax exclusion for qualified farms and small businesses - allowing retention and continued operation of the farms and small businesses by the next generation of the families who own them
 - Federal update - simplification of tax compliance and administration
 - Sales tax exemption for ring tones - compliance with Streamlined Sales and Use Tax Agreement
 - Sales tax exemption for mineral processing equipment - treat nonferrous mining companies on the same basis as taconite mining companies (not a true tax expenditure, since it is an intermediate business input)
 - Sales tax exemption for resold admission tickets - prevent double taxation of a part of the price of these tickets and reduce the competitive advantage of out-of-state sellers without Minnesota nexus (not a true tax expenditure, since it is an attempt to accurately measure price/consumption)
 - Sales tax exemption for towns - provide state assistance to towns
 - Sales tax exemptions for local water purchases - provide state assistance for a public safety function of local governments (fire-fighting)
 - Emergency vehicles - clarify and treat other emergency vehicles the same as ambulances with the underlying purpose of providing state assistance to providers of emergency services.
- 8 Appropriations relationship to other appropriations. Provides that the appropriations in the bill are retroactive to July 1, 2011, and supersede or replace any funding for the same purpose authorized by the Ramsey County District Court in the government shutdown litigation.

Article 11: Tobacco Bonds

Overview

This article authorizes the commissioner of Minnesota management and budget (MMB) to issue a combination of tobacco securitization bonds and tobacco appropriation bonds to provide \$640 million to the general fund.

- 1 Deposit of tobacco settlement payments. Provides for deposit of tobacco settlement payments in special accounts to allow the securitization of the payments under section 3's authorization of tobacco securitization bonds and section 4's authorization of appropriation bonds.
- 2 Tobacco bonds; combined limit. Authorizes the commissioner of MMB to sell any combination of tobacco bonds under section 3 (tobacco securitization bonds) or 4 (tobacco appropriation bonds) to raise a net amount of \$640 million for the general fund.
- 3 Tobacco securitization bonds.
- Subd. 1. Definitions. Defines the following terms:
- Authority is the entity created by the section to manage securitization of the tobacco settlement payments.

- Authorized officer refers to the three members of the authority - the commissioners of MMB, Revenue, and Health.
- Bond is any bond of the authority.
- Bondholder is the registered owner of a bond.
- Commissioner is the commissioner of MMB.
- Consent judgment is the consent judgment in the Minnesota state tobacco litigation (Humphrey v. Philip Morris).
- General tobacco subaccount is account established by the authority within the tobacco settlement recovery account (see below) to receive proceeds of the bonds.
- Settlement agreement is the settlement agreement for the Minnesota state tobacco litigation (Humphrey v. Philip Morris).
- Net proceeds of bonds are gross proceeds of the bonds - after deduction of amounts for expenses, issuance costs, capitalized interest, and reserves. Investment earnings on the bond proceeds are excluded from the definition.
- Participating manufacturer is a tobacco company that signs the settlement agreement.
- Pledged tobacco revenues are the tobacco settlement payments that have been sold under the securitization arrangement.
- Related bond facility means a credit enhancement feature, such as a letter of credit or bond insurance policy.
- Residual amount in tobacco settlement revenues means tobacco settlement revenues that are not needed to be used under the securitization agreement.
- Sale agreement is the sale of tobacco settlement payments.
- State is the state of Minnesota.
- Tobacco settlement bond proceeds fund is created and receives the net proceeds from the sales of the tobacco settlement payments - this is the money that will go to the general fund.
- Tobacco settlement recovery account is an account established outside of the state treasury for the benefit of the purchasers of the payments or the tobacco securitization bonds. This account is divided into three subaccounts:
 - o General tobacco subaccount (see description above):
 - o Tobacco settlement revenues subaccount is the account established for the benefit of the purchasers of the payments or bonds. The sold tobacco settlement payments will be deposited in this subaccount and it will be used to pay debt service on the tobacco bonds.
 - o Tobacco settlement residual subaccount is the subaccount established to receive tobacco settlement revenues that will go to the state, because they are not needed for the bonds.
- Tobacco settlement revenues refers to all of the tobacco settlement payments received by the state after the effective date of the act.

Subd. 2. Sale of state's right to tobacco settlement revenues. Authorizes the commissioner to sell the state's tobacco settlement revenues to the authority during fiscal years 2012 and 2013 and to take whatever actions are needed to accomplish that goal. The net proceeds of such a sale are put into the general tobacco subaccount. Copies of the sale documents and reports must be provided to the chairs of the House Ways & Means Committee and the Senate

Finance Committee. The sale of the state's interest is stated to be a true sale and that the state gives up all of its ownership rights in the payments.

Subd. 3. Authority established. Establishes the authority as a governmental entity separate from state government and provides its accounts are outside of the state treasury. Upon its termination, which occurs 12 months after all of its liabilities are paid, all of its property reverts to the state. The authority is governed by a three-member board, consisting of the commissioners of MMB, Revenue, and Health. The operating procedures of the authority are established. The authority is prohibited from voluntarily filing for bankruptcy. An open, permanent appropriation of its moneys is provided to the authority.

Subd. 4. Powers of the authority. Establishes the basic powers of the authority necessary to its operations and to issue tobacco securitization bonds.

Subd. 5. Bonds of the authority. Authorizes the authority to issue up to \$900 million of bonds (refunding bonds do not count against this limit) to provide \$640 million of net proceeds to the general fund and to fund a reserve and to pay expenses of issuance and other costs. Bonds will be issued by resolution of the authority. The bonds are special revenue bonds, secured by a pledge of and payable only from the tobacco settlement revenues. The authority can issue refunding bonds when it deems it appropriate. The bonds can be sold at a private or public sale. The proceeds of the bonds are deposited in the general tobacco subaccount (outside of the state treasury) and are, then, transferred to the tobacco settlement bonds proceeds fund (within the state treasury). Residual amounts of tobacco settlement revenues (those not needed under the terms of the sale) are deposited in the tobacco settlement residual account and go to the general fund. The authority can obtain credit enhancements for the bonds that it determines appropriate. The bond register (identifying the bondholders) is specified to be private data under the government data practices act.

Subd. 6. State not liable on bonds. Provides the bonds are not state debt and the state is not liable for the bonds.

Subd. 7. Agreement with the state. Provides that the state irrevocably agrees to transfer the tobacco settlement revenues to the authority to pay the securitization bonds and to enforce the state's right to collect the tobacco settlement payments. Breach of these agreements may only be enforced by injunctive relief (i.e., the state is not liable for damages).

Subd. 8. Enforcement of contract. Provides that the section is a contract with the bondholders and may be enforced by mandamus or similar proceedings in the Minnesota state courts.

Subd. 9. Bonds as legal investments. Authorizes the state, local units of governments, banks, and fiduciaries to invest in the bonds.

Subd. 10. Exemption from taxation. Provides the authority, its property, operations, and income are exempt from tax.

Subd. 11. Report; audit. Requires the authority to make a complete financial report to the legislature and governor by January 15th after each fiscal year.

Subd. 12. Tobacco settlement recovery account. Directs the authority to establish three subaccounts and specifies the moneys to go into those subaccounts (see summary of subdivision 1):

- General tobacco subaccount - these moneys ultimately go to the state general fund
- Tobacco settlement revenues subaccount - these moneys go to pay back the bonds and related costs
- Tobacco settlement residual subaccount - these moneys ultimately go to the state general fund

Investment returns on each of the subaccounts are credited to those subaccounts. Amounts in

the tobacco settlement bond proceeds fund and its interest earnings are appropriated to the commissioner.

Subd. 13. Construction of section. Provides that the section's powers and provisions supplement the powers and authority, as well as other provisions, under general law. To the extent inconsistent, the provisions of the section control.

Subd. 14. Severability. Provides the all of the section's provisions are severable and the invalidity of one provision does not affect the validity of any other provision.

- 4 Tobacco appropriation bonds.** Authorizes the state to issue appropriation bonds, payable from tobacco settlement revenues and other general fund money appropriated for bond repayment. The total authorized principal is \$800 million to provide \$640 million. Specifies that the bonds are not general obligations of the state and the full faith and credit of the state is not pledged. Appropriates the proceeds of the bonds for payment of working capital, capital expenses, debt service on outstanding indebtedness of the state, to fund debt reserves for the appropriation bonds, and pay nonsalary expenses of issuing the bonds. Provides a standing statutory appropriation from the general fund of an amount sufficient to pay debt service on the appropriation bonds (see subdivision 8). Specifies that the statutory appropriation is subject to repeal, unallotment, or cancellation. Bonds are canceled and no longer outstanding on the earlier of (1) the first day of the fiscal year for which money is not appropriated to pay debt service, or (2) when the bonds are fully paid. Provides for a court test of the validity of appropriation bonds under state law and gives the state supreme court original jurisdiction over the matter.

Effective the day after enactment.