STATE OF MINNESOTA

EIGHTY-THIRD SESSION — 2004

ONE HUNDRED SEVENTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, MAY 12, 2004

The House of Representatives convened at 12:00 noon and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Rick Stanghelle, Chisago Lakes Evangelical Free Church, Lindstrom, Minnesota.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abeler Abrams Adolphson Anderson, B.	Dempsey Dill Dorman Dorn	Holberg Hoppe Hornstein Howes	Lieder Lindgren Lindner Lipman	Ozment Paulsen Paymar Pelowski	Strachan Swenson Sykora Thao
Anderson, I.	Eastlund	Huntley	Magnus	Penas	Thissen
Anderson, J.	Eken	Jacobson	Mahoney	Peterson	Tingelstad
Atkins	Ellison	Jaros	Mariani	Powell	Urdahl
Bernardy	Entenza	Johnson, J.	Marquart	Pugh	Vandeveer
Biernat	Erhardt	Johnson, S.	McNamara	Rhodes	Wagenius
Blaine	Erickson	Juhnke	Meslow	Rukavina	Walker
Borrell	Finstad	Kahn	Mullery	Ruth	Walz
Boudreau	Fuller	Kelliher	Murphy	Samuelson	Wardlow
Bradley	Gerlach	Klinzing	Nelson, C.	Seagren	Wasiluk
Brod	Goodwin	Knoblach	Nelson, M.	Seifert	Westerberg
Buesgens	Greiling	Koenen	Nelson, P.	Sertich	Westrom
Carlson	Gunther	Kohls	Newman	Severson	Wilkin
Clark	Haas	Krinkie	Nornes	Sieben	Zellers
Cornish	Hackbarth	Kuisle	Olsen, S.	Simpson	Spk. Sviggum
Cox	Harder	Lanning	Olson, M.	Slawik	
Davids	Hausman	Larson	Opatz	Smith	
Davnie	Heidgerken	Latz	Osterman	Soderstrom	
DeLaForest	Hilstrom	Lenczewski	Otremba	Solberg	
Demmer	Hilty	Lesch	Otto	Stang	

A quorum was present.

Beard was excused until 3:00 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Otto moved that further reading of the Journal be suspended and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF CHIEF CLERK

S. F. No. 2696 and H. F. No. 2816, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Westerberg moved that the rules be so far suspended that S. F. No. 2696 be substituted for H. F. No. 2816 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communication was received:

STATE OF MINNESOTA OFFICE OF THE SECRETARY OF STATE ST. PAUL 55155

The Honorable Steve Sviggum Speaker of the House of Representatives

The Honorable James P. Metzen President of the Senate

I have the honor to inform you that the following enrolled Act of the 2004 Session of the State Legislature has been received from the Office of the Governor and is deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

			Time and	
S. F.	H. F.	Session Laws	Date Approved	Date Filed
No.	No.	Chapter No.	2004	2004
2851		177	3:05 p.m. May 7	May 7

Sincerely,

MARY KIFFMEYER Secretary of State

REPORTS OF STANDING COMMITTEES

Abrams from the Committee on Taxes to which was referred:

H. F. No. 1166, A bill for an act relating to natural resources; proposing an amendment to the Minnesota Constitution, by adding a section to article XI; dedicating sales tax proceeds of one-fourth of one percent of taxable sales for natural resource purposes; creating a heritage enhancement fund and council, a parks and trails fund, and a clean water fund and council; requiring a report; amending Minnesota Statutes 2002, section 10A.01, subdivision 35; proposing coding for new law in Minnesota Statutes, chapters 85; 97A; 103F.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

CONSTITUTIONAL AMENDMENT

Section 1. [CONSTITUTIONAL AMENDMENT.]

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, a section will be added to article XI, to read:

Sec. 15. Beginning July 1, 2007, the sales and use tax receipts equal to the state sales and use tax of 1/8 of one percent on sales and uses taxable under the general state sales and use tax law, plus penalties and interest and reduced by any refunds, shall be deposited in the heritage enhancement fund and may be spent only to improve, enhance, or protect game and fish habitat and provide hunter and angler access. The money dedicated under this section shall be appropriated by law and shall not be used as a substitute for traditional funding sources for the purposes specified, but the dedicated money shall supplement traditional sources of funding for those purposes. A heritage enhancement fund is created in the state treasury. Land acquired with money deposited in the heritage enhancement fund under this section must be open to public taking of game and fish during the open season.

Sec. 2. [SUBMISSION TO VOTERS.]

The proposed amendment shall be submitted to the people at the 2004 general election. The question submitted shall be:

"Shall the Minnesota Constitution be amended to provide funding beginning July 1, 2007, to improve, enhance, or protect game and fish habitat and provide hunter and angler access by dedicating the sales and use tax receipts equal to the state sales and use tax of 1/8 of one percent on taxable sales?

Yes No'

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 apply to sales and use tax receipts collected after June 30, 2007.

ARTICLE 2

CONFORMING CHANGES

Section 1. [97A.056] [HERITAGE ENHANCEMENT FUND; HERITAGE ENHANCEMENT COUNCIL.]

- Subdivision 1. [FUND.] The heritage enhancement fund is established in the Minnesota Constitution, article XI, section 15. At least 99 percent of the money appropriated from the fund must be spent on game and fish projects on public and private lands.
- <u>Subd.</u> 2. [HERITAGE ENHANCEMENT COUNCIL.] (a) <u>A heritage enhancement council of 11 members is created, consisting of:</u>
- (1) two members of the senate appointed by the senate subcommittee on committees of the committee on rules and administration;
 - (2) two members of the house appointed by the speaker of the house;
- (3) three public members representing hunting and fishing groups appointed by the senate subcommittee on committees of the committee on rules and administration;
 - (4) three public members representing hunting and fishing groups appointed by the speaker of the house; and
 - (5) one public member appointed by the governor.
- (b) One member from the senate and one member from the house must be from the minority caucus. Legislative members are entitled to reimbursement for per diem expenses plus travel expenses incurred in the services of the council. The compensation and removal of public members are as provided in section 15.0575.
- (c) Members shall appoint a chair who shall preside and convene meetings as often as necessary to conduct the duties prescribed by this section.
- (d) Membership terms are two years, except that members shall serve on the council until their successors are appointed.
- (e) <u>Vacancies occurring on the council do not affect the authority of the remaining members of the council to carry out their duties.</u> <u>Vacancies shall be filled in the same manner as under paragraph (a).</u>
- Subd. 3. [DUTIES OF HERITAGE COUNCIL.] (a) The council shall develop a biennial budget plan for expenditures from the heritage enhancement fund. The biennial budget plan may include grants to local fishing and hunting groups to improve, enhance, or protect game and fish resources. By August 15 of each even-numbered year, the council shall submit the budget plan to the commissioner of finance.
- (b) In the biennial budget submitted to the legislature, the governor shall submit separate budget detail for planned expenditures from the heritage enhancement fund as recommended by the council.
- (c) Entities receiving appropriations from the heritage enhancement fund shall submit a work program and semiannual progress reports to the heritage enhancement council in the form determined by the council.

- Subd. 4. [HERITAGE COUNCIL ADMINISTRATION.] (a) The council may appoint legal and other personnel and consultants necessary to carry out functions and duties of the council. Permanent employees shall be in the unclassified service. The council may request staff assistance and data from any other agency of state government as needed for the execution of the responsibilities of the council and an agency must promptly furnish the requested assistance or data.
 - (b) The administrative expenses of the council shall be paid from the heritage enhancement fund.
- (c) A council member or an employee of the council may not participate in or vote on a decision of the council relating to an organization in which the member or employee has either a direct or indirect personal financial interest. While serving on or employed by the council, a person shall avoid any potential conflict of interest.
 - Sec. 2. Minnesota Statutes 2002, section 297A.94, is amended to read:

297A.94 [DEPOSIT OF REVENUES.]

- (a) Except as provided in this section <u>and the Minnesota Constitution</u>, <u>article XI</u>, <u>section 15</u>, the commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed by this chapter in the state treasury and credit them to the general fund.
- (b) The commissioner shall deposit taxes in the Minnesota agricultural and economic account in the special revenue fund if:
- (1) the taxes are derived from sales and use of property and services purchased for the construction and operation of an agricultural resource project; and
- (2) the purchase was made on or after the date on which a conditional commitment was made for a loan guaranty for the project under section 41A.04, subdivision 3.

The commissioner of finance shall certify to the commissioner the date on which the project received the conditional commitment. The amount deposited in the loan guaranty account must be reduced by any refunds and by the costs incurred by the department of revenue to administer and enforce the assessment and collection of the taxes.

- (c) The commissioner shall deposit the revenues, including interest and penalties, derived from the taxes imposed on sales and purchases included in section 297A.61, subdivision 3, paragraph (g), clauses (1) and (4), in the state treasury, and credit them as follows:
- (1) first to the general obligation special tax bond debt service account in each fiscal year the amount required by section 16A.661, subdivision 3, paragraph (b); and
 - (2) after the requirements of clause (1) have been met, the balance to the general fund.
- (d) The commissioner shall deposit the revenues, including interest and penalties, collected under section 297A.64, subdivision 5, in the state treasury and credit them to the general fund. By July 15 of each year the commissioner shall transfer to the highway user tax distribution fund an amount equal to the excess fees collected under section 297A.64, subdivision 5, for the previous calendar year.
- (e) For fiscal year 2001, 97 percent; for fiscal years 2002 and 2003, 87 percent; and for fiscal year 2004 and thereafter, 87.1 percent of the revenues, including interest and penalties, transmitted to the commissioner under section 297A.65, must be deposited by the commissioner in the state treasury as follows:

- (1) 50 percent of the receipts must be deposited in the heritage enhancement account in the game and fish fund, and may be spent only on activities that improve, enhance, or protect fish and wildlife resources, including conservation, restoration, and enhancement of land, water, and other natural resources of the state;
- (2) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only for state parks and trails;
- (3) 22.5 percent of the receipts must be deposited in the natural resources fund, and may be spent only on metropolitan park and trail grants;
- (4) three percent of the receipts must be deposited in the natural resources fund, and may be spent only on local trail grants; and
- (5) two percent of the receipts must be deposited in the natural resources fund, and may be spent only for the Minnesota zoological garden, the Como park zoo and conservatory, and the Duluth zoo.
- (f) The revenue dedicated under paragraph (e) may not be used as a substitute for traditional sources of funding for the purposes specified, but the dedicated revenue shall supplement traditional sources of funding for those purposes. Land acquired with money deposited in the game and fish fund under paragraph (e) must be open to public hunting and fishing during the open season, except that in aquatic management areas or on lands where angling easements have been acquired, fishing may be prohibited during certain times of the year and hunting may be prohibited. At least 87 percent of the money deposited in the game and fish fund for improvement, enhancement, or protection of fish and wildlife resources under paragraph (e) must be allocated for field operations.

Sec. 3. [EFFECTIVE DATE.]

Sections $\underline{1}$ and $\underline{2}$ are effective July $\underline{1}$, $\underline{2007}$, if the constitutional amendment proposed in article $\underline{1}$ is adopted by the voters."

Delete the title and insert:

"A bill for an act relating to natural resources; proposing an amendment to the Minnesota Constitution, article XI; dedicating the sales tax receipts equal to a sales tax of 1/8 of one percent on taxable sales for game and fish purposes; creating a heritage enhancement fund and a heritage enhancement council; providing for appointments; amending Minnesota Statutes 2002, section 297A.94; proposing coding for new law in Minnesota Statutes, chapter 97A."

With the recommendation that when so amended the bill be re-referred to the Committee on Ways and Means without further recommendation.

The report was adopted.

Abrams from the Committee on Taxes to which was referred:

H. F. No. 2083, A bill for an act relating to taxation; clarifying the production tax rate of certain direct reduced ore; amending Minnesota Statutes 2002, section 298.24, subdivision 1.

Reported the same back with the following amendments:

Page 2, line 30, delete "per" and insert "in the current year or in any prior"

Page 2, line 33, after "plant's" insert "commercial"

Page 2, line 36, strike "such" and insert "commercial"

Page 3, line 1, strike "such" and insert "commercial"

Page 3, line 3, after "subsequent" insert "commercial"

Page 3, line 13, delete "for the first"

Page 3, line 14, delete "two years of" and insert "during the facility's"

With the recommendation that when so amended the bill pass.

The report was adopted.

Abrams from the Committee on Taxes to which was referred:

H. F. No. 2298, A bill for an act providing for designation of an international economic development zone; providing tax incentives; appropriating money; amending Minnesota Statutes 2002, sections 272.02, by adding a subdivision; 290.06, by adding a subdivision; 297A.68, by adding a subdivision; 297B.03; Minnesota Statutes 2003 Supplement, sections 290.01, subdivisions 19b, 29; 290.06, subdivision 2c; 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290.0922, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapters 469; 477A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:

- <u>Subd. 73.</u> [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE PROPERTY.] (a) <u>Improvements to real property, and personal property, classified under section 273.13, subdivision 24, and located within an international economic development zone designated under section 469.322, are exempt from ad valorem taxes levied under chapter 275, if the occupant of the property is a qualified business, as defined in section 469.321.</u>
- (b) The exemption applies beginning for the first assessment year after designation of the international economic development zone. The exemption applies to each assessment year that begins during the duration of the international economic development zone and to property occupied by July 1 of the assessment year by a qualified business for the duration permitted under section 469.324, subdivision 2.
 - Sec. 2. Minnesota Statutes 2002, section 290.06, is amended by adding a subdivision to read:
- <u>Subd.</u> 32. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE JOB CREDIT.] <u>A taxpayer that is a qualified business, as defined in section 469.321, subdivision 6, is allowed a credit as determined under section 469.325 against the tax imposed by this chapter.</u>

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 3. Minnesota Statutes 2002, section 290.191, is amended by adding a subdivision to read:
- <u>Subd.</u> 13. [INTERNATIONAL ECONOMIC DEVELOPMENT ZONES.] (a) <u>A qualified business as defined</u> under section 469.321 may exclude from:
 - (1) the numerator of its payroll factor the amount of its international economic development zone payroll; and
- (2) the numerator of its property factor the amount of its property with a situs in the international economic development zone.
- (b) The provisions of this subdivision apply to a qualified business for the duration provided under section 469.324.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 4. Minnesota Statutes 2002, section 297A.68, is amended by adding a subdivision to read:
- <u>Subd. 41.</u> [INTERNATIONAL ECONOMIC DEVELOPMENT ZONES.] (a) <u>Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.321, are exempt if the property or services are primarily used or consumed in an international economic development zone designated under section 469.322.</u>
- (b) <u>Purchase and use of construction materials and supplies for construction of improvements to real property in an international economic development zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.321. This exemption applies regardless of whether the purchases are made by the business or a contractor.</u>
- (c) The exemptions under this subdivision apply to a local sales and use tax, regardless of whether the local tax is imposed on sales taxable under this chapter or in another law, ordinance, or charter provision.
- (d) This subdivision applies to sales, if the purchase was made and delivery received during the period provided under section 469.324, subdivision 2.

[EFFECTIVE DATE.] This section is effective for sales made on or after the day following final enactment.

Sec. 5. [469.321] [DEFINITIONS.]

<u>Subdivision 1.</u> [SCOPE.] <u>For purposes of sections 469.321 to 469.327, the following terms have the meanings given.</u>

- <u>Subd. 2.</u> [FOREIGN TRADE ZONE.] <u>"Foreign trade zone" means a foreign trade zone designated pursuant to United States Code, title 19, section 81b, for the right to use the powers provided in United States Code, title 19, sections 81a to 81u, or a subzone authorized by the foreign trade zone.</u>
- <u>Subd. 3.</u> [FOREIGN TRADE ZONE AUTHORITY.] <u>"Foreign trade zone authority" means the Greater Metropolitan Foreign Trade Zone Commission number 119, a joint powers authority created by the county of Hennepin, the cities of Minneapolis and Bloomington, and the Metropolitan Airports Commission, under the authority of section 469.059 or 469.101, which includes any other political subdivisions that enter into the authority after its creation.</u>

- <u>Subd.</u> <u>4.</u> [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.] <u>An "international economic development zone" or "zone" is a zone so designated under section 469.322.</u>
- <u>Subd.</u> <u>5.</u> [PERSON.] <u>"Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.</u>
- <u>Subd.</u> <u>6.</u> [QUALIFIED BUSINESS.] <u>(a) "Qualified business" means a person carrying on a trade or business at a place of business located within an international economic development zone that is:</u>
 - (1) engaged in the furtherance of international export or import of goods; and
- (2) certified by the foreign trade zone authority as a trade or business that furthers the purpose of developing international distribution capacity and capability.
- (b) A person that relocates a trade or business from within Minnesota but outside an international economic development zone into an international economic development zone is not a qualified business, unless the business:
- (1)(i) increases full-time employment in the first full year of operation within the international economic development zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year that tax incentives under section 469.324 are claimed; or
- (ii) makes a capital investment in the property located within a zone equal to at least ten percent of the gross revenues of the operations that were relocated in the immediately proceeding taxable year; and
 - (2) enters a binding written agreement with the foreign trade zone authority that:
 - (i) pledges that the business will meet the requirements of clause (1);
- (ii) provides for repayment of all tax benefits enumerated under section 469.324 to the business under the procedures in section 469.326, if the requirements of clause (1) are not met for the taxable year or for taxes payable during a year in which the requirements were not met; and
 - (iii) contains any other terms the foreign trade zone authority determines appropriate.
 - Clause (1) of this paragraph does not apply to a freight forwarder.
- Subd. 7. [REGIONAL DISTRIBUTION CENTER.] A "regional distribution center" is a distribution center developed within a foreign trade zone. The regional distribution center must have as its primary purpose to facilitate gathering of freight for the purpose of centralizing the functions necessary for the shipment of freight in international commerce, including, but not limited to, security and customs functions.
 - <u>Subd.</u> 8. [RELOCATE.] (a) "Relocate" means that a trade or business:
- (1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in an international economic development zone; or
- (2) reduces employment at another location in Minnesota during a period starting one year before and ending one year after it begins operations in an international economic development zone and its employees in the international economic development zone are engaged in the same line of business as the employees at the location where it reduced employment.

- (b) "Relocate" does not include an expansion by a business that establishes a new facility that does not replace or supplant an existing operation or employment, in whole or in part.
- (c) "Trade or business" includes any business entity that is substantially similar in operation or ownership to the business entity seeking to be a qualified business.
- <u>Subd.</u> <u>9.</u> [INTERNATIONAL ECONOMIC DEVELOPMENT ZONE PAYROLL FACTOR.] <u>"International economic development zone payroll factor" or "international economic development zone payroll" is that portion of the payroll factor under section 290.191 that represents:</u>
- (1) wages or salaries paid to an individual for services performed in an international economic development zone; or
- (2) wages or salaries paid to individuals working from offices within an international economic development zone, if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.
- <u>Subd.</u> 10. [FREIGHT FORWARDER.] <u>"Freight forwarder" is a business that, for compensation, ensures that goods produced or sold by another business move from point of origin to point of destination.</u>

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 6. [469.322] [DESIGNATION OF INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.]
- (a) An area designated as a foreign trade zone may be designated by the foreign trade zone authority as an international economic development zone if within the zone a regional distribution center is being developed pursuant to section 469.323. The zone must consist of contiguous area of not less than 500 acres and not more than 1,000 acres. The designation authority under this section is limited to one zone.
- (b) In making the designation, the foreign trade zone authority, in consultation with the Minnesota Department of Transportation and the Metropolitan Council, shall consider access to major transportation routes, consistency with current state transportation and air cargo planning, adequacy of the size of the site, access to airport facilities, present and future capacity at the designated airport, the capability to meet integrated present and future air cargo, security, and inspection services, and access to other infrastructure and financial incentives. The border of the international economic development zone must be no more than 60 miles distant or 90 minutes drive time from the border of the Minneapolis-St. Paul International Airport. The county in which the zone is located must be a member of the foreign trade zone authority.
- (c) Prior to a final site designation, a transportation impact study based on the regional model and utilizing traffic forecasting and assignments must be conducted. The results must be used to evaluate the effects of the proposed use on the transportation system and identify any needed improvements. If the site is in the metropolitan area the study must also evaluate the effect of the transportation impacts on the Metropolitan Transportation System plan as well as the comprehensive plans of the municipalities that would be affected.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 7. [469.323] [FOREIGN TRADE ZONE AUTHORITY POWERS.]

<u>Subdivision 1.</u> [DEVELOPMENT OF REGIONAL DISTRIBUTION CENTER.] <u>The foreign trade zone authority is responsible for creating a development plan for the regional distribution center. The regional distribution center must be developed with the purpose of expanding, on a regional basis, international distribution</u>

capacity and capability. The foreign trade zone authority shall consult with municipalities that have indicated to the authority an interest in locating the international economic development zone within their boundaries, as well as interested businesses, potential financiers, and appropriate state and federal agencies.

Subd. 2. [PORT AUTHORITY POWERS.] The governing body of the foreign trade zone authority may establish a port authority that has the same powers as a port authority established under section 469.049. If the foreign trade zone authority establishes a port authority, the governing body of the foreign trade zone authority may exercise all powers granted to a city by sections 469.048 to 469.068, except it may not impose or request imposition of a property tax levy under section 469.053 by any city.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 8. [469.324] [TAX INCENTIVES IN INTERNATIONAL ECONOMIC DEVELOPMENT ZONE.]

Subdivision 1. [AVAILABILITY.] Qualified businesses that operate in an international economic development zone, individuals who invest in a regional distribution center or qualified businesses that operate in an international economic development zone, and property located in an international economic development zone qualify for:

- (1) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 41;
 - (2) exemption from the property tax as provided in section 272.02, subdivision 73;
 - (3) the jobs credit allowed under section 469.325;
 - (4) the corporate franchise tax exemption under section 290.191, subdivision 13.
- Subd. 2. [DURATION.] (a) Except as provided in paragraph (b), the jobs credit described in subdivision 1, clause (3), and the corporate franchise exemption under subdivision 1, clause (4), is available for no more than eight consecutive taxable years for any taxpayer. The sales and use tax exemption described in subdivision 1, clause (1), is available for each taxpayer that claims it for taxes otherwise payable on transactions during a period of eight years from the date when the first exemption is claimed by that taxpayer. The property tax exemption described under subdivision 1, clause (2), is available for any parcel of property for eight consecutive taxes payable years. No incentives described in subdivision 1, clauses (1) to (4), are available after December 31, 2020.
- (b) For taxpayers that are freight forwarders, the durations provided under paragraph (a) are reduced to four years.

Sec. 9. [469.325] [JOBS CREDIT.]

<u>Subdivision 1.</u> [CREDIT ALLOWED.] <u>A qualified business is allowed a credit against the taxes imposed under chapter 290. The credit equals seven percent of the:</u>

- (1) lesser of:
- (i) zone payroll for the taxable year, less the zone payroll for the base year; or
- (ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

- (2) \$30,000 multiplied by the number of full-time equivalent employees that the qualified business employs in the international economic development zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero.
 - Subd. 2. [DEFINITIONS.] (a) For purposes of this section, the following terms have the meanings given.
- (b) "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the zone designation took effect.
- (c) "Full-time equivalent employees" means the equivalent of annualized expected hours of work equal to 2,080 hours.
- (d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.
- (e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds \$100,000.
- <u>Subd.</u> 3. [INFLATION ADJUSTMENT.] <u>For taxable years beginning after December 31, 2005, the dollar amounts in subdivision 1, clause (2), and subdivision 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.</u>
- <u>Subd.</u> 4. [REFUNDABLE.] <u>If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.</u>
- <u>Subd.</u> <u>5.</u> [APPROPRIATION.] <u>An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.</u>

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2004.

Sec. 10. [469.326] [REPAYMENT OF TAX BENEFITS.]

- Subdivision 1. [REPAYMENT OBLIGATION.] A person <u>must repay the amount of the tax reduction received under section 469.324, subdivision 1, clauses (1) and (2), or a refund received under section 469.325, during the two years immediately before it ceased to operate in the zone, if the person ceased to operate its facility located within the zone or otherwise ceases to be or is not a qualified business.</u>
- Subd. 2. [DISPOSITION OF REPAYMENT.] The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the local governments with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales or use taxes must be repaid to the jurisdiction imposing the local sales or use tax.
- Subd. 3. [REPAYMENT PROCEDURES.] (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected under section 297A.99, a person must file an amended return with the commissioner of revenue and pay any taxes required to be repaid within 30 days after ceasing to be a qualified business. The amount required to be repaid is determined by calculating the tax for the period for which repayment is required without regard to the tax reductions allowed under section 469.324.

- (b) For the repayment of property taxes, the county auditor shall prepare a tax statement for the person, applying the applicable tax extension rates for each payable year and provide a copy to the business. The person must pay the taxes to the county treasurer within 30 days after receipt of the tax statement. The taxpayer may appeal the valuation and determination of the property tax to the tax court within 30 days after receipt of the tax statement.
- (c) The provisions of chapters 270 and 289A relating to the commissioner of revenue's authority to audit, assess, and collect the tax and to hear appeals apply to the repayment required under paragraph (a). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270.75, from 30 days after ceasing to do business in the zone until the date the tax is paid.
- (d) If a property tax is not repaid under paragraph (b), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the treasurer discovers that the person ceased to operate in the international economic development zone.
- (e) For determining the tax required to be repaid, a tax reduction is deemed to have been received on the date that the tax would have been due if the person had not been entitled to the tax reduction.
- (f) The commissioner of revenue may assess the repayment of taxes under paragraph (c) at any time within two years after the person ceases to be a qualified business, or within any period of limitations for the assessment of tax under section 289A.38, whichever is later.
- Subd. 4. [WAIVER AUTHORITY.] The commissioner may waive all or part of a repayment, if the commissioner of revenue, in consultation with the foreign trade zone authority and appropriate officials from the state and local government units, determines that requiring repayment of the tax is not in the best interest of the state or local government and the business ceased operating as a result of circumstances beyond its control, including, but not limited to:
 - (1) a natural disaster;
 - (2) unforeseen industry trends; or
 - (3) loss of a major supplier or customer.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 11. [469.327] [REPORTING REQUIREMENTS.]

Before designation of an international economic development zone under section 469.322, the foreign trade zone authority shall establish performance goals for the zone. These goals must set out, at a minimum, the amount of investment, the number of jobs, and the amount of freight handled expected to be attained at the end of three, five, and 10 year periods by the zone. The authority must annually report to the commissioner of the Department of Employment and Economic Development on its progress in attaining these goals.

[EFFECTIVE DATE.] This section is effective the day following final enactment."

Delete the title and insert:

"A bill for an act providing for designation of an international economic development zone; providing tax incentives; appropriating money; amending Minnesota Statutes 2002, sections 272.02, by adding a subdivision; 290.06, by adding a subdivision; 290.191, by adding a subdivision; 297A.68, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 469."

With the recommendation that when so amended the bill pass.

The report was adopted.

Abrams from the Committee on Taxes to which was referred:

H. F. No. 2936, A bill for an act relating to local government; authorizing the city of St. Paul to participate in the creation of, and to contract with, a nonprofit organization for management and operation of the RiverCentre complex.

Reported the same back with the following amendments:

Page 3, line 19, before the period, insert ", to the extent it would be exempt if the complex was equipped, maintained, managed, and operated by the city"

Page 3, after line 19, insert:

"(c) Gross receipts of tickets and admissions to events at the RiverCentre complex sponsored by the nonprofit organization created in section 2 do not qualify for the sales tax exemption under Minnesota Statutes, section 297A.70, subdivision 10."

With the recommendation that when so amended the bill pass.

The report was adopted.

Abrams from the Committee on Taxes to which was referred:

H. F. No. 3091, A bill for an act relating to metropolitan government; providing for the financing of metropolitan area transit and paratransit capital expenditures; authorizing the issuance of certain obligations; amending Minnesota Statutes 2002, section 473.39, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

FEDERAL UPDATE

- Section 1. Minnesota Statutes 2003 Supplement, section 289A.02, subdivision 7, is amended to read:
- Subd. 7. [INTERNAL REVENUE CODE.] Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through June 15, 2003 April 10, 2004.

[EFFECTIVE DATE.] This section is effective for actions required on or after November 11, 2003.

- Sec. 2. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19, is amended to read:
- Subd. 19. [NET INCOME.] The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in subdivisions 19a to 19f.

In the case of a regulated investment company or a fund thereof, as defined in section 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment company taxable income as defined in section 852(b)(2) of the Internal Revenue Code, except that:

- (1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal Revenue Code does not apply;
- (2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal Revenue Code must be applied by allowing a deduction for capital gain dividends and exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal Revenue Code; and
- (3) the deduction for dividends paid must also be applied in the amount of any undistributed capital gains which the regulated investment company elects to have treated as provided in section 852(b)(3)(D) of the Internal Revenue Code.

The net income of a real estate investment trust as defined and limited by section 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

The net income of a designated settlement fund as defined in section 468B(d) of the Internal Revenue Code means the gross income as defined in section 468B(b) of the Internal Revenue Code.

The provisions of sections 1113(a), 1117, 1206(a), 1313(a), 1402(a), 1403(a), 1443, 1450, 1501(a), 1605, 1611(a), 1612, 1616, 1617, 1704(l), and 1704(m) of the Small Business Job Protection Act, Public Law 104-188, the provisions of Public Law 104-117, the provisions of sections 313(a) and (b)(1), 602(a), 913(b), 941, 961, 971, 1001(a) and (b), 1002, 1003, 1012, 1013, 1014, 1061, 1062, 1081, 1084(b), 1086, 1087, 1111(a), 1131(b) and (c), 1211(b), 1213, 1530(c)(2), 1601(f)(5) and (h), and 1604(d)(1) of the Taxpayer Relief Act of 1997, Public Law 105-34, the provisions of section 6010 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, the provisions of section 4003 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277, and the provisions of section 318 of the Consolidated Appropriation Act of 2001, Public Law 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1996, shall be in effect for taxable years beginning after December 31, 1996.

The provisions of sections 202(a) and (b), 221(a), 225, 312, 313, 913(a), 934, 962, 1004, 1005, 1052, 1063, 1084(a) and (c), 1089, 1112, 1171, 1204, 1271(a) and (b), 1305(a), 1306, 1307, 1308, 1309, 1501(b), 1502(b), 1504(a), 1505, 1527, 1528, 1530, 1601(d), (e), (f), and (i) and 1602(a), (b), (c), and (e) of the Taxpayer Relief Act of 1997, Public Law 105-34, the provisions of sections 6004, 6005, 6012, 6013, 6015, 6016, 7002, and 7003 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, the provisions of section 3001 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277, the provisions of section 3001 of the Miscellaneous Trade and Technical Corrections Act of 1999, Public Law 106-36, and the provisions of section 316 of the Consolidated Appropriation Act of 2001, Public Law 106-554, and the provision of section 101 of the Military Family Tax Relief Act of 2003, Public Law 108-121, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1997, shall be in effect for taxable years beginning after December 31, 1997.

The provisions of sections 5002, 6009, 6011, and 7001 of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, the provisions of section 9010 of the Transportation Equity Act for the 21st Century, Public Law 105-178, the provisions of sections 1004, 4002, and 5301 of the Omnibus Consolidation

and Emergency Supplemental Appropriations Act, 1999, Public Law 105-277, the provision of section 303 of the Ricky Ray Hemophilia Relief Fund Act of 1998, Public Law 105-369, the provisions of sections 532, 534, 536, 537, and 538 of the Ticket to Work and Work Incentives Improvement Act of 1999, Public Law 106-170, the provisions of the Installment Tax Correction Act of 2000, Public Law 106-573, and the provisions of section 309 of the Consolidated Appropriation Act of 2001, Public Law 106-554, shall become effective at the time they become effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1998, shall be in effect for taxable years beginning after December 31, 1998.

The provisions of the FSC Repeal and Extraterritorial Income Exclusion Act of 2000, Public Law 106-519, and the provision of section 412 of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147, shall become effective at the time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 1999, shall be in effect for taxable years beginning after December 31, 1999. The provisions of sections 306 and 401 of the Consolidated Appropriation Act of 2001, Public Law 106-554, and the provision of section 632(b)(2)(A) of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16, and provisions of sections 101 and 402 of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147, shall become effective at the same time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through December 31, 2000, shall be in effect for taxable years beginning after December 31, 2000. The provisions of sections 659a and 671 of the Economic Growth and Tax Relief Reconciliation Act of 2001, Public Law 107-16, the provisions of sections 104, 105, and 111 of the Victims of Terrorism Tax Relief Act of 2001, Public Law 107-134, and the provisions of sections 201, 403, 413, and 606 of the Job Creation and Worker Assistance Act of 2002, Public Law 107-147, and the provision of section 102 of the Military Family Tax Relief Act of 2003, Public Law 108-121, shall become effective at the same time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through March 15, 2002, shall be in effect for taxable years beginning after December 31, 2001.

The provisions of sections 101 and 102 of the Victims of Terrorism Tax Relief Act of 2001, Public Law 107-134, shall become effective at the same time it becomes effective for federal purposes.

The Internal Revenue Code of 1986, as amended through June 15, 2003, shall be in effect for taxable years beginning after December 31, 2002. The provisions of section 201 of the Jobs and Growth Tax Relief and Reconciliation Act of 2003, H.R. 2, if it is enacted into law Public Law 108-27, and the provisions of sections 103, 106, 108, 109, and 110 of the Military Family Tax Relief Act of 2003, Public Law 108-121, are effective at the same time it became effective for federal purposes.

The Internal Revenue Code of 1986, as amended through April 10, 2004, shall be in effect for taxable years beginning after December 31, 2003.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19a to 19g mean the code in effect for purposes of determining net income for the applicable year.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 3. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19a, is amended to read:
- Subd. 19a. [ADDITIONS TO FEDERAL TAXABLE INCOME.] For individuals, estates, and trusts, there shall be added to federal taxable income:
- (1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute; and
- (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and
- (iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located:
- (2) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income tax is the last itemized deduction disallowed:
- (3) the capital gain amount of a lump sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;
- (4) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;
 - (5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10;
- (6) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code; and
- (7) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed.

- (8) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans;
- (9) the deduction allowed under section 223 of the Internal Revenue Code for contributions to health savings accounts; and
- (10) to the extent not included in federal taxable income, distributions from a health savings account that do not represent a return of contributions that were included in Minnesota gross income in the taxable year for which the contributions were made. In determining if the distribution represents a return of contributions and if the distribution is included in federal taxable income, the distribution is allocated as provided in subdivision 19b, clause (13).

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

- Sec. 4. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19b, is amended to read:
- Subd. 19b. [SUBTRACTIONS FROM FEDERAL TAXABLE INCOME.] For individuals, estates, and trusts, there shall be subtracted from federal taxable income:
- (1) interest income on obligations of any authority, commission, or instrumentality of the United States to the extent includable in taxable income for federal income tax purposes but exempt from state income tax under the laws of the United States;
- (2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;
- (3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;
 - (4) income as provided under section 290.0802;
- (5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;
- (6) to the extent included in federal taxable income, postservice benefits for youth community service under section 124D.42 for volunteer service under United States Code, title 42, sections 12601 to 12604;

- (7) to the extent not deducted in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code over \$500:
- (8) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code:
- (9) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;
- (10) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero; and
 - (11) job opportunity building zone income as provided under section 469.316.;
- (12) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Service Members Civil Relief Act, Public Law 108-189, section 101(2), performed by a nonresident. This subtraction does not apply to "retirement income" as defined in section 290.17, subdivision 2, paragraph (a), clause (3);
- (13) to the extent included in federal taxable income, distributions from a health savings account that represent a return of contributions that were included in Minnesota gross income in the taxable year for which the contributions were made but were deducted or were not included in the computation of federal adjusted gross income. In determining if the distribution represents a return of contributions under this clause, the distribution shall be allocated first to return of contributions until the contributions included in Minnesota gross income have been exhausted. In determining if the distribution is included in federal taxable income, the distribution shall be allocated first to qualified medical expenses not included in the computation of federal adjusted gross income under section 223 of the Internal Revenue Code; and
- (14) to the extent not included in federal taxable income, distributions from a health savings account to the extent the distributions, added to other medical expenses as defined in section 152 of the Internal Revenue Code, exceed the adjusted gross income threshold used in determining the medical expenses deduction in section 213 of the Internal Revenue Code. In determining the subtraction under this clause, distributions are counted last in calculating the total amount in excess of the adjusted gross income threshold.
- [EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003, except clause (12) is effective for tax years beginning after December 31, 2002.
 - Sec. 5. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19c, is amended to read:
- Subd. 19c. [CORPORATIONS; ADDITIONS TO FEDERAL TAXABLE INCOME.] For corporations, there shall be added to federal taxable income:

- (1) the amount of any deduction taken for federal income tax purposes for income, excise, or franchise taxes based on net income or related minimum taxes, including but not limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or any foreign country or possession of the United States;
- (2) interest not subject to federal tax upon obligations of: the United States, its possessions, its agencies, or its instrumentalities; the state of Minnesota or any other state, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities; the District of Columbia; or Indian tribal governments;
 - (3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal Revenue Code;
- (4) the amount of any net operating loss deduction taken for federal income tax purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss deduction under section 810 of the Internal Revenue Code:
- (5) the amount of any special deductions taken for federal income tax purposes under sections 241 to 247 of the Internal Revenue Code:
- (6) losses from the business of mining, as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota income tax;
- (7) the amount of any capital losses deducted for federal income tax purposes under sections 1211 and 1212 of the Internal Revenue Code;
- (8) the exempt foreign trade income of a foreign sales corporation under sections 921(a) and 291 of the Internal Revenue Code;
- (9) the amount of percentage depletion deducted under sections 611 through 614 and 291 of the Internal Revenue Code;
- (10) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, the amount of the amortization deduction allowed in computing federal taxable income for those facilities;
- (11) the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g);
 - (12) the amount of any environmental tax paid under section 59(a) of the Internal Revenue Code;
- (13) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code;
 - (14) the amount of net income excluded under section 114 of the Internal Revenue Code;
- (15) any increase in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law 107-147; and

- (16) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed; and
- (17) the exclusion allowed under section 139A of the Internal Revenue Code for federal subsidies for prescription drug plans.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

- Sec. 6. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 31, is amended to read:
- Subd. 31. [INTERNAL REVENUE CODE.] Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through June 15, 2003 April 10, 2004.

[EFFECTIVE DATE.] This section is effective the day following final enactment except the changes incorporated by federal changes are effective at the same times as the changes were effective for federal purposes.

- Sec. 7. Minnesota Statutes 2003 Supplement, section 290.06, subdivision 2c, is amended to read:
- Subd. 2c. [SCHEDULES OF RATES FOR INDIVIDUALS, ESTATES, AND TRUSTS.] (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:
 - (1) On the first \$25,680, 5.35 percent;
 - (2) On all over \$25,680, but not over \$102,030, 7.05 percent;
 - (3) On all over \$102,030, 7.85 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

- (b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:
 - (1) On the first \$17,570, 5.35 percent;
 - (2) On all over \$17,570, but not over \$57,710, 7.05 percent;
 - (3) On all over \$57,710, 7.85 percent.
- (c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:
 - (1) On the first \$21,630, 5.35 percent;

- (2) On all over \$21,630, but not over \$86,910, 7.05 percent;
- (3) On all over \$86,910, 7.85 percent.
- (d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than \$100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.
- (e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:
- (1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), and (6), and reduced by the subtraction subtractions under section 290.01, subdivision 19b, elause clauses (11) and (12), and the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and
- (2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), and (6), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1) and (12).

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2002.

- Sec. 8. Minnesota Statutes 2003 Supplement, section 290.091, subdivision 2, is amended to read:
- Subd. 2. [DEFINITIONS.] For purposes of the tax imposed by this section, the following terms have the meanings given:
 - (a) "Alternative minimum taxable income" means the sum of the following for the taxable year:
- (1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;
- (2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:
- (i) the charitable contribution deduction under section 170 of the Internal Revenue Code to the extent that the deduction exceeds 1.0 percent of adjusted gross income, as defined in section 62 of the Internal Revenue Code;
 - (ii) the medical expense deduction;
 - (iii) the casualty, theft, and disaster loss deduction; and
 - (iv) the impairment-related work expenses of a disabled person;

- (3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);
- (4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);
- (5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and
 - (6) the amount of addition required by section 290.01, subdivision 19a, clause (7); and
 - (7) the amount of addition required by section 290.01, subdivision 19a, clause (8);

less the sum of the amounts determined under the following:

- (1) interest income as defined in section 290.01, subdivision 19b, clause (1);
- (2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;
- (3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and
- (4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, clauses (10) and (11) to (12).

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

- (b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.
- (c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.
- (d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.
 - (e) "Net minimum tax" means the minimum tax imposed by this section.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

- Sec. 9. Minnesota Statutes 2003 Supplement, section 290.0921, subdivision 3, is amended to read:
- Subd. 3. [ALTERNATIVE MINIMUM TAXABLE INCOME.] "Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a

separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

(1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), not previously deducted is a depreciation allowance in the first taxable year after December 31, 2000.

- (2) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.01, subdivision 19c, clause (16), is disallowed in determining alternative minimum taxable income.
- (3) The subtraction for depreciation allowed under section 290.01, subdivision 19d, clause (19), is allowed as a depreciation deduction in determining alternative minimum taxable income.
- (4) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.
- (5) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.
 - (6) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.
 - (7) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.
- (8) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to subparagraph (E) and the subtraction under section 290.01, subdivision 19d, clause (4).
- (9) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.
- (10) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.
- (11) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, not previously deducted is a depreciation or amortization allowance in the first taxable year after December 31, 2004.

(12) For purposes of calculating the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable income as defined in this subdivision, determined without regard to the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

- (13) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (10), or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (11).
- (14) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.
- (15) Alternative minimum taxable income excludes the income from operating in a biotechnology and health sciences industry zone as provided under section 469.337.
- (16) The addition required under section 290.01, subdivision 19c, clause (17), is included in determining alternative minimum taxable income.

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

- Sec. 10. Minnesota Statutes 2003 Supplement, section 290A.03, subdivision 15, is amended to read:
- Subd. 15. [INTERNAL REVENUE CODE.] "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through June 15, 2003 April 10, 2004.
- [EFFECTIVE DATE.] This section is effective the day following final enactment except the changes to household income generated by federal changes to federal adjusted gross income are effective at the same time federal changes are effective.
 - Sec. 11. Minnesota Statutes 2003 Supplement, section 291.005, subdivision 1, is amended to read:
- Subdivision 1. Unless the context otherwise clearly requires, the following terms used in this chapter shall have the following meanings:
- (1) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.
- (2) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included therein which has its situs outside Minnesota, and (b) including therein any property omitted from the federal gross estate which is includable therein, has its situs in Minnesota, and was not disclosed to federal taxing authorities.
- (3) "Personal representative" means the executor, administrator or other person appointed by the court to administer and dispose of the property of the decedent. If there is no executor, administrator or other person appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the Minnesota estate tax due with respect to the property.
 - (4) "Resident decedent" means an individual whose domicile at the time of death was in Minnesota.

- (5) "Nonresident decedent" means an individual whose domicile at the time of death was not in Minnesota.
- (6) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.
- (7) "Commissioner" means the commissioner of revenue or any person to whom the commissioner has delegated functions under this chapter.
- (8) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through December 31, 2002 April 10, 2004.

[EFFECTIVE DATE.] This section is effective for estates of decedents dying after January 31, 2003.

ARTICLE 2

DEPARTMENT OF REVENUE POLICY PROVISIONS

Section 1. Minnesota Statutes 2002, section 16D.10, is amended to read:

16D.10 [CASE REVIEWER.]

- <u>Subdivision 1.</u> [DUTIES.] The commissioner shall make a case reviewer available to debtors. The reviewer must be available to answer a debtor's questions concerning the collection process and to review the collection activity taken. If the reviewer reasonably believes that the particular action being taken is unreasonable or unfair, the reviewer may make recommendations to the commissioner in regard to the collection action.
- Subd. 2. [AUTHORITY TO ISSUE DEBTOR ASSISTANCE ORDER.] On application filed by a debtor with the case reviewer, in the form, manner, and in the time prescribed by the commissioner, and after thorough investigation, the case reviewer may issue a debtor assistance order if, in the determination of the case reviewer, the manner in which the state debt collection laws are being administered is creating or will create an unjust and inequitable result for the debtor. Debtor assistance orders are governed by the provisions relating to taxpayer assistance orders under section 270.273.
- <u>Subd.</u> 3. [TRANSFER OF DUTIES TO TAXPAYER RIGHTS ADVOCATE.] <u>All duties and authority of the case reviewer under subdivisions 1 and 2 are transferred to the taxpayer rights advocate.</u>

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 2. Minnesota Statutes 2002, section 270.02, subdivision 3, is amended to read:
- Subd. 3. [POWERS, ORGANIZATION, ASSISTANTS.] Subject to the provisions of this chapter and other applicable laws the commissioner shall have power to organize the department with such divisions and other agencies as the commissioner deems necessary and to appoint one deputy commissioner, a department secretary, directors of divisions, and such other officers, employees, and agents as the commissioner may deem necessary to discharge the functions of the department, define the duties of such officers, employees, and agents, and delegate to them any of the commissioner's powers or duties, subject to the commissioner's control and under such conditions as

the commissioner may prescribe. Appointments to exercise delegated power to sign documents which require the signature of the commissioner or a delegate by law shall be by written order filed with the secretary of state. The delegations of authority granted by the commissioner remain in effect until revoked by the commissioner or a successor commissioner.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2003 Supplement, section 270.06, is amended to read:

270.06 [POWERS AND DUTIES.]

The commissioner of revenue shall:

- (1) have and exercise general supervision over the administration of the assessment and taxation laws of the state, over assessors, town, county, and city boards of review and equalization, and all other assessing officers in the performance of their duties, to the end that all assessments of property be made relatively just and equal in compliance with the laws of the state;
- (2) confer with, advise, and give the necessary instructions and directions to local assessors and local boards of review throughout the state as to their duties under the laws of the state;
- (3) direct proceedings, actions, and prosecutions to be instituted to enforce the laws relating to the liability and punishment of public officers and officers and agents of corporations for failure or negligence to comply with the provisions of the laws of this state governing returns of assessment and taxation of property, and cause complaints to be made against local assessors, members of boards of equalization, members of boards of review, or any other assessing or taxing officer, to the proper authority, for their removal from office for misconduct or negligence of duty;
- (4) require county attorneys to assist in the commencement of prosecutions in actions or proceedings for removal, forfeiture and punishment for violation of the laws of this state in respect to the assessment and taxation of property in their respective districts or counties;
- (5) require town, city, county, and other public officers to report information as to the assessment of property, collection of taxes received from licenses and other sources, and such other information as may be needful in the work of the Department of Revenue, in such form and upon such blanks as the commissioner may prescribe;
- (6) require individuals, copartnerships, companies, associations, and corporations to furnish information concerning their capital, funded or other debt, current assets and liabilities, earnings, operating expenses, taxes, as well as all other statements now required by law for taxation purposes;
- (7) subpoena witnesses, at a time and place reasonable under the circumstances, to appear and give testimony, and to produce books, records, papers and documents for inspection and copying relating to any matter which the commissioner may have authority to investigate or determine;
- (8) issue a subpoena which does not identify the person or persons with respect to whose liability the subpoena is issued, but only if (a) the subpoena relates to the investigation of a particular person or ascertainable group or class of persons, (b) there is a reasonable basis for believing that such person or group or class of persons may fail or may have failed to comply with any law administered by the commissioner, (c) the information sought to be obtained from the examination of the records (and the identity of the person or persons with respect to whose liability the subpoena is issued) is not readily available from other sources, (d) the subpoena is clear and specific as to the information sought to be obtained, and (e) the information sought to be obtained is limited solely to the scope of the

investigation. Provided further that the party served with a subpoena which does not identify the person or persons with respect to whose tax liability the subpoena is issued shall have the right, within 20 days after service of the subpoena, to petition the district court for the judicial district in which lies the county in which that party is located for a determination as to whether the commissioner of revenue has complied with all the requirements in (a) to (e), and thus, whether the subpoena is enforceable. If no such petition is made by the party served within the time prescribed, the subpoena shall have the force and effect of a court order;

- (9) cause the deposition of witnesses residing within or without the state, or absent therefrom, to be taken, upon notice to the interested party, if any, in like manner that depositions of witnesses are taken in civil actions in the district court, in any matter which the commissioner may have authority to investigate or determine;
- (10) investigate the tax laws of other states and countries and to formulate and submit to the legislature such legislation as the commissioner may deem expedient to prevent evasions of assessment and taxing laws, and secure just and equal taxation and improvement in the system of assessment and taxation in this state;
- (11) consult and confer with the governor upon the subject of taxation, the administration of the laws in regard thereto, and the progress of the work of the Department of Revenue, and furnish the governor, from time to time, such assistance and information as the governor may require relating to tax matters;
- (12) transmit to the governor, on or before the third Monday in December of each even-numbered year, and to each member of the legislature, on or before November 15 of each even-numbered year, the report of the Department of Revenue for the preceding years, showing all the taxable property in the state and the value of the same, in tabulated form;
- (13) inquire into the methods of assessment and taxation and ascertain whether the assessors faithfully discharge their duties, particularly as to their compliance with the laws requiring the assessment of all property not exempt from taxation;
- (14) administer and enforce the assessment and collection of state taxes and fees, including the use of any remedy available to nongovernmental creditors, and, from time to time, make, publish, and distribute rules for the administration and enforcement of laws administered by the commissioner and state tax laws. The rules have the force of law;
- (15) prepare blank forms for the returns required by state tax law and distribute them throughout the state, furnishing them subject to charge on application;
- (16) prescribe rules governing the qualification and practice of agents, attorneys, or other persons representing taxpayers before the commissioner. The rules may require that those persons, agents, and attorneys show that they are of good character and in good repute, have the necessary qualifications to give taxpayers valuable services, and are otherwise competent to advise and assist taxpayers in the presentation of their case before being recognized as representatives of taxpayers. After due notice and opportunity for hearing, the commissioner may suspend and bar from further practice before the commissioner any person, agent, or attorney who is shown to be incompetent or disreputable, who refuses to comply with the rules, or who with intent to defraud, willfully or knowingly deceives, misleads, or threatens a taxpayer or prospective taxpayer, by words, circular, letter, or by advertisement. This clause does not curtail the rights of individuals to appear in their own behalf or partners or corporations' officers to appear in behalf of their respective partnerships or corporations;
- (17) appoint agents as the commissioner considers necessary to make examinations and determinations. The agents have the rights and powers conferred on the commissioner to subpoena, examine, and copy books, records, papers, or memoranda, subpoena witnesses, administer oaths and affirmations, and take testimony. In addition to administrative subpoenas of the commissioner and the agents, upon demand of the commissioner or an agent, the

court administrator of any district court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, or memoranda before the agent for inspection and copying. Disobedience of a court administrator's subpoena shall be punished by the district court of the district in which the subpoena is issued, or in the case of a subpoena issued by the commissioner or an agent, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of the district court;

- (18) appoint and employ additional help, purchase supplies or materials, or incur other expenditures in the enforcement of state tax laws as considered necessary. The salaries of all agents and employees provided for in this chapter shall be fixed by the appointing authority, subject to the approval of the commissioner of administration;
- (19) execute and administer any agreement with the secretary of the treasury of the United States or a representative of another state regarding the exchange of information and administration of the tax laws;
- (20) authorize the use of unmarked motor vehicles to conduct seizures or criminal investigations pursuant to the commissioner's authority; and
- (21) exercise other powers and perform other duties required of or imposed upon the commissioner of revenue by law; and
- (22) negotiate with other member states as to the amount of the monetary allowance for sellers and certified service providers who purchase certified software for sales tax collection as described in the streamlined sales tax agreement.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 4. [270.0611] [SUFFICIENCY OF NOTICE OF DETERMINATION OR ACTION OF COMMISSIONER OF REVENUE.]

When a method of notification of a written determination or action of the commissioner is not specifically provided for by law, notice of the determination or action sent postage prepaid by United States mail to the taxpayer or other person affected by the determination or action at the taxpayer's or person's last known address is sufficient. If the taxpayer or person being notified is deceased or is under a legal disability, or if a corporation being notified has terminated its existence, notice to the last known address of the taxpayer, person, or corporation is sufficient, unless the department has been provided with a new address by a party authorized to receive notices from the commissioner.

[EFFECTIVE DATE.] This section is effective for notices sent on or after the day following final enactment.

- Sec. 5. Minnesota Statutes 2002, section 270.69, subdivision 4, is amended to read:
- Subd. 4. [PERIOD OF LIMITATIONS.] The lien imposed by this section shall, notwithstanding any other provision of law to the contrary, be enforceable from the time the lien arises and for ten years from the date of filing the notice of lien, which must be filed by the commissioner within five years after the date of assessment of the tax or final administrative or judicial determination of the assessment. A notice of lien filed in one county may be transcribed to the secretary of state or to any other county within ten years after the date of its filing, but the transcription shall not extend the period during which the lien is enforceable. A notice of lien may be renewed by the commissioner before the expiration of the ten-year period for an additional ten years. The taxpayer must receive written notice of the renewal.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 6. Minnesota Statutes 2002, section 270B.01, subdivision 8, is amended to read:
- Subd. 8. [MINNESOTA TAX LAWS.] For purposes of this chapter only, unless expressly stated otherwise, "Minnesota tax laws" means:
- (1) the taxes, refunds, and fees administered by or paid to the commissioner under chapters 115B (except taxes imposed under sections 115B.21 to 115B.24), 289A (except taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, 295, 297A, and 297H, or any similar Indian tribal tax administered by the commissioner pursuant to any tax agreement between the state and the Indian tribal government, and includes any laws for the assessment, collection, and enforcement of those taxes, refunds, and fees; and

(2) section 273.1315.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 7. Minnesota Statutes 2003 Supplement, section 270B.12, subdivision 13, is amended to read:
- Subd. 13. [COUNTY ASSESSORS; CLASS 1B HOMESTEADS.] The commissioner may disclose to a county assessor, and to the assessor's designated agents or employees, a listing of parcels of property qualifying for the class 1b property tax classification under section 273.13, subdivision 22, and the names and addresses of qualified applicants.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 8. Minnesota Statutes 2003 Supplement, section 272.02, subdivision 65, is amended to read:
- Subd. 65. [BIOTECHNOLOGY AND HEALTH SCIENCES INDUSTRY ZONE PROPERTY.] (a) Improvements to real property, and personal property, classified under section 273.13, subdivision 24, and located within a biotechnology and health sciences industry zone are exempt from ad valorem taxes levied under chapter 275, as provided in this subdivision.
- (b) For property to qualify for exemption under paragraph (a), the occupant must be a qualified business, as defined in section 469.330.
- (c) The exemption applies beginning for the first assessment year after designation of the biotechnology and health sciences industry zone by the commissioner of employment and economic development. The exemption applies to each assessment year that begins during the duration of the biotechnology and health sciences industry zone and to property occupied by July 1 of the assessment year by a qualified business. This exemption does not apply to:
- (1) a levy under section 475.61 or similar levy provisions under any other law to pay general obligation bonds; or
- (2) a levy under section 126C.17, if the levy was approved by the voters before the designation of the biotechnology and health sciences industry zone.
- (d) The exemption does not apply to taxes imposed by a city, town, or county, unless the governing body adopts a resolution granting the exemption. A city, town, or county may provide a complete property tax exemption, partial property tax exemption, or no property tax exemption to qualified businesses in the biotechnology and health sciences industry zone. "City" includes a statutory or home rule charter city.

(e) For property located in a tax increment financing district, the county shall not adjust the original net tax capacity of the district under section 469.177, subdivision 1, paragraph (a), upon the expiration of an exemption under this subdivision.

[EFFECTIVE DATE.] This section is effective beginning for property taxes assessed in 2004, payable in 2005.

- Sec. 9. Minnesota Statutes 2002, section 289A.12, subdivision 3, is amended to read:
- Subd. 3. [RETURNS OR REPORTS BY PARTNERSHIPS, FIDUCIARIES, AND S CORPORATIONS.] (a) Partnerships must file a return with the commissioner for each taxable year. The return must conform to the requirements of section 290.311, and must include the names and addresses of the partners entitled to a distributive share in their taxable net income, gain, loss, or credit, and the amount of the distributive share to which each is entitled. A partnership required to file a return for a partnership taxable year must furnish a copy of the information required to be shown on the return to a person who is a partner at any time during the taxable year, on or before the day on which the return for the taxable year was filed. A partnership with more than 100 partners that is required to file a federal partnership return electronically under Code of Federal Regulations, title 26, section 301.6011-3 (2003), must also file the return due under this section electronically. If a return required to be filed electronically is filed on paper, the return is still valid but a penalty of \$50 for each partner over 100 partners is imposed for failing to file electronically. The commissioner may waive the penalty if the partnership can demonstrate that filing the return electronically creates a hardship.
- (b) The fiduciary of an estate or trust making the return required to be filed under section 289A.08, subdivision 2, for a taxable year must give a beneficiary who receives a distribution from the estate or trust with respect to the taxable year or to whom any item with respect to the taxable year is allocated, a statement containing the information required to be shown on the return, on or before the date on which the return was filed.
- (c) An S corporation must file a return with the commissioner for a taxable year during which an election under section 290.9725 is in effect, stating specifically the names and addresses of the persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by a shareholder at all times during the taxable year, the shareholder's pro rata share of each item of the corporation for the taxable year, and other information the commissioner requires. An S corporation required to file a return under this paragraph for any taxable year must furnish a copy of the information shown on the return to the person who is a shareholder at any time during the taxable year, on or before the day on which the return for the taxable year was filed.
- (d) The partnership or S corporation return must be signed by someone designated by the partnership or S corporation.

[EFFECTIVE DATE.] This section is effective for taxable years beginning after December 31, 2003.

- Sec. 10. Minnesota Statutes 2002, section 289A.31, subdivision 2, is amended to read:
- Subd. 2. [JOINT INCOME TAX RETURNS.] (a) If a joint income tax return is made by a husband and wife, the liability for the tax is joint and several. A spouse who qualifies for relief from a liability attributable to an underpayment under section 6015(b) of the Internal Revenue Code is relieved of the state income tax liability on the underpayment.
- (b) In the case of individuals who were a husband and wife prior to the dissolution of their marriage or their legal separation, or prior to the death of one of the individuals, for tax liabilities reported on a joint or combined return, the liability of each person is limited to the proportion of the tax due on the return that equals that person's proportion of the total tax due if the husband and wife filed separate returns for the taxable year. This provision is

effective only when the commissioner receives written notice of the marriage dissolution, legal separation, or death of a spouse from the husband or wife. No refund may be claimed by an ex-spouse, legally separated or widowed spouse for any taxes paid more than 60 days before receipt by the commissioner of the written notice.

(c) A request for calculation of separate liability pursuant to paragraph (b) for taxes reported on a return must be made within six years after the due date of the return. For calculation of separate liability for taxes assessed by the commissioner under section 289A.35 or 289A.37, the request must be made within six years after the date of assessment. The commissioner is not required to calculate separate liability if the remaining unpaid liability for which recalculation is requested is \$100 or less.

[EFFECTIVE DATE.] This section is effective for requests for relief made on or after the day following final enactment.

- Sec. 11. Minnesota Statutes 2002, section 289A.56, is amended by adding a subdivision to read:
- <u>Subd.</u> 7. [BIOTECHNOLOGY AND BORDER CITY ZONE REFUNDS.] <u>Notwithstanding subdivision 3, for refunds payable under sections 297A.68, subdivision 38, and 469.1734, subdivision 6, interest is computed from 90 days after the refund claim is filed with the commissioner.</u>

[EFFECTIVE DATE.] This section is effective for refund claims filed on or after July 1, 2004.

- Sec. 12. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19d, is amended to read:
- Subd. 19d. [CORPORATIONS; MODIFICATIONS DECREASING FEDERAL TAXABLE INCOME.] For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:
- (1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;
- (2) the amount of salary expense not allowed for federal income tax purposes due to claiming the federal jobs credit under section 51 of the Internal Revenue Code:
- (3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;
- (4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:
- (i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and
- (ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;
 - (5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:
- (i) for capital losses incurred in taxable years beginning after December 31, 1986, capital loss carrybacks shall not be allowed;

- (ii) for capital losses incurred in taxable years beginning after December 31, 1986, a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;
- (iii) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryback to each of the three taxable years preceding the loss year, subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and
- (iv) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryover to each of the five taxable years succeeding the loss year to the extent such loss was not used in a prior taxable year and subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed;
- (6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or 291 of the Internal Revenue Code in computing federal taxable income;
- (7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (11), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;
- (8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7;
- (9) amounts included in federal taxable income that are due to refunds of income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or a foreign country or possession of the United States to the extent that the taxes were added to federal taxable income under section 290.01, subdivision 19c, clause (1), in a prior taxable year;
- (10) 80 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation;
- (11) income or gains from the business of mining as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax;
- (12) the amount of handicap access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;
- (13) the amount of qualified research expenses not allowed for federal income tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that the amount exceeds the amount of the credit allowed under section 290.068 or 469.339;
- (14) the amount of salary expenses not allowed for federal income tax purposes due to claiming the Indian employment credit under section 45A(a) of the Internal Revenue Code;
 - (15) the amount of any refund of environmental taxes paid under section 59A of the Internal Revenue Code;

- (16) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;
- (17) for a corporation whose foreign sales corporation, as defined in section 922 of the Internal Revenue Code, constituted a foreign operating corporation during any taxable year ending before January 1, 1995, and a return was filed by August 15, 1996, claiming the deduction under section 290.21, subdivision 4, for income received from the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of income excluded under section 114 of the Internal Revenue Code, provided the income is not income of a foreign operating company;
- (18) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of section 614 of Public Law 107-147; and
- (19) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (16). The resulting delayed depreciation cannot be less than zero.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

Sec. 13. Minnesota Statutes 2002, section 290.9705, subdivision 1, is amended to read:

Subdivision 1. [WITHHOLDING OF PAYMENTS TO OUT-OF-STATE CONTRACTORS.] (a) In this section, "person" means a person, corporation, or cooperative, the state of Minnesota and its political subdivisions, and a city, county, and school district in Minnesota.

(b) A person who in the regular course of business is hiring, contracting, or having a contract with a nonresident person or foreign corporation, as defined in Minnesota Statutes 1986, section 290.01, subdivision 5, to perform construction work in Minnesota, shall deduct and withhold eight percent of every payment cumulative calendar year payments to the contractor if the contract exceeds or can reasonably be expected to exceed \$100,000 which exceed \$50,000.

[EFFECTIVE DATE.] This section is effective for payments made after December 31, 2004.

Sec. 14. Minnesota Statutes 2003 Supplement, section 290C.10, is amended to read:

290C.10 [WITHDRAWAL PROCEDURES.]

An approved claimant under the sustainable forest incentive program for a minimum of four years may notify the commissioner of the intent to terminate enrollment. Within 90 days of receipt of notice to terminate enrollment, the commissioner shall inform the claimant in writing, acknowledging receipt of this notice and indicating the effective date of termination from the sustainable forest incentive program. Termination of enrollment in the sustainable forest incentive program occurs on January 1 of the fifth calendar year that begins after receipt by the commissioner of the termination notice. After the commissioner issues an effective date of termination, a claimant wishing to continue the land's enrollment in the sustainable forest incentive program beyond the termination date must apply for enrollment as prescribed in section 290C.04. A claimant who withdraws a parcel of land from this program may not reenroll the parcel for a period of three years. Within 90 days after the termination date, the commissioner shall execute and acknowledge a document releasing the land from the covenant required under this chapter. The document must be mailed to the claimant and is entitled to be recorded. The commissioner may allow early withdrawal from the Sustainable Forest Incentive Act without penalty in cases of condemnation when the state of

Minnesota, any local government unit, or any other entity which has the right of eminent domain acquires title or possession to the land for a public purpose notwithstanding the provisions of this section. In the case of such acquisition, the commissioner shall execute and acknowledge a document releasing the land acquired by the state, local government unit, or other entity from the covenant. All other enrolled land must remain in the program.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 15. Minnesota Statutes 2002, section 297A.995, subdivision 6, is amended to read:
- Subd. 6. [AGREEMENT REQUIREMENTS.] The commissioner of revenue shall not enter into the agreement unless the agreement requires each state to abide by the following requirements:
- (a) [UNIFORM STATE RATE.] The agreement must set restrictions to achieve more uniform state rates through the following:
 - (1) limiting the number of state rates;
 - (2) eliminating maximums on the amount of state tax that is due on a transaction; and
 - (3) eliminating thresholds on the application of state tax.
 - (b) [UNIFORM STANDARDS.] The agreement must establish uniform standards for the following:
 - (1) the sourcing of transactions to taxing jurisdictions;
 - (2) the administration of exempt sales;
 - (3) the allowances a seller can take for bad debts; and
 - (4) sales and use tax returns and remittances.
- (c) [UNIFORM DEFINITIONS.] The agreement must require states to develop and adopt uniform definitions of sales and use tax terms. The definitions must enable a state to preserve its ability to make policy choices not inconsistent with the uniform definitions.
- (d) [CENTRAL REGISTRATION.] The agreement must provide a central, electronic registration system that allows a seller to register to collect and remit sales and use taxes for all signatory states.
- (e) [NO NEXUS ATTRIBUTION.] The agreement must provide that registration with the central registration system and the collection of sales and use taxes in the signatory states will not be used as a factor in determining whether the seller has nexus with a state for any tax.
- (f) [LOCAL SALES AND USE TAXES.] The agreement must provide for reduction of the burdens of complying with local sales and use taxes through the following:
 - (1) restricting and eliminating variances between the state and local tax bases;
- (2) requiring states to administer any sales and use taxes levied by local jurisdictions within the state so that sellers collecting and remitting these taxes will not have to register or file returns with, remit funds to, or be subject to independent audits from local taxing jurisdictions;

- (3) restricting the frequency of changes in the local sales and use tax rates and setting effective dates for the application of local jurisdictional boundary changes to local sales and use taxes; and
- (4) providing notice of changes in local sales and use tax rates and of changes in the boundaries of local taxing jurisdictions.
- (g) [MONETARY ALLOWANCES.] The agreement must outline any monetary allowances that are to be provided by the states to sellers or certified service providers. The allowances must be funded from the money collected by the seller or certified service provider and must be subtracted by the seller or certified service provider before remitting the tax collected to the Department of Revenue.
- (h) [STATE COMPLIANCE.] The agreement must require each state to certify compliance with the terms of the agreement prior to joining and to maintain compliance, under the laws of the member state, with all provisions of the agreement while a member.
- (i) [CONSUMER PRIVACY.] The agreement must require each state to adopt a uniform policy for certified service providers that protects the privacy of consumers and maintains the confidentiality of tax information.
- (j) [ADVISORY COUNCILS.] The agreement must provide for the appointment of an advisory council of private sector representatives and an advisory council of nonmember state representatives to consult with in the administration of the agreement.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 16. Minnesota Statutes 2002, section 469.1734, subdivision 6, is amended to read:
- Subd. 6. [SALES TAX EXEMPTION; EQUIPMENT; CONSTRUCTION MATERIALS.] (a) The gross receipts from the sale of machinery and equipment and repair parts are exempt from taxation under chapter 297A, if the machinery and equipment:
 - (1) are used in connection with a trade or business;
- (2) are placed in service in a city that is authorized to designate a zone under section 469.1731, regardless of whether the machinery and equipment are used in a zone; and
 - (3) have a useful life of 12 months or more.
 - (b) The gross receipts from the sale of construction materials are exempt, if they are used to construct:
- (1) a facility for use in a trade or business located in a city that is authorized to designate a zone under section 469.1731, regardless of whether the facility is located in a zone; or
 - (2) housing that is located in a zone.

The exemptions under this paragraph apply regardless of whether the purchase is made by the owner, the user, or a contractor.

- (c) A purchaser may claim an exemption under this subdivision for tax on the purchases up to, but not exceeding:
 - (1) the amount of the tax credit certificates received from the city, less

- (2) any tax credit certificates used under the provisions of subdivisions 4 and 5, and section 469.1732, subdivision 2.
- (d) The tax on sales of items exempted under this subdivision shall be imposed and collected as if the applicable rate under section 297A.62 applied. Upon application by the purchaser, on forms prescribed by the commissioner, a refund equal to the tax paid shall be paid to the purchaser. The application must include sufficient information to permit the commissioner to verify the sales tax paid and the eligibility of the claimant to receive the credit. No more than two applications for refunds may be filed under this subdivision in a calendar year. The provisions of section 289A.40 apply to the refunds payable under this subdivision. There is annually appropriated to the commissioner of revenue the amount required to make the refunds, which must be deducted from the amount of the city's allocation under section 469.169, subdivision 12, that remains available and its limitation under section 469.1735. The amount to be refunded shall bear interest at the rate in section 270.76 from 90 days after the date the refund claim is filed with the commissioner.

[EFFECTIVE DATE.] This section is effective for refund claims filed on or after July 1, 2004.

- Sec. 17. Minnesota Statutes 2003 Supplement, section 469.310, subdivision 11, is amended to read:
- Subd. 11. [QUALIFIED BUSINESS.] (a) "Qualified business" means a person carrying on a trade or business at a place of business located within a job opportunity building zone. A person is a qualified business only on those parcels of land for which it has entered into a business subsidy agreement, as required under section 469.313, with the appropriate local government unit in which the parcels are located.
- (b) A person that relocates a trade or business from outside a job opportunity building zone into a zone is not a qualified business, unless the business:
- (1)(i) increases full-time employment in the first full year of operation within the job opportunity building zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; or
- (ii) makes a capital investment in the property located within a zone equivalent to ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and
 - (2) enters a binding written agreement with the commissioner that:
 - (i) pledges the business will meet the requirements of clause (1);
- (ii) provides for repayment of all tax benefits enumerated under section 469.315 to the business under the procedures in section 469.319, if the requirements of clause (1) are not met for the taxable year or for taxes payable during the year in which the requirements were not met; and
 - (iii) contains any other terms the commissioner determines appropriate.

[EFFECTIVE DATE.] This section is effective retroactively from June 9, 2003.

- Sec. 18. Minnesota Statutes 2003 Supplement, section 469.330, subdivision 11, is amended to read:
- Subd. 11. [QUALIFIED BUSINESS.] (a) "Qualified business" means a person carrying on a trade or business at a biotechnology and health sciences industry facility located within a biotechnology and health sciences industry zone. A person is a qualified business only on those parcels of land for which it has entered into a business subsidy agreement, as required under section 469.333, with the appropriate local government unit in which the parcels are located.

- (b) A person that relocates a biotechnology and health sciences industry facility from outside a biotechnology and health sciences industry zone into a zone is not a qualified business, unless the business:
- (1)(i) increases full-time employment in the first full year of operation within the biotechnology and health sciences industry zone by at least 20 percent measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; or
- (ii) makes a capital investment in the property located within a zone equivalent to ten percent of the gross revenues of operation that were relocated in the immediately preceding taxable year; and
 - (2) enters a binding written agreement with the commissioner that:
 - (i) pledges the business will meet the requirements of clause (1);
- (ii) provides for repayment of all tax benefits enumerated under section 469.336 to the business under the procedures in section 469.340, if the requirements of clause (1) are not met; and
 - (iii) contains any other terms the commissioner determines appropriate.

[EFFECTIVE DATE.] This section is effective retroactively from June 9, 2003.

Sec. 19. Minnesota Statutes 2003 Supplement, section 469.337, is amended to read:

469.337 [CORPORATE FRANCHISE TAX EXEMPTION.]

- (a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations of a qualified business within the biotechnology and health sciences industry zone. This exemption is determined as follows:
- (1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its zone percentage and subtracting the result in determining taxable income;
- (2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and reducing alternative minimum taxable income by this amount; and
- (3) for purposes of the minimum fee under section 290.0922, by excluding <u>zone</u> property and payroll in the <u>zone</u> from the computations of the fee. The <u>qualified business</u> is exempt from the <u>minimum fee</u> if all of its property is <u>located in the zone and all of its payroll is zone payroll.</u>
- (b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's biotechnology and health sciences industry zone payroll and the adjusted basis of the property at the time that the property is first used in the biotechnology and health sciences industry zone by the corporation.
 - (c) No reduction in tax is allowed in excess of the amount allocated under section 469.335.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

- Sec. 20. Minnesota Statutes 2002, section 473F.02, subdivision 2, is amended to read:
- Subd. 2. [AREA.] "Area" means the territory included within the boundaries of Anoka, Carver, Dakota excluding the city of Northfield, Hennepin, Ramsey, Scott excluding the city of New Prague, and Washington Counties, excluding lands constituting a major or an intermediate airport as defined under section 473.625.

[EFFECTIVE DATE.] This section is effective for taxes payable in 2005 and thereafter.

Sec. 21. [REPEALER.]

Laws 1975, chapter 287, section 5, and Laws 2003, chapter 127, article 9, section 9, subdivision 4, are repealed.

[EFFECTIVE DATE.] This section is effective without local approval for taxes payable in 2005 and thereafter.

ARTICLE 3

PROPERTY TAXES TECHNICAL

Section 1. Minnesota Statutes 2003 Supplement, section 4A.02, is amended to read:

4A.02 [STATE DEMOGRAPHER.]

- (a) The director shall appoint a state demographer. The demographer must be professionally competent in demography and must possess demonstrated ability based upon past performance.
 - (b) The demographer shall:
 - (1) continuously gather and develop demographic data relevant to the state;
 - (2) design and test methods of research and data collection;
- (3) periodically prepare population projections for the state and designated regions and periodically prepare projections for each county or other political subdivision of the state as necessary to carry out the purposes of this section;
- (4) review, comment on, and prepare analysis of population estimates and projections made by state agencies, political subdivisions, other states, federal agencies, or nongovernmental persons, institutions, or commissions;
- (5) serve as the state liaison with the United States Bureau of the Census, coordinate state and federal demographic activities to the fullest extent possible, and aid the legislature in preparing a census data plan and form for each decennial census;
- (6) compile an annual study of population estimates on the basis of county, regional, or other political or geographical subdivisions as necessary to carry out the purposes of this section and section 4A.03;
- (7) by January 1 of each year, issue a report to the legislature containing an analysis of the demographic implications of the annual population study and population projections;
- (8) prepare maps for all counties in the state, all municipalities with a population of 10,000 or more, and other municipalities as needed for census purposes, according to scale and detail recommended by the United States Bureau of the Census, with the maps of cities showing precinct boundaries;

- (9) prepare an estimate of population and of the number of households for each governmental subdivision for which the Metropolitan Council does not prepare an annual estimate, and convey the estimates to the governing body of each political subdivision by May June 1 of each year;
- (10) direct, under section 414.01, subdivision 14, and certify population and household estimates of annexed or detached areas of municipalities or towns after being notified of the order or letter of approval by the director;
- (11) prepare, for any purpose for which a population estimate is required by law or needed to implement a law, a population estimate of a municipality or town whose population is affected by action under section 379.02 or 414.01, subdivision 14; and
- (12) prepare an estimate of average household size for each statutory or home rule charter city with a population of 2,500 or more by May June 1 of each year.
- (c) A governing body may challenge an estimate made under paragraph (b) by filing their specific objections in writing with the state demographer by June 10 24. If the challenge does not result in an acceptable estimate by June 24, the governing body may have a special census conducted by the United States Bureau of the Census. The political subdivision must notify the state demographer by July 1 of its intent to have the special census conducted. The political subdivision must bear all costs of the special census. Results of the special census must be received by the state demographer by the next April 15 to be used in that year's May June 1 estimate to the political subdivision under paragraph (b).
- (d) The state demographer shall certify the estimates of population and number of households to the commissioner of revenue by July 15 each year, including any estimates still under objection. No changes in population or household estimates made after July 15 in an aid calculation year shall be considered in determining aids under sections 477A.011 to 477A.014. Clerical errors in certification or use of the estimates and counts established as of July 15 in the aid calculation year are subject to correction under section 477A.014.

- Sec. 2. Minnesota Statutes 2003 Supplement, section 168A.05, subdivision 1a, is amended to read:
- Subd. 1a. [MANUFACTURED HOME; STATEMENT OF PROPERTY TAX PAYMENT.] In the case of a manufactured home as defined in section 327.31, subdivision 6, the department shall not issue a certificate of title unless the application under section 168A.04 is accompanied with a statement from the county auditor or county treasurer where the manufactured home is presently located, stating that all manufactured home personal property taxes levied on the unit in the name of the current owner at the time of transfer have been paid. For this purpose, manufactured home personal property taxes are treated as levied on January 1 of the payable year.

- Sec. 3. Minnesota Statutes 2002, section 270B.12, subdivision 9, is amended to read:
- Subd. 9. [COUNTY ASSESSORS; HOMESTEAD APPLICATION, <u>DETERMINATION</u>, AND INCOME TAX STATUS.] (a) If, as a result of an audit, the commissioner determines that a person is a Minnesota nonresident or part-year resident for income tax purposes, the commissioner may disclose the person's name, address, and Social Security number to the assessor of any political subdivision in the state, when there is reason to believe that the person may have claimed or received homestead property tax benefits for a corresponding assessment year in regard to property apparently located in the assessor's jurisdiction.

(b) To the extent permitted by section 273.124, subdivision 1, paragraph (a), the Department of Revenue may verify to a county assessor whether an individual who is requesting or receiving a homestead classification has filed a Minnesota income tax return as a resident for the most recent taxable year for which the information is available.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 4. Minnesota Statutes 2002, section 272.01, subdivision 2, is amended to read:
- Subd. 2. (a) When any real or personal property which is exempt from ad valorem taxes, and taxes in lieu thereof, is leased, loaned, or otherwise made available and used by a private individual, association, or corporation in connection with a business conducted for profit, there shall be imposed a tax, for the privilege of so using or possessing such real or personal property, in the same amount and to the same extent as though the lessee or user was the owner of such property.
 - (b) The tax imposed by this subdivision shall not apply to:
- (1) property leased or used as a concession in or relative to the use in whole or part of a public park, market, fairgrounds, port authority, economic development authority established under chapter 469, municipal auditorium, municipal parking facility, municipal museum, or municipal stadium;
 - (2) property of an airport owned by a city, town, county, or group thereof which is:
 - (i) leased to or used by any person or entity including a fixed base operator; and
- (ii) used as a hangar for the storage or repair of aircraft or to provide aviation goods, services, or facilities to the airport or general public;

the exception from taxation provided in this clause does not apply to:

- (i) property located at an airport owned or operated by the Metropolitan Airports Commission or by a city of over 50,000 population according to the most recent federal census or such a city's airport authority;
- (ii) hangars leased by a private individual, association, or corporation in connection with a business conducted for profit other than an aviation-related business; or
- (iii) facilities leased by a private individual, association, or corporation in connection with a business for profit, that consists of a major jet engine repair facility financed, in whole or part, with the proceeds of state bonds and located in a tax increment financing district;
 - (3) property constituting or used as a public pedestrian ramp or concourse in connection with a public airport; or
- (4) property constituting or used as a passenger check-in area or ticket sale counter, boarding area, or luggage claim area in connection with a public airport but not the airports owned or operated by the Metropolitan Airports Commission or cities of over 50,000 population or an airport authority therein. Real estate owned by a municipality in connection with the operation of a public airport and leased or used for agricultural purposes is not exempt:
- (5) property leased, loaned, or otherwise made available to a private individual, corporation, or association under a cooperative farming agreement made pursuant to section 97A.135; or
- (6) property leased, loaned, or otherwise made available to a private individual, corporation, or association under section 272.68, subdivision 4.

- (c) Taxes imposed by this subdivision are payable as in the case of personal property taxes and shall be assessed to the lessees or users of real or personal property in the same manner as taxes assessed to owners of real or personal property, except that such taxes shall not become a lien against the property. When due, the taxes shall constitute a debt due from the lessee or user to the state, township, city, county, and school district for which the taxes were assessed and shall be collected in the same manner as personal property taxes. If property subject to the tax imposed by this subdivision is leased or used jointly by two or more persons, each lessee or user shall be jointly and severally liable for payment of the tax.
- (d) The tax on real property of the state or any of its political subdivisions that is leased by a private individual, association, or corporation and becomes taxable under this subdivision or other provision of law must be assessed and collected as a personal property assessment. The taxes do not become a lien against the real property.

- Sec. 5. Minnesota Statutes 2002, section 272.02, subdivision 1a, is amended to read:
- Subd. 1a. [LIMITATIONS ON EXEMPTIONS.] The exemptions granted by subdivision 1 are subject to the limits contained in the other subdivisions of this section, section 272.025, or 273.13, subdivision 25, paragraph (c), clause (1) or (2), or paragraph (d), clause (2) and all other provisions of applicable law.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 6. Minnesota Statutes 2002, section 272.02, subdivision 7, is amended to read:
- Subd. 7. [INSTITUTIONS OF PUBLIC CHARITY.] Institutions of purely public charity are exempt except parcels of property containing structures and the structures described in section 273.13, subdivision 25, paragraph (e), other than those that qualify for exemption under subdivision 26. In determining whether rental housing property qualifies for exemption under this subdivision, the following are not gifts or donations to the owner of the rental housing:
 - (1) rent assistance provided by the government to or on behalf of tenants, and
- (2) <u>financing assistance or tax credits provided by the government to the owner on condition that specific units or a specific quantity of units be set aside for persons or families with certain income characteristics.</u>

[EFFECTIVE DATE.] This section is effective for taxes payable in 2004 and thereafter.

- Sec. 7. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:
- Subd. 68. [PROPERTY SUBJECT TO TACONITE PRODUCTION TAX OR NET PROCEEDS TAX.] (a) Except for mineral interests taxed under section 273.165, and except for lands taxed under section 298.26, real and personal property described in section 298.25 is exempt to the extent the tax on taconite and iron sulphides under section 298.24 is described in section 298.25 as being in lieu of other taxes on such property. This exemption applies for taxes payable in each year that the tax under section 298.24 is payable with respect to such property.
- (b) Except for mineral interests taxed under section 273.165, deposits of mineral, metal, or energy resources the mining of which is subject to taxation under section 298.015 are exempt. This exemption applies for taxes payable in each year that the tax under section 298.015 is payable with respect to such property.

- Sec. 8. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:
- <u>Subd. 69.</u> [RELIGIOUS CORPORATIONS.] <u>Personal and real property that a religious corporation, formed under section 317A.909, necessarily uses for a religious purpose is exempt to the extent provided in section 317A.909, subdivision 3.</u>

- Sec. 9. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:
- <u>Subd.</u> 70. [CHILDREN'S HOMES.] <u>Personal and real property owned by a corporation formed under section 317A.907 is exempt to the extent provided in section 317A.907, subdivision 7.</u>

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 10. Minnesota Statutes 2002, section 272.02, is amended by adding a subdivision to read:
- <u>Subd. 71.</u> [HOUSING AND REDEVELOPMENT AUTHORITY AND TRIBAL HOUSING AUTHORITY PROPERTY.] <u>Property owned by a housing and redevelopment authority described in chapter 469, or by a designated housing authority described in section 469.040, subdivision 5, is exempt to the extent provided in chapter 469.</u>

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 11. Minnesota Statutes 2002, section 273.124, subdivision 8, is amended to read:
- Subd. 8. [HOMESTEAD OWNED BY OR LEASED TO FAMILY FARM CORPORATION, JOINT FARM VENTURE, LIMITED LIABILITY COMPANY, OR PARTNERSHIP.] (a) Each family farm corporation, each; each joint family farm venture; and each limited liability company, and each or partnership operating which operates a family farm; is entitled to class 1b under section 273.13, subdivision 22, paragraph (b), or class 2a assessment for one homestead occupied by a shareholder, member, or partner thereof who is residing on the land, and actively engaged in farming of the land owned by the family farm corporation, joint family farm venture, limited liability company, or partnership operating a family farm. Homestead treatment applies even if legal title to the property is in the name of the family farm corporation, joint family farm venture, limited liability company, or partnership operating the family farm, and not in the name of the person residing on it.

"Family farm corporation," "family farm," and "partnership operating a family farm" have the meanings given in section 500.24, except that the number of allowable shareholders, members, or partners under this subdivision shall not exceed 12. "Limited liability company" has the meaning contained in sections 322B.03, subdivision 28, and 500.24, subdivision 2, paragraphs (1) and (m). "Joint family farm venture" means a cooperative agreement among two or more farm enterprises authorized to operate a family farm under section 500.24.

- (b) In addition to property specified in paragraph (a), any other residences owned by family farm corporations, joint family farm ventures, limited liability companies, or partnerships operating a family farm described in paragraph (a) which are located on agricultural land and occupied as homesteads by its shareholders, members, or partners who are actively engaged in farming on behalf of that corporation, joint farm venture, limited liability company, or partnership must also be assessed as class 2a property or as class 1b property under section 273.13.
- (c) Agricultural property that is owned by a member, partner, or shareholder of a family farm corporation or joint family farm venture, limited liability company operating a family farm, or by a partnership operating a family farm and leased to the family farm corporation, limited liability company, or partnership operating a family farm, or joint

farm venture, as defined in paragraph (a), is eligible for classification as class 1b or class 2a under section 273.13, if the owner is actually residing on the property, and is actually engaged in farming the land on behalf of that corporation, joint farm venture, limited liability company, or partnership. This paragraph applies without regard to any legal possession rights of the family farm corporation, joint family farm venture, limited liability company, or partnership operating a family farm under the lease.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2002, section 273.19, subdivision 1a, is amended to read:

Subd. 1a. For purposes of this section, a lease includes any agreement, except a cooperative farming agreement pursuant to section 97A.135, subdivision 3, or a lease executed pursuant to section 272.68, subdivision 4, permitting a nonexempt person or entity to use the property, regardless of whether the agreement is characterized as a lease. A lease has a "term of at least one year" if the term is for a period of less than one year and the lease permits the parties to renew the lease without requiring that similar terms for leasing the property will be offered to other applicants or bidders through a competitive bidding or other form of offer to potential lessees or users.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 13. Minnesota Statutes 2002, section 274.14, is amended to read:

274.14 [LENGTH OF SESSION; RECORD.]

The county board of equalization or the special board of equalization appointed by it shall meet during the last ten meeting days in June. For this purpose, "meeting days" are defined as any day of the week excluding Saturday and Sunday. The board may meet on any ten consecutive meeting days in June, after the second Friday in June, if. The actual meeting dates are must be contained on the valuation notices mailed to each property owner in the county under as provided in section 273.121. For this purpose, "meeting days" is defined as any day of the week excluding Saturday and Sunday. No action taken by the county board of review after June 30 is valid, except for corrections permitted in sections 273.01 and 274.01. The county auditor shall keep an accurate record of the proceedings and orders of the board. The record must be published like other proceedings of county commissioners. A copy of the published record must be sent to the commissioner of revenue, with the abstract of assessment required by section 274.16.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 14. Minnesota Statutes 2002, section 275.065, subdivision 1a, is amended to read:

Subd. 1a. [OVERLAPPING JURISDICTIONS.] In the case of a taxing authority lying in two or more counties, the home county auditor shall certify the proposed levy and the proposed local tax rate to the other county auditor by September 20 October 5. The home county auditor must estimate the levy or rate in preparing the notices required in subdivision 3, if the other county has not certified the appropriate information. If requested by the home county auditor, the other county auditor must furnish an estimate to the home county auditor.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 15. Minnesota Statutes 2002, section 275.07, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATION OF LEVY.] (a) Except as provided under paragraph (b), the taxes voted by cities, counties, school districts, and special districts shall be certified by the proper authorities to the county auditor on or before five working days after December 20 in each year. A town must certify the levy adopted by the town

board to the county auditor by September 15 each year. If the town board modifies the levy at a special town meeting after September 15, the town board must recertify its levy to the county auditor on or before five working days after December 20. The taxes certified shall not be reduced by the county auditor by the aid received under section 273.1398, subdivision 2, but shall be reduced by the county auditor by the aid received under section 273.1398, subdivision 3. If a city, town, county, school district, or special district fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year.

- (b)(i) The taxes voted by counties under sections 103B.241, 103B.245, and 103B.251 shall be separately certified by the county to the county auditor on or before five working days after December 20 in each year. The taxes certified shall not be reduced by the county auditor by the aid received under section 273.1398, subdivisions 2 and 3. If a county fails to certify its levy by that date, its levy shall be the amount levied by it for the preceding year.
- (ii) For purposes of the proposed property tax notice under section 275.065 and the property tax statement under section 276.04, for the first year in which the county implements the provisions of this paragraph, the county auditor shall reduce the county's levy for the preceding year to reflect any amount levied for water management purposes under clause (i) included in the county's levy.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 16. Minnesota Statutes 2002, section 275.07, subdivision 4, is amended to read:
- Subd. 4. [REPORT TO COMMISSIONER.] (a) On or before October 8 of each year, the county auditor shall report to the commissioner of revenue the proposed levy certified by local units of government under section 275.065, subdivision 1. If any taxing authorities have notified the county auditor that they are in the process of negotiating an agreement for sharing, merging, or consolidating services but that when the proposed levy was certified under section 275.065, subdivision 1c, the agreement was not yet finalized, the county auditor shall supply that information to the commissioner when filing the report under this section and shall recertify the affected levies as soon as practical after October 10.
- (b) On or before January 15 of each year, the county auditor shall report to the commissioner of revenue the final levy certified by local units of government under subdivision 1.
- (c) The levies must be reported in the manner prescribed by the commissioner. The reports must show a total levy and the amount of each special levy.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 17. Minnesota Statutes 2003 Supplement, section 276.112, is amended to read:

276.112 [STATE PROPERTY TAXES; COUNTY TREASURER.]

On or before January 25 each year, for the period ending December 31 of the prior year, and on or <u>before two business days</u> before June 29 30 each year, for the period ending on the most recent settlement day determined in section 276.09, and on or before December 2 each year, for the period ending November 20, the county treasurer must make full settlement with the county auditor according to sections 276.09, 276.10, and 276.111 for all receipts of state property taxes levied under section 275.025, and must transmit those receipts to the commissioner of revenue by electronic means.

Sec. 18. Minnesota Statutes 2002, section 282.016, is amended to read:

282.016 [PROHIBITED PURCHASERS.]

No (a) A county auditor, county treasurer, county attorney, court administrator of the district court, or county assessor or, supervisor of assessments, or deputy or clerk or an employee of such officer, and no a commissioner for tax-forfeited lands or an assistant to such commissioner may, must not become a purchaser, either personally or as an agent or attorney for another person, of the properties offered for sale under the provisions of this chapter, either personally, or as agent or attorney for any other person, except that in the county for which the person performs duties. A person prohibited from purchasing property under this section must not directly or indirectly have another person purchase it on behalf of the prohibited purchaser for the prohibited purchaser's benefit or gain.

(b) Notwithstanding paragraph (a), such officer, deputy, court administrator clerk, or employee or commissioner for tax-forfeited lands or assistant to such commissioner may (1) purchase lands owned by that official at the time the state became the absolute owner thereof or (2) bid upon and purchase forfeited property offered for sale under the alternate sale procedure described in section 282.01, subdivision 7a.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 19. Minnesota Statutes 2002, section 282.21, is amended to read:

282.21 [FORM OF CONVEYANCE.]

When any sale has been made under sections 282.14 to 282.22, upon payment in full of the purchase price, appropriate conveyance in fee in such form as may be prescribed by the attorney general shall be issued by the commissioner of finance to the purchaser or the purchaser's assigns and this conveyance shall have the force and effect of a patent from the state.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 20. Minnesota Statutes 2002, section 282.224, is amended to read:

282.224 [FORM OF CONVEYANCE.]

When any sale has been made under sections 282.221 to 282.226, upon payment in full of the purchase price, appropriate conveyance in fee, in such form as may be prescribed by the attorney general, shall be issued by the commissioner of natural resources to the purchaser or the purchaser's assignee, and the conveyance shall have the force and effect of a patent from the state.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 21. Minnesota Statutes 2002, section 282.301, is amended to read:

282.301 [RECEIPTS FOR PAYMENTS.]

When any sale has been made under sections 282.012 and 282.241 to 282.324, the purchaser shall receive from the county auditor at the time of repurchase a receipt, in such form as may be prescribed by the attorney general. When the purchase price of a parcel of land shall be paid in full, the following facts shall be certified by the county auditor to the commissioner of revenue of the state of Minnesota: the description of land, the date of sale, the name of the purchaser or the purchaser's assignee, and the date when the final installment of the purchase price was paid. Upon payment in full of the purchase price, the purchaser or the assignee shall receive a quitclaim deed from the

state, to be executed by the commissioner of revenue. The deed must be sent to the county auditor who shall have it recorded before it is forwarded to the purchaser. Failure to make any payment herein required shall constitute default and upon such default and cancellation in accord with section 282.40, the right, title and interest of the purchaser or the purchaser's heirs, representatives, or assigns in such parcel shall terminate.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 22. [473.24] [POPULATION ESTIMATES.]

- (a) The Metropolitan Council shall prepare an estimate of population and of the number of households for each city and town in the metropolitan area annually and convey the estimates to the governing body of each city or town by June 1 each year. In the case of a city or town that is located partly within and partly without the metropolitan area, the Metropolitan Council shall estimate the proportion of the total population and number of households that reside within the area. The Metropolitan Council may prepare an estimate of the population and of the number of households for any other political subdivision located in the metropolitan area.
- (b) A governing body may challenge an estimate made under this section by filing its specific objections in writing with the Metropolitan Council by June 24. If the challenge does not result in an acceptable estimate, the governing body may have a special census conducted by the United States Bureau of the Census. The political subdivision must notify the Metropolitan Council on or before July 1 of its intent to have the special census conducted. The political subdivision must bear all costs of the special census. Results of the special census must be received by the Metropolitan Council by the next April 15 to be used in that year's June 1 estimate under this section. The Metropolitan Council shall certify the estimates of population and number of households to the state demographer and to the commissioner of revenue by July 15 each year, including any estimates still under objection.
- (c) No changes in population or household estimates after July 15 in an aid calculation year shall be considered in determining aids under sections 477A.011 to 477A.014. Clerical errors in certification or use of the estimates and counts established as of July 15 in the aid calculation year are subject to correction under section 477A.014.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 23. Minnesota Statutes 2002, section 473F.02, subdivision 7, is amended to read:
- Subd. 7. [POPULATION.] "Population" means the most recent estimate of the population of a municipality made by the Metropolitan Council <u>under section 473.24</u> and filed with the commissioner of revenue as of July \pm 15 of the year in which a municipality's distribution net tax capacity is calculated. The council shall annually estimate the population of each municipality as of a date which it determines and, in the case of a municipality which is located partly within and partly without the area, the proportion of the total which resides within the area, and shall promptly thereafter file its estimates with the commissioner of revenue.

- Sec. 24. Minnesota Statutes 2002, section 477A.011, subdivision 3, is amended to read:
- Subd. 3. [POPULATION.] "Population" means the population <u>estimated or</u> established as of July 4 <u>15</u> in an aid calculation year by the most recent federal census, by a special census conducted under contract with the United States Bureau of the Census, by a population estimate made by the Metropolitan Council, or by a population estimate of the state demographer made pursuant to section 4A.02, whichever is the most recent as to the stated date of the count or estimate for the preceding calendar year, <u>and which has been certified to the commissioner of revenue on or before July 15 of the aid calculation year</u>. The term "per capita" refers to population as defined by

this subdivision. No changes in population will be recognized for the purposes of sections 477A.011 to 477A.014 after July 15 of the aid calculation year. Clerical errors in the certification or use of the estimates and counts established as of July 15 in the aid calculation year are subject to correction within the time periods allowed under section 477A.014.

- Sec. 25. Minnesota Statutes 2003 Supplement, section 477A.011, subdivision 36, is amended to read:
- Subd. 36. [CITY AID BASE.] (a) Except as otherwise provided in this subdivision, "city aid base" is zero.
- (b) The city aid base for any city with a population less than 500 is increased by \$40,000 for aids payable in calendar year 1995 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$40,000 for aids payable in calendar year 1995 only, provided that:
 - (i) the average total tax capacity rate for taxes payable in 1995 exceeds 200 percent;
 - (ii) the city portion of the tax capacity rate exceeds 100 percent; and
 - (iii) its city aid base is less than \$60 per capita.
- (c) The city aid base for a city is increased by \$20,000 in 1998 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$20,000 in calendar year 1998 only, provided that:
 - (i) the city has a population in 1994 of 2,500 or more;
 - (ii) the city is located in a county, outside of the metropolitan area, which contains a city of the first class;
- (iii) the city's net tax capacity used in calculating its 1996 aid under section 477A.013 is less than \$400 per capita; and
- (iv) at least four percent of the total net tax capacity, for taxes payable in 1996, of property located in the city is classified as railroad property.
- (d) The city aid base for a city is increased by \$200,000 in 1999 and thereafter and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 1999 only, provided that:
 - (i) the city was incorporated as a statutory city after December 1, 1993;
 - (ii) its city aid base does not exceed \$5,600; and
 - (iii) the city had a population in 1996 of 5,000 or more.
- (e) The city aid base for a city is increased by \$450,000 in 1999 to 2008 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$450,000 in calendar year 1999 only, provided that:
 - (i) the city had a population in 1996 of at least 50,000;

- (ii) its population had increased by at least 40 percent in the ten-year period ending in 1996; and
- (iii) its city's net tax capacity for aids payable in 1998 is less than \$700 per capita.
- (f) Beginning in 2004, the city aid base for a city is equal to the sum of its city aid base in 2003 and the amount of additional aid it was certified to receive under section 477A.06 in 2003. For 2004 only, the maximum amount of total aid a city may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by the amount it was certified to receive under section 477A.06 in 2003.
- (g) The city aid base for a city is increased by \$150,000 for aids payable in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2000 only, provided that:
 - (1) the city has a population that is greater than 1,000 and less than 2,500;
 - (2) its commercial and industrial percentage for aids payable in 1999 is greater than 45 percent; and
- (3) the total market value of all commercial and industrial property in the city for assessment year 1999 is at least 15 percent less than the total market value of all commercial and industrial property in the city for assessment year 1998.
- (h) (g) The city aid base for a city is increased by \$200,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2000 only, provided that:
 - (1) the city had a population in 1997 of 2,500 or more;
- (2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$650 per capita;
- (3) the pre-1940 housing percentage of the city used in calculating 1999 aid under section 477A.013 is greater than 12 percent;
- (4) the 1999 local government aid of the city under section 477A.013 is less than 20 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent; and
 - (5) the city aid base of the city used in calculating aid under section 477A.013 is less than \$7 per capita.
- (i) (h) The city aid base for a city is increased by \$102,000 in 2000 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$102,000 in calendar year 2000 only, provided that:
 - (1) the city has a population in 1997 of 2,000 or more;
- (2) the net tax capacity of the city used in calculating its 1999 aid under section 477A.013 is less than \$455 per capita;
- (3) the net levy of the city used in calculating 1999 aid under section 477A.013 is greater than \$195 per capita; and

- (4) the 1999 local government aid of the city under section 477A.013 is less than 38 percent of the amount that the formula aid of the city would have been if the need increase percentage was 100 percent.
- (j) (i) The city aid base for a city is increased by \$32,000 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$32,000 in calendar year 2001 only, provided that:
 - (1) the city has a population in 1998 that is greater than 200 but less than 500;
 - (2) the city's revenue need used in calculating aids payable in 2000 was greater than \$200 per capita;
- (3) the city net tax capacity for the city used in calculating aids available in 2000 was equal to or less than \$200 per capita;
 - (4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$65 per capita; and
 - (5) the city's formula aid for aids payable in 2000 was greater than zero.
- (k) (j) The city aid base for a city is increased by \$7,200 in 2001 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$7,200 in calendar year 2001 only, provided that:
 - (1) the city had a population in 1998 that is greater than 200 but less than 500;
 - (2) the city's commercial industrial percentage used in calculating aids payable in 2000 was less than ten percent;
 - (3) more than 25 percent of the city's population was 60 years old or older according to the 1990 census;
 - (4) the city aid base of the city used in calculating aid under section 477A.013 is less than \$15 per capita; and
 - (5) the city's formula aid for aids payable in 2000 was greater than zero.
- (h) (k) The city aid base for a city is increased by \$45,000 in 2001 and thereafter and by an additional \$50,000 in calendar years 2002 to 2011, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$45,000 in calendar year 2001 only, and by \$50,000 in calendar year 2002 only, provided that:
- (1) the net tax capacity of the city used in calculating its 2000 aid under section 477A.013 is less than \$810 per capita;
 - (2) the population of the city declined more than two percent between 1988 and 1998;
- (3) the net levy of the city used in calculating 2000 aid under section 477A.013 is greater than \$240 per capita; and
- (4) the city received less than \$36 per capita in aid under section 477A.013, subdivision 9, for aids payable in 2000.

- (m) (1) The city aid base for a city with a population of 10,000 or more which is located outside of the seven-county metropolitan area is increased in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (b) or (c), is also increased in calendar year 2002 only, by an amount equal to the lesser of:
- (1)(i) the total population of the city, as determined by the United States Bureau of the Census, in the 2000 census, (ii) minus 5,000, (iii) times 60; or
 - (2) \$2,500,000.
- (n) (m) The city aid base is increased by \$50,000 in 2002 and thereafter, and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$50,000 in calendar year 2002 only, provided that:
 - (1) the city is located in the seven-county metropolitan area;
 - (2) its population in 2000 is between 10,000 and 20,000; and
 - (3) its commercial industrial percentage, as calculated for city aid payable in 2001, was greater than 25 percent.
- (o) (n) The city aid base for a city is increased by \$150,000 in calendar years 2002 to 2011 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$150,000 in calendar year 2002 only, provided that:
 - (1) the city had a population of at least 3,000 but no more than 4,000 in 1999;
 - (2) its home county is located within the seven-county metropolitan area;
 - (3) its pre-1940 housing percentage is less than 15 percent; and
 - (4) its city net tax capacity per capita for taxes payable in 2000 is less than \$900 per capita.
- (p) (o) The city aid base for a city is increased by \$200,000 beginning in calendar year 2003 and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, paragraph (c), is also increased by \$200,000 in calendar year 2003 only, provided that the city qualified for an increase in homestead and agricultural credit aid under Laws 1995, chapter 264, article 8, section 18.
- (q) (p) The city aid base for a city is increased by \$200,000 in 2004 only and the maximum amount of total aid it may receive under section 477A.013, subdivision 9, is also increased by \$200,000 in calendar year 2004 only, if the city is the site of a nuclear dry cask storage facility.
- (r) (q) The city aid base for a city is increased by \$10,000 in 2004 and thereafter and the maximum total aid it may receive under section 477A.013, subdivision 9, is also increased by \$10,000 in calendar year 2004 only, if the city was included in a federal major disaster designation issued on April 1, 1998, and its pre-1940 housing stock was decreased by more than 40 percent between 1990 and 2000.

[EFFECTIVE DATE.] This section is effective beginning with aids payable in 2004.

Sec. 26. Minnesota Statutes 2003 Supplement, section 477A.03, subdivision 2b, is amended to read:

Subd. 2b. [COUNTIES.] (a) For aids payable in calendar year 2005 and thereafter, the total aids paid to counties under section 477A.0124, subdivision 3, are limited to \$100,500,000. Each calendar year, \$500,000 shall be retained by the commissioner of revenue to make reimbursements to the commissioner of finance for payments made under section 611.27. For calendar year 2004, the amount shall be \$500,000 is appropriated from the general fund for this purpose in addition to the payments authorized under section 477A.0124, subdivision 1. For calendar year 2005 and subsequent years, the amount shall be deducted from the appropriation under this paragraph for section 477A.0124, subdivision 1. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be included in the next distribution of county need aid that is certified to the county auditors for the purpose of property tax reduction for the next taxes payable year.

(b) For aids payable in 2005 and thereafter, the total aids under section 477A.0124, subdivision 4, are limited to \$105,000,000. The commissioner of finance shall bill the commissioner of revenue for the cost of preparation of local impact notes as required by section 3.987, not to exceed \$207,000 in fiscal year 2004 and thereafter. The commissioner of education shall bill the commissioner of revenue for the cost of preparation of local impact notes for school districts as required by section 3.987, not to exceed \$7,000 in fiscal year 2004 and thereafter. For aids payable in 2004, \$214,000 is appropriated from the general fund for this purpose. For aids payable in 2005 and thereafter, the commissioner of revenue shall deduct the amounts billed under this paragraph from the appropriation under this paragraph section for section 477A.0124, subdivision 4. The amounts deducted are appropriated to the commissioner of finance and the commissioner of education for the preparation of local impact notes.

[EFFECTIVE DATE.] This section is effective for aids payable in 2004 and thereafter.

Sec. 27. Laws 2003, First Special Session chapter 21, article 5, section 13, is amended to read:

Sec. 13. [2004 CITY AID REDUCTIONS.]

The commissioner of revenue shall compute an aid reduction amount for 2004 for each city as provided in this section.

The initial aid reduction amount for each city is the amount by which the city's aid distribution under Minnesota Statutes, section 477A.013, and related provisions payable in 2003 exceeds the city's 2004 distribution under those provisions.

The minimum aid reduction amount for a city is the amount of its reduction in 2003 under section 12. If a city receives an increase to its city aid base under Minnesota Statutes, section 477A.011, subdivision 36, its minimum aid reduction is reduced by an equal amount.

The maximum aid reduction amount for a city is an amount equal to 14 percent of the city's total 2004 levy plus aid revenue base, except that if the city has a city net tax capacity for aids payable in 2004, as defined in Minnesota Statutes, section 477A.011, subdivision 20, of \$700 per capita or less, the maximum aid reduction shall not exceed an amount equal to 13 percent of the city's total 2004 levy plus aid revenue base.

If the initial aid reduction amount for a city is less than the minimum aid reduction amount for that city, the final aid reduction amount for the city is the sum of the initial aid reduction amount and the lesser of the amount of the city's payable 2004 reimbursement under Minnesota Statutes, section 273.1384, or the difference between the minimum and initial aid reduction amounts for the city, and the amount of the final aid reduction in excess of the initial aid reduction is deducted from the city's reimbursements pursuant to Minnesota Statutes, section 273.1384.

If the initial aid reduction amount for a city is greater than the maximum aid reduction amount for the city, the city receives an additional distribution under this section equal to the result of subtracting the maximum aid reduction amount from the initial aid reduction amount. This distribution shall be paid in equal installments in 2004 on the dates specified in Minnesota Statutes, section 477A.015. The amount necessary for these additional distributions is appropriated to the commissioner of revenue from the general fund in fiscal year 2005.

The initial aid reduction is applied to the city's distribution pursuant to Minnesota Statutes, section 477A.013, and any aid reduction in excess of the initial aid reduction is applied to the city's reimbursements pursuant to Minnesota Statutes, section 273.1384.

To the extent that sufficient information is available on each payment date in 2004, the commissioner of revenue shall pay the reimbursements reduced under this section in equal installments on the payment dates provided in law.

[EFFECTIVE DATE.] This section is effective for aids payable in 2004.

Sec. 28. Laws 2003, First Special Session chapter 21, article 6, section 9, is amended to read:

Sec. 9. [DEFINITIONS.]

- (a) For purposes of sections 9 to 15, the following terms have the meanings given them in this section.
- (b) The 2003 and 2004 "levy plus aid revenue base" for a county is the sum of that county's certified property tax levy for taxes payable in 2003, plus the sum of the amounts the county was certified to receive in the designated calendar year as:
- (1) homestead and agricultural credit aid under Minnesota Statutes, section 273.1398, subdivision 2, plus any additional aid under section 16, minus the amount calculated under section 273.1398, subdivision 4a, paragraph (b), for counties in judicial districts one, three, six, and ten, and 25 percent of the amount calculated under section 273.1398, subdivision 4a, paragraph (b), for counties in judicial districts two and four;
- (2) the amount of county manufactured home homestead and agricultural credit aid computed for the county for payment in 2003 under section 273.166;
 - (3) criminal justice aid under Minnesota Statutes, section 477A.0121;
 - (4) family preservation aid under Minnesota Statutes, section 477A.0122;
- (5) taconite aids under Minnesota Statutes, sections 298.28 and 298.282, including any aid which was required to be placed in a special fund for expenditure in the next succeeding year; and
 - (6) county program aid under section 477A.0124, exclusive of the attached machinery aid component.

[EFFECTIVE DATE.] This section is effective for aids payable in 2004.

Sec. 29. [REPEALER.]

Minnesota Statutes 2002, sections 273.19, subdivision 5; 274.05; 275.15; and 283.07, are repealed effective the day following final enactment.

ARTICLE 4

SALES AND USE TAXES TECHNICAL

- Section 1. Minnesota Statutes 2002, section 289A.38, subdivision 6, is amended to read:
- Subd. 6. [OMISSION IN EXCESS OF 25 PERCENT.] Additional taxes may be assessed within 6-1/2 years after the due date of the return or the date the return was filed, whichever is later, if:
- (1) the taxpayer omits from gross income an amount properly includable in it that is in excess of 25 percent of the amount of gross income stated in the return;
- (2) the taxpayer omits from a sales, use, or withholding tax return an amount of taxes in excess of 25 percent of the taxes reported in the return; or
- (3) the taxpayer omits from the gross estate assets in excess of 25 percent of the gross estate reported in the return.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 2. Minnesota Statutes 2003 Supplement, section 289A.40, subdivision 2, is amended to read:
- Subd. 2. [BAD DEBT LOSS.] If a claim relates to an overpayment because of a failure to deduct a loss due to a bad debt or to a security becoming worthless, the claim is considered timely if filed within seven years from the date prescribed for the filing of the return. A claim relating to an overpayment of taxes under chapter 297A must be filed within 3-1/2 years from the date prescribed for filing the return, plus any extensions granted for filing the return, but only if filed within the extended time. The refund or credit is limited to the amount of overpayment attributable to the loss. "Bad debt" for purposes of this subdivision, has the same meaning as that term is used in United States Code, title 26, section 166, except that <u>for a claim relating to an overpayment of taxes under chapter 297A</u> the following are excluded from the calculation of bad debt: financing charges or interest; sales or use taxes charged on the purchase price; uncollectible amounts on property that remain in the possession of the seller until the full purchase price is paid; expenses incurred in attempting to collect any debt; and repossessed property.

[EFFECTIVE DATE.] For claims relating to an overpayment of taxes under chapter 297A, this section is effective for sales and purchases made on or after January 1, 2004; for all other bad debts or claims, this section is effective on or after July 1, 2003.

Sec. 3. Minnesota Statutes 2003 Supplement, section 297A.668, subdivision 1, is amended to read:

Subdivision 1. [APPLICABILITY.] The provisions of this section apply regardless of the characterization of a product as tangible personal property, a digital good, or a service; but do not apply to telecommunications services, or the sales of motor vehicles, watercraft, aircraft, modular homes, manufactured homes, or mobile homes. These provisions only apply to determine a seller's obligation to pay or collect and remit a sales or use tax with respect to the seller's sale of a product. These provisions do not affect the obligation of a seller as purchaser to remit tax on the use of the product.

- Sec. 4. Minnesota Statutes 2003 Supplement, section 297A.668, subdivision 3, is amended to read:
- Subd. 3. [LEASE OR RENTAL OF TANGIBLE PERSONAL PROPERTY.] The lease or rental of tangible personal property, other than property identified in subdivision 4 or 5, shall be sourced as required in paragraphs (a) to (c).
- (a) For a lease or rental that requires recurring periodic payments, the first periodic payment is sourced the same as a retail sale in accordance with the provisions of subdivision 62. Periodic payments made subsequent to the first payment are sourced to the primary property location for each period covered by the payment. The primary property location must be as indicated by an address for the property provided by the lessee that is available to the lessor from its records maintained in the ordinary course of business, when use of this address does not constitute bad faith. The property location must not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.
- (b) For a lease or rental that does not require recurring periodic payments, the payment is sourced the same as a retail sale in accordance with the provisions of subdivision 2.
- (c) This subdivision does not affect the imposition or computation of sales or use tax on leases or rentals based on a lump sum or accelerated basis, or on the acquisition of property for lease.

[EFFECTIVE DATE.] This section is effective for sales and purchases made on or after January 1, 2004.

- Sec. 5. Minnesota Statutes 2003 Supplement, section 297A.668, subdivision 5, is amended to read:
- Subd. 5. [TRANSPORTATION EQUIPMENT.] (a) The retail sale, including lease or rental, of transportation equipment shall be sourced the same as a retail sale in accordance with the provisions of subdivision 2, notwithstanding the exclusion of lease or rental in subdivision 2.
 - (b) "Transportation equipment" means any of the following:
- (1) locomotives and railcars that are utilized for the carriage of persons or property in interstate commerce; and/or
- (2) trucks and truck-tractors with a gross vehicle weight rating (GVWR) of 10,001 pounds or greater, trailers, semitrailers, or passenger buses that are:
 - (i) registered through the international registration plan; and
- (ii) operated under authority of a carrier authorized and certified by the United States Department of Transportation or another federal authority to engage in the carriage of persons or property in interstate commerce:
- (3) aircraft that are operated by air carriers authorized and certificated by the United States Department of Transportation or another federal or a foreign authority to engage in the carriage of persons or property in interstate commerce; or
- (4) containers designed for use on and component parts attached or secured on the transportation equipment described in items (1) through (3).

[EFFECTIVE DATE.] This section is effective for sales and purchases made on or after January 1, 2004.

- Sec. 6. Minnesota Statutes 2003 Supplement, section 297A.669, subdivision 16, is amended to read:
- Subd. 16. [SERVICE ADDRESS.] "Service address," for purposes of this section, means:
- (1) the location of the telecommunications equipment to which a customer's call is charged and from which the call originates or terminates, regardless of where the call is billed or paid;
- (2) if the location in paragraph (a) (1) is not known, service address means the origination point of the signal of the telecommunications services first identified by either the seller's telecommunications system or in information received by the seller from its service provider, where the system used to transport the signals is not that of the seller: or
- (3) if the location in paragraphs $\frac{\text{(a)}}{\text{(1)}}$ and $\frac{\text{(b)}}{\text{(2)}}$ is not known, the service address means the location of the customer's place of primary use.

[EFFECTIVE DATE.] This section is effective for sales and purchases made on or after January 1, 2004.

- Sec. 7. Minnesota Statutes 2003 Supplement, section 297A.68, subdivision 2, is amended to read:
- Subd. 2. [MATERIALS CONSUMED IN INDUSTRIAL PRODUCTION.] (a) Materials stored, used, or consumed in industrial production of personal property intended to be sold ultimately at retail are exempt, whether or not the item so used becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:
 - (1) chemicals, including chemicals used for cleaning food processing machinery and equipment;
- (2) materials, including chemicals, fuels, and electricity purchased by persons engaged in industrial production to treat waste generated as a result of the production process;
- (3) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of the average climate control or lighting for the production area, and (ii) it is necessary to produce that particular product;
 - (4) petroleum products and lubricants;
 - (5) packaging materials, including returnable containers used in packaging food and beverage products;
- (6) accessory tools, equipment, and other items that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product; and
- (7) the following materials, tools, and equipment used in metalcasting: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks.
 - (b) This exemption does not include:
- (1) machinery, equipment, implements, tools, accessories, appliances, contrivances and furniture and fixtures, except those listed in paragraph (a), clause (6); and
- (2) petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state.

(c) Industrial production includes, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products (whether vegetable or animal), commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity, the production of road building materials, and the research, development, design, or production of computer software. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. <u>Industrial production does not include the furnishing of services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii).</u>

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 8. Minnesota Statutes 2003 Supplement, section 297A.68, subdivision 5, is amended to read:
- Subd. 5. [CAPITAL EQUIPMENT.] (a) Capital equipment is exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

"Capital equipment" means machinery and equipment purchased or leased, and used in this state by the purchaser or lessee primarily for manufacturing, fabricating, mining, or refining tangible personal property to be sold ultimately at retail if the machinery and equipment are essential to the integrated production process of manufacturing, fabricating, mining, or refining. Capital equipment also includes machinery and equipment used <u>primarily</u> to electronically transmit results retrieved by a customer of an on-line computerized data retrieval system.

- (b) Capital equipment includes, but is not limited to:
- (1) machinery and equipment used to operate, control, or regulate the production equipment;
- (2) machinery and equipment used for research and development, design, quality control, and testing activities;
- (3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;
 - (4) materials and supplies used to construct and install machinery or equipment;
- (5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;
 - (6) materials used for foundations that support machinery or equipment;
 - (7) materials used to construct and install special purpose buildings used in the production process;
- (8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis and leases of ready-mixed concrete trucks; and
 - (9) machinery or equipment used for research, development, design, or production of computer software.
 - (c) Capital equipment does not include the following:
 - (1) motor vehicles taxed under chapter 297B;
 - (2) machinery or equipment used to receive or store raw materials;

- (3) building materials, except for materials included in paragraph (b), clauses (6) and (7);
- (4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;
- (5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13:
- (6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property; $\frac{\partial f}{\partial x}$
- (7) <u>machinery and equipment used by restaurants in the furnishing, preparing, or serving of prepared foods as defined in section 297A.61, subdivision 31;</u>
- (8) machinery and equipment used to furnish the services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii); or
- (9) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.
 - (d) For purposes of this subdivision:
- (1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.
- (2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.
- (3) "Integrated production process" means a process or series of operations through which tangible personal property is manufactured, fabricated, mined, or refined. For purposes of this clause, (i) manufacturing begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed; (ii) fabricating begins with the removal from storage or inventory of the property to be assembled, processed, altered, or modified and ends with the creation or production of the new or changed product; (iii) mining begins with the removal of overburden from the site of the ores, minerals, stone, peat deposit, or surface materials and ends when the last process before stockpiling is completed; and (iv) refining begins with the removal from inventory or storage of a natural resource and ends with the conversion of the item to its completed form.
- (4) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.
- (5) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).
- (6) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

- (7) "Mining" means the extraction of minerals, ores, stone, or peat.
- (8) "On-line data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.
- (9) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).
- (10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

- Sec. 9. Minnesota Statutes 2003 Supplement, section 297A.68, subdivision 39, is amended to read:
- Subd. 39. [PREEXISTING BIDS OR CONTRACTS.] (a) The sale of tangible personal property or services is exempt from tax or a tax rate increase for a period of six months from the effective date of the law change that results in the imposition of the tax or the tax rate increase under this chapter if:
- (1) the act imposing the tax or increasing the tax rate does not have transitional effective date language for existing construction contracts and construction bids; and
 - (2) the requirements of paragraph (b) are met.
 - (b) A sale is tax exempt under paragraph (a) if it meets the requirements of either clause (1) or (2):
 - (1) For a construction contract:
- (i) the goods or services sold must be used for the performance of a bona fide written lump sum or fixed price construction contract:
- (ii) the contract must be entered into before the date the goods or services become subject to the sales tax $\underline{\text{or}}$ the tax rate was increased;
 - (iii) the contract must not provide for allocation of future taxes; and
- (iv) for each qualifying contract the contractor must give the seller documentation of the contract on which an exemption is to be claimed.
 - (2) For a construction bid:
 - (i) the goods or services sold must be used pursuant to an obligation of a bid or bids;
- (ii) the bid or bids must be submitted and accepted before the date the goods or services became subject to the sales tax or the tax rate was increased;
 - (iii) the bid or bids must not be able to be withdrawn, modified, or changed without forfeiting a bond; and
- (iv) for each qualifying bid, the contractor must give the seller documentation of the bid on which an exemption is to be claimed.

Sec. 10. [REPEALER.]

Minnesota Rules, parts 8130.0110, subpart 4; 8130.0200, subparts 5 and 6; 8130.0400, subpart 9; 8130.1200, subparts 5 and 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subparts 1 and 2; 8130.4200, subpart 1; 8130.4400, subpart 3; 8130.5200; 8130.5600, subpart 3; 8130.5800, subpart 5; 8130.7300, subpart 5; and 8130.8800, subpart 4, are repealed.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

ARTICLE 5

SPECIAL TAXES TECHNICAL

Section 1. Minnesota Statutes 2002, section 287.04, is amended to read:

287.04 [EXEMPTIONS.]

The tax imposed by section 287.035 does not apply to:

- (a) A decree of marriage dissolution or an instrument made pursuant to it.
- (b) A mortgage given to correct a misdescription of the mortgaged property.
- (c) A mortgage or other instrument that adds additional security for the same debt for which mortgage registry tax has been paid.
 - (d) A contract for the conveyance of any interest in real property, including a contract for deed.
 - (e) A mortgage secured by real property subject to the minerals production tax of sections 298.24 to 298.28.
- (f) The principal amount of a mortgage loan made under a low and moderate income or other affordable housing program, if the mortgagee is a federal, state, or local government agency.
 - (g) Mortgages granted by fraternal benefit societies subject to section 64B.24.
 - (h) A mortgage amendment or extension, as defined in section 287.01.
- (i) An agricultural mortgage if the proceeds of the loan secured by the mortgage are used to acquire or improve real property classified under section 273.13, subdivision 23, paragraph (a), or (b), clause (1), (2), or (3).
 - (j) A mortgage on an armory building as set forth in section 193.147.

- Sec. 2. Minnesota Statutes 2002, section 295.50, subdivision 4, is amended to read:
- Subd. 4. [HEALTH CARE PROVIDER.] (a) "Health care provider" means:
- (1) a person whose health care occupation is regulated or required to be regulated by the state of Minnesota furnishing any or all of the following goods or services directly to a patient or consumer: medical, surgical, optical, visual, dental, hearing, nursing services, drugs, laboratory, diagnostic or therapeutic services;

- (2) a person who provides goods and services not listed in clause (1) that qualify for reimbursement under the medical assistance program provided under chapter 256B;
 - (3) a staff model health plan company;
 - (4) an ambulance service required to be licensed; or
 - (5) a person who sells or repairs hearing aids and related equipment or prescription eyewear.
 - (b) Health care provider does not include:
- (1) hospitals; medical supplies distributors, except as specified under paragraph (a), clause (5); nursing homes licensed under chapter 144A or licensed in any other jurisdiction; pharmacies; surgical centers; bus and taxicab transportation, or any other providers of transportation services other than ambulance services required to be licensed; supervised living facilities for persons with mental retardation or related conditions, licensed under Minnesota Rules, parts 4665.0100 to 4665.9900; residential care homes licensed under chapter 144B housing with services establishments required to be registered under chapter 144D; board and lodging establishments providing only custodial services that are licensed under chapter 157 and registered under section 157.17 to provide supportive services or health supervision services; adult foster homes as defined in Minnesota Rules, part 9555.5105; day training and habilitation services for adults with mental retardation and related conditions as defined in section 252.41, subdivision 3; boarding care homes, as defined in Minnesota Rules, part 4655.0100; and adult day care centers as defined in Minnesota Rules, part 9555.9600;
- (2) home health agencies as defined in Minnesota Rules, part 9505.0175, subpart 15; a person providing personal care services and supervision of personal care services as defined in Minnesota Rules, part 9505.0335; a person providing private duty nursing services as defined in Minnesota Rules, part 9505.0360; and home care providers required to be licensed under chapter 144A;
- (3) a person who employs health care providers solely for the purpose of providing patient services to its employees; and
- (4) an educational institution that employs health care providers solely for the purpose of providing patient services to its students if the institution does not receive fee for service payments or payments for extended coverage.

- Sec. 3. Minnesota Statutes 2002, section 296A.22, is amended by adding a subdivision to read:
- <u>Subd.</u> <u>9.</u> [ABATEMENT OF PENALTY.] (a) <u>The commissioner may by written order abate any penalty imposed under this section, if in the commissioner's opinion there is reasonable cause to do so.</u>
- (b) A request for abatement of penalty must be filed with the commissioner within 60 days of the date the notice stating that a penalty has been imposed was mailed to the taxpayer's last known address.
- (c) If the commissioner issues an order denying a request for abatement of penalty, the taxpayer may file an administrative appeal as provided in section 296A.25 or appeal to tax court as provided in section 271.06. If the commissioner does not issue an order on the abatement request within 60 days from the date the request is received, the taxpayer may appeal to tax court as provided in section 271.06.

[EFFECTIVE DATE.] This section is effective for penalties imposed on or after the day following final enactment.

- Sec. 4. Minnesota Statutes 2002, section 297E.01, subdivision 5, is amended to read:
- Subd. 5. [DISTRIBUTOR.] "Distributor" means a distributor as defined in section 349.12, subdivision 11, or a person or <u>linked bingo game provider</u> who markets, sells, or provides gambling product to a person or entity for resale or use at the retail level.

- Sec. 5. Minnesota Statutes 2002, section 297E.01, subdivision 7, is amended to read:
- Subd. 7. [GAMBLING PRODUCT.] "Gambling product" means bingo <u>hard cards, bingo paper, or sheets, or linked bingo paper sheets</u>; pull-tabs; tipboards; paddletickets and paddleticket cards; raffle tickets; or any other ticket, card, board, placard, device, or token that represents a chance, for which consideration is paid, to win a prize.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2002, section 297E.01, is amended by adding a subdivision to read:

Subd. 9a. [LINKED BINGO GAME.] "Linked bingo game" means a bingo game played at two or more locations where licensed organizations are authorized to conduct bingo, when there is a common prize pool and a common selection of numbers or symbols conducted at one location, and when the results of the selection are transmitted to all participating locations by satellite, telephone, or other means by a linked bingo game provider.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 7. Minnesota Statutes 2002, section 297E.01, is amended by adding a subdivision to read:

Subd. 9b. [LINKED BINGO GAME PROVIDER.] "Linked bingo game provider" means any person who provides the means to link bingo prizes in a linked bingo game, who provides linked bingo paper sheets to the participating organizations, who provides linked bingo prize management, and who provides the linked bingo game system.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2002, section 297E.07, is amended to read:

297E.07 [INSPECTION RIGHTS.]

At any reasonable time, without notice and without a search warrant, the commissioner may enter a place of business of a manufacturer, distributor, or organization, or linked bingo game provider; any site from which pull-tabs or tipboards or other gambling equipment or gambling product are being manufactured, stored, or sold; or any site at which lawful gambling is being conducted, and inspect the premises, books, records, and other documents required to be kept under this chapter to determine whether or not this chapter is being fully complied with. If the commissioner is denied free access to or is hindered or interfered with in making an inspection of the place of business, books, or records, the permit of the distributor may be revoked by the commissioner, and the license of the manufacturer, the distributor, or the organization, or linked bingo game provider may be revoked by the board.

- Sec. 9. Minnesota Statutes 2003 Supplement, section 297F.08, subdivision 12, is amended to read:
- Subd. 12. [CIGARETTES IN INTERSTATE COMMERCE.] (a) A person may not transport or cause to be transported from this state cigarettes for sale in another state without first affixing to the cigarettes the stamp required by the state in which the cigarettes are to be sold or paying any other excise tax on the cigarettes imposed by the state in which the cigarettes are to be sold.
- (b) A person may not affix to cigarettes the stamp required by another state or pay any other excise tax on the cigarettes imposed by another state if the other state prohibits stamps from being affixed to the cigarettes, prohibits the payment of any other excise tax on the cigarettes, or prohibits the sale of the cigarettes.
- (c) Not later than 15 days after the end of each calendar quarter, a person who transports or causes to be transported from this state cigarettes for sale in another state shall submit to the commissioner a report identifying the quantity and style of each brand of the cigarettes transported or caused to be transported in the preceding calendar quarter, and the name and address of each recipient of the cigarettes. This reporting requirement only relates to cigarettes manufactured by companies that are not original or subsequent participating manufacturers in the Master Settlement Agreement with other states.
- (d) For purposes of this section, "person" has the meaning given in section 297F.01, subdivision 12. Person does not include any common or contract carrier, or public warehouse that is not owned, in whole or in part, directly or indirectly by such person, and does not include a manufacturer that has entered into is an original or subsequent participating manufacturer in the Master Settlement Agreement with other states.

Sec. 10. Minnesota Statutes 2003 Supplement, section 297F.09, subdivision 1, is amended to read:

Subdivision 1. [MONTHLY RETURN; CIGARETTE DISTRIBUTOR.] On or before the 18th day of each calendar month, a distributor with a place of business in this state shall file a return with the commissioner showing the quantity of cigarettes manufactured or brought in from outside the state or purchased during the preceding calendar month and the quantity of cigarettes sold or otherwise disposed of in this state and outside this state during that month. A licensed distributor outside this state shall in like manner file a return showing the quantity of cigarettes shipped or transported into this state during the preceding calendar month. Returns must be made in the form and manner prescribed by the commissioner and must contain any other information required by the commissioner. The return must be accompanied by a remittance for the full unpaid tax liability shown by it. The return for the May liability and 85 percent of the estimated June liability is due on the date payment of the tax is due. For distributors subject to the accelerated tax payment requirements in subdivision 10, the return for the May liability is due two business days before June 30th of the year and the return for the June liability is due on or before August 18th of the year.

- Sec. 11. Minnesota Statutes 2003 Supplement, section 297F.09, subdivision 2, is amended to read:
- Subd. 2. [MONTHLY RETURN; TOBACCO PRODUCTS DISTRIBUTOR.] On or before the 18th day of each calendar month, a distributor with a place of business in this state shall file a return with the commissioner showing the quantity and wholesale sales price of each tobacco product:
 - (1) brought, or caused to be brought, into this state for sale; and
 - (2) made, manufactured, or fabricated in this state for sale in this state, during the preceding calendar month.

Every licensed distributor outside this state shall in like manner file a return showing the quantity and wholesale sales price of each tobacco product shipped or transported to retailers in this state to be sold by those retailers, during the preceding calendar month. Returns must be made in the form and manner prescribed by the commissioner and must contain any other information required by the commissioner. The return must be accompanied by a remittance for the full tax liability shown. The return for the May liability and 85 percent of the estimated June liability is due on the date payment of the tax is due. For distributors subject to the accelerated tax payment requirements in subdivision 10, the return for the May liability is due two business days before June 30th of the year and the return for the June liability is due on or before August 18th of the year.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 12. Minnesota Statutes 2002, section 297I.01, is amended by adding a subdivision to read:
- Subd. 13a. [REINSURANCE.] "Reinsurance" is insurance whereby an insurance company, for a consideration, agrees to indemnify another insurance company against all or part of the loss which the latter may sustain under the policy or policies which it has issued.

- Sec. 13. Minnesota Statutes 2002, section 297I.05, subdivision 4, is amended to read:
- Subd. 4. [MUTUAL PROPERTY AND CASUALTY COMPANIES WITH TOTAL ASSETS LESS THAN \$1,600,000,000 ON DECEMBER 31, 1989.] A tax is imposed on mutual property and casualty companies that had total assets greater than \$5,000,000 at the end of the calendar year but that had total assets less than \$1,600,000,000 on December 31, 1989. The rate of tax is equal to:
- (1) two percent of gross premiums less return premiums on all direct business received by the insurer or agents of the insurer in Minnesota for life insurance, in cash or otherwise, during the year; and
- (2) 1.26 percent of gross premiums less return premiums on all other direct business received by the insurer or agents of the insurer in Minnesota, in cash or otherwise, during the year.
- [EFFECTIVE DATE.] This section is effective for returns, taxes, surcharges, and estimated payments required to be filed or paid for tax years beginning on or after January 1, 2004.
 - Sec. 14. Minnesota Statutes 2002, section 297I.05, subdivision 5, is amended to read:
- Subd. 5. [HEALTH MAINTENANCE ORGANIZATIONS, NONPROFIT HEALTH SERVICE PLAN CORPORATIONS, AND COMMUNITY INTEGRATED SERVICE NETWORKS.] (a) Health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations are exempt from the tax imposed under this section for premiums received in calendar years 2001 to 2003.
- (b) For calendar years after 2003, A tax is imposed on health maintenance organizations, community integrated service networks, and nonprofit health care service plan corporations. The rate of tax is equal to one percent of gross premiums less return premiums on all direct business received by the organization, network, or corporation or its agents in Minnesota, in cash or otherwise, in the calendar year.
- (c) In approving the premium rates as required in sections 62L.08, subdivision 8, and 62A.65, subdivision 3, the commissioners of health and commerce shall ensure that any exemption from tax as described in paragraph (a) is reflected in the premium rate.

(d) (b) The commissioner shall deposit all revenues, including penalties and interest, collected under this chapter from health maintenance organizations, community integrated service networks, and nonprofit health service plan corporations in the health care access fund. Refunds of overpayments of tax imposed by this subdivision must be paid from the health care access fund. There is annually appropriated from the health care access fund to the commissioner the amount necessary to make any refunds of the tax imposed under this subdivision.

[EFFECTIVE DATE.] This section is effective January 1, 2004.

Sec. 15. [REPEALER.]

Minnesota Statutes 2002, section 297E.12, subdivision 10, is repealed effective the day following final enactment.

ARTICLE 6

MISCELLANEOUS TECHNICAL

Section 1. Minnesota Statutes 2002, section 270.65, is amended to read:

270.65 [DATE OF ASSESSMENT; DEFINITION.]

For purposes of taxes administered by the commissioner, the term "date of assessment" means the date a liability reported on a return was entered into the records of the commissioner or the date a return should have been filed, whichever is later; or, in the case of taxes determined by the commissioner, "date of assessment" means the date of the order assessing taxes or date of the return made by the commissioner; or, in the case of an amended return filed by the taxpayer, the assessment date is the date additional liability reported on the return, if any, was entered into the records of the commissioner; or, in the case of a consent agreement signed by the taxpayer under section 270.67, subdivision 3, the assessment date is the notice date shown on the agreement; or, in the case of a check from a taxpayer that is dishonored and results in an erroneous refund being given to the taxpayer, remittance of the check is deemed to be an assessment and the "date of assessment" is the date the check was received by the commissioner.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 2. Minnesota Statutes 2003 Supplement, section 289A.19, subdivision 4, is amended to read:
- Subd. 4. [ESTATE TAX RETURNS.] When in the commissioner's judgment good cause exists, the commissioner may extend the time for filing an estate tax return for not more than six months. When an extension to file the federal estate tax return has been granted under section 6081 of the Internal Revenue Code, the time for filing the estate tax return is extended for that period. If the estate requests an extension to file an estate tax return within the time provided in section 289A.18, subdivision 3, the commissioner shall extend the time for filing the estate tax return for six months.

[EFFECTIVE DATE.] This section is effective for estates of decedents dying after December 31, 2003.

- Sec. 3. Minnesota Statutes 2002, section 289A.37, subdivision 5, is amended to read:
- Subd. 5. [SUFFICIENCY OF NOTICE.] An order of assessment, sent postage prepaid by United States mail to the taxpayer at the taxpayer's last known address, or sent by electronic mail to the taxpayer's last known electronic mailing address as provided for in section 325L.08, is sufficient even if the taxpayer is deceased or is under a legal disability, or, in the case of a corporation, has terminated its existence, unless the department has been provided with a new address by a party authorized to receive notices of assessment.

- Sec. 4. Minnesota Statutes 2002, section 289A.60, subdivision 6, is amended to read:
- Subd. 6. [PENALTY FOR <u>FAILURE TO FILE</u>, FALSE OR FRAUDULENT RETURN, EVASION.] If a person, <u>with intent to evade or defeat a tax or payment of tax</u>, <u>fails to file a return</u>, files a false or fraudulent return, or attempts in any <u>other</u> manner to evade or defeat a tax or payment of tax, there is imposed on the person a penalty equal to 50 percent of the tax, less amounts paid by the person on the basis of the false or fraudulent return, <u>if any</u>, due for the period to which the return related.

- Sec. 5. Minnesota Statutes 2003 Supplement, section 290.01, subdivision 19a, is amended to read:
- Subd. 19a. [ADDITIONS TO FEDERAL TAXABLE INCOME.] For individuals, estates, and trusts, there shall be added to federal taxable income:
- (1)(i) interest income on obligations of any state other than Minnesota or a political or governmental subdivision, municipality, or governmental agency or instrumentality of any state other than Minnesota exempt from federal income taxes under the Internal Revenue Code or any other federal statute; and
- (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue Code, except the portion of the exempt-interest dividends derived from interest income on obligations of the state of Minnesota or its political or governmental subdivisions, municipalities, governmental agencies or instrumentalities, but only if the portion of the exempt-interest dividends from such Minnesota sources paid to all shareholders represents 95 percent or more of the exempt-interest dividends that are paid by the regulated investment company as defined in section 851(a) of the Internal Revenue Code, or the fund of the regulated investment company as defined in section 851(g) of the Internal Revenue Code, making the payment; and
- (iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal government described in section 7871(c) of the Internal Revenue Code shall be treated as interest income on obligations of the state in which the tribe is located:
- (2) the amount of income taxes paid or accrued within the taxable year under this chapter and income the amount of taxes based on net income paid to any other state or to any province or territory of Canada, to the extent allowed as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not be more than the amount by which the itemized deductions as allowed under section 63(d) of the Internal Revenue Code exceeds the amount of the standard deduction as defined in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the disallowance of itemized deductions under section 68 of the Internal Revenue Code of 1986, income tax is the last itemized deduction disallowed;
- (3) the capital gain amount of a lump sum distribution to which the special tax under section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;
- (4) the amount of income taxes paid or accrued within the taxable year under this chapter and income taxes <u>based on net income</u> paid to any other state or any province or territory of Canada, to the extent allowed as a deduction in determining federal adjusted gross income. For the purpose of this paragraph, income taxes do not include the taxes imposed by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;
 - (5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10;
- (6) the amount of a partner's pro rata share of net income which does not flow through to the partner because the partnership elected to pay the tax on the income under section 6242(a)(2) of the Internal Revenue Code; and

(7) 80 percent of the depreciation deduction allowed under section 168(k) of the Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that in the taxable year generates a deduction for depreciation under section 168(k) and the activity generates a loss for the taxable year that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k) over the amount of the loss from the activity that is not allowed in the taxable year. In succeeding taxable years when the losses not allowed in the taxable year are allowed, the depreciation under section 168(k) is allowed.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

- Sec. 6. Minnesota Statutes 2002, section 290.06, subdivision 22, is amended to read:
- Subd. 22. [CREDIT FOR TAXES PAID TO ANOTHER STATE.] (a) A taxpayer who is liable for taxes <u>based</u> on <u>or measured by</u> net income to another state, as provided in paragraphs (b) through (f), upon income allocated or apportioned to Minnesota, is entitled to a credit for the tax paid to another state if the tax is actually paid in the taxable year or a subsequent taxable year. A taxpayer who is a resident of this state pursuant to section 290.01, subdivision 7, <u>clause (2) paragraph (b)</u>, and who is subject to income tax as a resident in the state of the individual's domicile is not allowed this credit unless the state of domicile does not allow a similar credit.
- (b) For an individual, estate, or trust, the credit is determined by multiplying the tax payable under this chapter by the ratio derived by dividing the income subject to tax in the other state that is also subject to tax in Minnesota while a resident of Minnesota by the taxpayer's federal adjusted gross income, as defined in section 62 of the Internal Revenue Code, modified by the addition required by section 290.01, subdivision 19a, clause (1), and the subtraction allowed by section 290.01, subdivision 19b, clause (1), to the extent the income is allocated or assigned to Minnesota under sections 290.081 and 290.17.
- (c) If the taxpayer is an athletic team that apportions all of its income under section 290.17, subdivision 5, the credit is determined by multiplying the tax payable under this chapter by the ratio derived from dividing the total net income subject to tax in the other state by the taxpayer's Minnesota taxable income.
- (d) The credit determined under paragraph (b) or (c) shall not exceed the amount of tax so paid to the other state on the gross income earned within the other state subject to tax under this chapter, nor shall the allowance of the credit reduce the taxes paid under this chapter to an amount less than what would be assessed if such income amount was excluded from taxable net income.
- (e) In the case of the tax assessed on a lump sum distribution under section 290.032, the credit allowed under paragraph (a) is the tax assessed by the other state on the lump sum distribution that is also subject to tax under section 290.032, and shall not exceed the tax assessed under section 290.032. To the extent the total lump sum distribution defined in section 290.032, subdivision 1, includes lump sum distributions received in prior years or is all or in part an annuity contract, the reduction to the tax on the lump sum distribution allowed under section 290.032, subdivision 2, includes tax paid to another state that is properly apportioned to that distribution.
- (f) If a Minnesota resident reported an item of income to Minnesota and is assessed tax in such other state on that same income after the Minnesota statute of limitations has expired, the taxpayer shall receive a credit for that year under paragraph (a), notwithstanding any statute of limitations to the contrary. The claim for the credit must be submitted within one year from the date the taxes were paid to the other state. The taxpayer must submit sufficient proof to show entitlement to a credit.

- (g) For the purposes of this subdivision, a resident shareholder of a corporation treated as an "S" corporation under section 290.9725, must be considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S corporation to another state. For the purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income.
- (h) For the purposes of this subdivision, a resident partner of an entity taxed as a partnership under the Internal Revenue Code must be considered to have paid a tax imposed on the partner in an amount equal to the partner's pro rata share of any net income tax paid by the partnership to another state. For purposes of the preceding sentence, the term "net income" tax means any tax imposed on or measured by a partnership's net income.
 - (i) For the purposes of this subdivision, "another state":
 - (1) includes:
 - (i) the District of Columbia; and
 - (ii) a province or territory of Canada; but
 - (2) excludes Puerto Rico and the several territories organized by Congress.
 - (j) The limitations on the credit in paragraphs (b), (c), and (d), are imposed on a state by state basis.
- (k) For a tax imposed by a province or territory of Canada, the tax for purposes of this subdivision is the excess of the tax over the amount of the foreign tax credit allowed under section 27 of the Internal Revenue Code. In determining the amount of the foreign tax credit allowed, the net income taxes imposed by Canada on the income are deducted first. Any remaining amount of the allowable foreign tax credit reduces the provincial or territorial tax that qualifies for the credit under this subdivision.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

Sec. 7. Minnesota Statutes 2003 Supplement, section 290.0674, subdivision 1, is amended to read:

Subdivision 1. [CREDIT ALLOWED.] An individual is allowed a credit against the tax imposed by this chapter in an amount equal to 75 percent of the amount paid for education-related expenses for a qualifying child in kindergarten through grade 12. For purposes of this section, "education-related expenses" means:

- (1) fees or tuition for instruction by an instructor under section 120A.22, subdivision 10, clause (1), (2), (3), (4), or (5), or a member of the Minnesota Music Teachers Association, and who is not a lineal ancestor or sibling of the dependent for instruction outside the regular school day or school year, including tutoring, driver's education offered as part of school curriculum, regardless of whether it is taken from a public or private entity or summer camps, in grade or age appropriate curricula that supplement curricula and instruction available during the regular school year, that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the graduation rule under section 120B.02, paragraph (e), clauses (1) to (7), (9), and (10) required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (3), and that do not include the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship;
- (2) expenses for textbooks, including books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. "Textbooks" does not include instructional books and materials used

in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs;

- (3) a maximum expense of \$200 per family for personal computer hardware, excluding single purpose processors, and educational software that assists a dependent to improve knowledge of core curriculum areas or to expand knowledge and skills under the graduation rule under section 120B.02 required academic standards under section 120B.021, subdivision 1, and the elective standard under section 120B.022, subdivision 1, clause (3), purchased for use in the taxpayer's home and not used in a trade or business regardless of whether the computer is required by the dependent's school; and
- (4) the amount paid to others for transportation of a qualifying child attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A.

For purposes of this section, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code.

[EFFECTIVE DATE.] This section is effective for tax years beginning after December 31, 2003.

Sec. 8. Minnesota Statutes 2002, section 290.92, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (1) [WAGES.] For purposes of this section, the term "wages" means the same as that term is defined in section 3401(a) and (f) of the Internal Revenue Code.

- (2) [PAYROLL PERIOD.] For purposes of this section the term "payroll period" means a period for which a payment of wages is ordinarily made to the employee by the employee's employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.
- (3) [EMPLOYEE.] For purposes of this section the term "employee" means any resident individual performing services for an employer, either within or without, or both within and without the state of Minnesota, and every nonresident individual performing services within the state of Minnesota, the performance of which services constitute, establish, and determine the relationship between the parties as that of employer and employee. As used in the preceding sentence, the term "employee" includes an officer of a corporation, and an officer, employee, or elected official of the United States, a state, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing.
- (4) [EMPLOYER.] For purposes of this section the term "employer" means any person, including individuals, fiduciaries, estates, trusts, partnerships, limited liability companies, and corporations transacting business in or deriving any income from sources within the state of Minnesota for whom an individual performs or performed any service, of whatever nature, as the employee of such person, except that if the person for whom the individual performs or performed the services does not have legal control of the payment of the wages for such services, the term "employer," except for purposes of paragraph (1), means the person having legal control of the payment of such wages. As used in the preceding sentence, the term "employer" includes any corporation, individual, estate, trust, or organization which is exempt from taxation under section 290.05 and further includes, but is not limited to, officers of corporations who have legal control, either individually or jointly with another or others, of the payment of the wages.

(5) [NUMBER OF WITHHOLDING EXEMPTIONS CLAIMED.] For purposes of this section, the term "number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under subdivision 5, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 9. Minnesota Statutes 2002, section 290C.05, is amended to read:

290C.05 [ANNUAL CERTIFICATION.]

On or before July 1 of each year, beginning with the year after the claimant has received an approved application, the commissioner shall send each claimant enrolled under the sustainable forest incentive program a certification form. The claimant must sign the certification, attesting that the requirements and conditions for continued enrollment in the program are currently being met, and must return the signed certification form to the commissioner by August 15 of that same year. Failure to If the claimant does not return an annual certification form by the due date shall result in removal of the lands from the provisions of the sustainable forest incentive program, and the imposition of any applicable removal penalty, the provisions in section 290C.11 apply. The claimant may appeal the removal and any associated penalty according to the procedures and within the time allowed under this chapter.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 10. [290C.055] [LENGTH OF COVENANT.]

The covenant remains in effect for a minimum of eight years. If land is removed from the program after it has been enrolled for less than four years, the covenant remains in effect for eight years from the date recorded.

In the case of land that has been enrolled for more than four years and is removed from the program for any reason, there is a four-year waiting period to end the covenant. The covenant remains in effect until January 1 of the fifth calendar year that begins after the date that:

- (1) the commissioner receives notification from the claimant that the claimant wishes to be removed from the program under section 290C.10, or
 - (2) the date that land is removed from the program under section 290C.11.

Notwithstanding the other provisions of this section, the covenant is terminated at the same time that land is removed from the program due to acquisition of title or possession for a public purpose under section 290C.10.

- Sec. 11. Minnesota Statutes 2002, section 325D.33, subdivision 6, is amended to read:
- Subd. 6. [VIOLATIONS.] If the commissioner determines that a distributor is violating any provision of this chapter, the commissioner must give the distributor a written warning explaining the violation and an explanation of what must be done to comply with this chapter. Within ten days of issuance of the warning, the distributor must notify the commissioner that the distributor has complied with the commissioner's recommendation or request that the commissioner set the issue for a hearing pursuant to chapter 14. If a hearing is requested, the hearing shall be scheduled within 20 days of the request and the recommendation of the administrative law judge shall be issued within five working days of the close of the hearing. The commissioner's final determination shall be issued within

five working days of the receipt of the administrative law judge's recommendation. If the commissioner's final determination is adverse to the distributor and the distributor does not comply within ten days of receipt of the commissioner's final determination, the commissioner may order the distributor to immediately cease the stamping of cigarettes. As soon as practicable after the order, the commissioner must remove the meter and any unapplied cigarette stamps from the premises of the distributor.

If within ten days of issuance of the written warning the distributor has not complied with the commissioner's recommendation or requested a hearing, the commissioner may order the distributor to immediately cease the stamping of cigarettes and remove the meter and unapplied stamps from the distributor's premises.

If, within any 12-month period, the commissioner has issued three written warnings to any distributor, even if the distributor has complied within ten days, the commissioner shall notify the distributor of the commissioner's intent to revoke the distributor's license for a continuing course of conduct contrary to this chapter. For purposes of this paragraph, a written warning that was ultimately resolved by removal of the warning by the commissioner is not deemed to be a warning. The commissioner must notify the distributor of the date and time of a hearing pursuant to chapter 14 at least 20 days before the hearing is held. The hearing must provide an opportunity for the distributor to show cause why the license should not be revoked. If the commissioner revokes a distributor's license, the commissioner shall not issue a new license to that distributor for 180 days.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 12. Minnesota Statutes 2002, section 473.843, subdivision 5, is amended to read:

Subd. 5. [PENALTIES; ENFORCEMENT.] The audit, penalty, and enforcement provisions applicable to <u>corporate</u> <u>franchise</u> taxes imposed under chapter 290 apply to the fees imposed under this section. The commissioner of revenue shall administer the provisions.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

Sec. 13. [REPEALER.]

Minnesota Rules, parts 8093.2000 and 8093.3000, are repealed.

[EFFECTIVE DATE.] This section is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to financing and operation of state and local government; making technical, policy, clarifying, and administrative changes to certain taxes and tax related provisions, tax forfeited lands, state debt collection procedures, sustainable forest incentive programs, and tax data provisions; conforming tax provisions to certain changes in federal law; changing powers and duties of commissioner of revenue, state demographer, and metropolitan council; providing for population estimates; changing and imposing civil penalties; amending Minnesota Statutes 2002, sections 16D.10; 270.02, subdivision 3; 270.65; 270.69, subdivision 4; 270B.01, subdivision 8; 270B.12, subdivision 9; 272.01, subdivision 2; 272.02, subdivisions 1a, 7, by adding subdivisions; 273.124, subdivision 8; 273.19, subdivision 1a; 274.14; 275.065, subdivision 1a; 275.07, subdivisions 1, 4; 282.016; 282.21; 282.224; 282.301; 287.04; 289A.12, subdivision 3; 289A.31, subdivision 2; 289A.37, subdivision 5; 289A.38, subdivision 6; 289A.56, by adding a subdivision; 289A.60, subdivision 6; 290.06, subdivision 22; 290.92, subdivision 1; 290.9705, subdivision 1; 290C.05; 295.50, subdivision 4; 296A.22, by adding a subdivision; 297A.995, subdivision 6; 297E.01, subdivisions 5, 7, by adding subdivisions; 297E.07; 297I.01, by adding a subdivision; 297I.05, subdivisions 4, 5; 325D.33, subdivision 6; 469.1734, subdivision 6; 473.843, subdivision 5;

473F.02, subdivisions 2, 7; 477A.011, subdivision 3; Minnesota Statutes 2003 Supplement, sections 4A.02; 168A.05, subdivision 1a; 270.06; 270B.12, subdivision 13; 272.02, subdivision 65; 276.112; 289A.02, subdivision 7; 289A.19, subdivision 4; 289A.40, subdivision 2; 290.01, subdivisions 19, 19a, 19b, 19c, 19d, 31; 290.06, subdivision 2c; 290.0674, subdivision 1; 290.091, subdivision 2; 290.0921, subdivision 3; 290A.03, subdivision 15; 290C.10; 291.005, subdivision 1; 297A.668, subdivisions 1, 3, 5; 297A.669, subdivision 16; 297A.68, subdivisions 2, 5, 39; 297F.08, subdivision 12; 297F.09, subdivisions 1, 2; 469.310, subdivision 11; 469.330, subdivision 11; 469.337; 477A.011, subdivision 36; 477A.03, subdivision 2b; Laws 2003, First Special Sesion chapter 21, article 5, section 13; Laws 2003, First Special Session chapter 21, article 6, section 9; proposing coding for new law in Minnesota Statutes, chapters 270; 290C; 473; repealing Minnesota Statutes 2002, sections 273.19, subdivision 5; 274.05; 275.15; 283.07; 297E.12, subdivision 10; Laws 1975, chapter 287, section 5; Laws 2003, chapter 127, article 9, section 9, subdivision 4; Minnesota Rules, parts 8093.2000; 8093.3000; 8130.0110, subpart 4; 8130.0200, subparts 5, 6; 8130.0400, subpart 9; 8130.1200, subparts 5, 6; 8130.2900; 8130.3100, subpart 1; 8130.4000, subpart 5; 8130.4200, subpart 5; 8130.8800, subpart 4."

With the recommendation that when so amended the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 2083, 2298, 2936 and 3091 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 2696 was read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Larson and Lenczewski introduced:

H. F. No. 3199, A bill for an act relating to gambling; creating a State Gaming Board and authorizing it to operate a casino in the metropolitan area; proposing a constitutional amendment to permit the legislature to authorize a state-operated casino; amending Minnesota Statutes 2002, sections 299L.01, subdivision 1; 299L.07, subdivisions 2, 2a; 541.20; 541.21; 609.761, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 299L.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

Buesgens; Holberg; Heidgerken; Kohls; DeLaForest; Seifert; Soderstrom; Krinkie; Walz; Erickson; Eastlund; Johnson, J.; Olson, M.; Newman; Vandeveer; Larson; Zellers; Finstad; Lindner; Powell; Anderson, B.; Lindgren; Simpson; Gerlach; Adolphson and Hoppe introduced:

H. F. No. 3200, A bill for an act relating to the legislature; confining regular legislative sessions to odd-numbered years; amending Minnesota Statutes 2002, section 3.011.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs Policy.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

- H. F. No. 1691, A bill for an act relating to highways; modifying provisions relating to local government road construction and improvement contracts; amending Minnesota Statutes 2002, section 160.17, subdivision 3; repealing Minnesota Statutes 2002, section 160.17, subdivision 4.
- H. F. No. 2444, A bill for an act relating to civil actions; regulating limitation periods of certain actions; enacting a uniform conflict of laws-limitations act; proposing coding for new law in Minnesota Statutes, chapter 541.
- H. F. No. 2017, A bill for an act relating to insurance; regulating the joint underwriting association; modifying coverage; amending Minnesota Statutes 2002, section 62F.04, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 1941, A bill for an act relating to Anoka County; authorizing the county to establish a Personnel Board of Appeals.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 2386, A bill for an act relating to state government; merging the Department of Economic Security and the Department of Employment and Economic Development; making corresponding technical and housekeeping changes; amending Minnesota Statutes 2002, sections 3.922, subdivision 10; 15.0591, subdivision 2; 116J.01,

subdivisions 4, 5; 116J.035, subdivision 2; 116J.551; 116J.64, subdivisions 4, 5, 7, 8, 9, by adding a subdivision; 119A.46, subdivision 8; 144.9503, subdivision 1; 171.321, subdivision 2; 181.73, subdivision 1; 216C.10; 242.39, subdivision 3; 246.56, subdivision 1; 256J.08, subdivision 52; 268.001; 268.0111, subdivision 4; 268.0122, subdivision 1; 268.29; 268.66, as amended; 268.665, as amended; 268.976, subdivision 2; 268A.01, subdivision 5; Minnesota Statutes 2003 Supplement, sections 15.01; 15.057; 15.06, subdivision 1; 15A.0815, subdivision 2; 16C.05, subdivision 3; 116J.011; 116J.401; 116J.64, subdivision 6; 116J.966, subdivision 1; 116J.980, subdivision 1; 116J.994, subdivisions 9, 10; 116M.15, subdivision 1; 248.07, subdivision 8; 256.482, subdivision 1; 256C.233, subdivision 1; 268.014; 268.022, subdivision 1; 268.363; 462A.04, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapters 116J; 268A; repealing Minnesota Statutes 2002, sections 116J.036; 116J.414; 268.0111, subdivisions 1, 2, 3a, 4a; 268.0121, subdivisions 1, 2; 268.0122, subdivisions 2, 5, 6; 268.027; 268.028; 268.26, subdivisions 2, 3; 268.361, subdivision 3; 268.3661; 268.551; 268.552; 268.56, subdivision 2; 268.561, subdivision 10; 268.61, subdivision 2; 268.65, subdivisions 1, 3, 4, 5; 268.666, subdivision 5; 268.89; 268.918; 268.95, subdivisions 1, 2, 3, 5; Minnesota Statutes 2003 Supplement, sections 268.0122, subdivision 3; 268.029; 268.26, subdivision 1; 268.65, subdivision 2; 268.95, subdivision 4; 268.976, subdivision 1; Laws 2001, chapter 175, section 49; Minnesota Rules, parts 3300.0050; 3301.0180; 3301.0190; 3301.0200; 3301.0210; 3301.0220; 3301.0230; 3310.2903; 3310.2904; 3310.2905, subpart 1; 3310.2906; 3310.2907; 3310.2909; 3310.2918; 3315.0100; 3315.0202; 3315.0501, subparts 3, 4, 5; 3315.0510; 3315.0530, subpart 1; 3315.0535; 3315.0545; 3315.0555, subpart 5; 3315.0915; 3315.0920; 3315.1005, subpart 2; 3315.1015; 3315.1301, subparts 3, 6; 3315.1305; 3315.1310; 3315.1650, subpart 1; 3315.2410; 3315.2610; 3315.2750; 3315.2810, subparts 1, 3; 3315.3220, subpart 4; 3320.0010; 3320.0020; 3320.0030; 7380.0200; 7380.0210; 7380.0220; 7380.0230; 7380.0240; 7380.0500; 7380.0510; 7380.0520; 7380.0530; 7380.0540; 7380.0550; 7380.0560; 7380.0570; 7380.0580; 7380.0581; 7380.0582; 7380.0600; 7380.0610; 7380.0620; 7380.0630; 7380.0640; 7380.0650; 7380.0800; 7380.0810; 7380.0820; 7380.0830; 7380.0840.

H. F. No. 722, A bill for an act relating to traffic regulations; exempting garbage trucks and recycling vehicles from certain weight restrictions; amending Minnesota Statutes 2002, section 169.87, subdivision 6.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1645, A bill for an act relating to museums and archives repositories; regulating loans to and abandoned property of museums and archives repositories; providing a process for establishing ownership of property loaned to museums and archives repositories; proposing coding for new law in Minnesota Statutes, chapter 345.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2175, A bill for an act relating to health; modifying requirements for various public health occupations; prescribing authority of speech-language pathology assistants; modifying requirements for physician assistants, acupuncture practitioners, licensed professional counselors, alcohol and drug counselors, dentists, dental

hygienists, dental assistants, and podiatrists; modifying provisions for designating essential community providers; modifying certain immunization provisions; appropriating money; amending Minnesota Statutes 2002, sections 12.03, subdivision 4d; 12.39, subdivision 2; 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 3, 5; 147A.02; 147A.20; 147B.01, by adding a subdivision; 147B.06, subdivision 4; 148.211, subdivision 1; 148.284; 148.512, subdivisions 9, 19, by adding a subdivision; 148.6402, by adding a subdivision; 148.6403, subdivision 5; 148.6405; 148.6428; 148.6443, subdivisions 1, 5; 150A.06, as amended; 150A.08, subdivision 1; 150A.09, subdivision 4; 153.01, subdivision 2; 153.16, subdivisions 1, 2; 153.19, subdivision 1; 153.24, subdivision 4; 153.25, subdivision 1; 192.502; Minnesota Statutes 2003 Supplement, sections 13.37, subdivision 3; 62Q.19, subdivision 2; 121A.15, subdivisions 3a, 12; 147A.09, subdivision 2; 148.212, subdivision 1; 148.511; 148.512, subdivisions 12, 13; 148.513, subdivisions 1, 2; 148.5161, subdivisions 1, 4, 6; 148.5175; 148.518; 148.5193, subdivisions 1, 6a; 148.5195, subdivision 3; 148.5196, subdivision 3; 148B.52; 148B.53, subdivisions 1, 3; 148B.54; 148B.55; 148B.59; 148C.04, subdivision 6; 148C.075, subdivision 2, by adding a subdivision; 148C.11, subdivision 6, by adding a subdivision; 148C.12, subdivisions 2, 3; proposing coding for new law in Minnesota Statutes, chapters 12; 144; 148; 148B; 197; repealing Minnesota Statutes 2002, sections 147B.02, subdivision 5; Laws 2002, chapter 402, section 21; Minnesota Rules, parts 6900.0020, subparts 3, 3a, 9, 10; 6900.0400.

PATRICK E. FLAHAVEN, Secretary of the Senate

Abeler moved that the House refuse to concur in the Senate amendments to H. F. No. 2175, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2207, A bill for an act relating to health; clarifying that individuals may participate in pharmaceutical manufacturer's rebate programs; amending Minnesota Statutes 2002, section 62J.23, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

Bradley moved that the House refuse to concur in the Senate amendments to H. F. No. 2207, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 1530, A bill for an act relating to animals; imposing limits on ownership and possession of certain dangerous animals; requiring registration; providing criminal penalties; proposing coding for new law in Minnesota Statutes, chapter 346.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Betzold, Dille and Kiscaden.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Strachan moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 1530. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1753.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1753

A bill for an act relating to utilities; modifying low-income electric rate discount program; amending Minnesota Statutes 2002, section 216B.16, subdivision 14.

May 10, 2004

The Honorable James P. Metzen President of the Senate

The Honorable Steve Sviggum Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1753, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 1753 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2002, section 123B.02, is amended by adding a subdivision to read:

Subd. 21. [WIND ENERGY CONVERSION SYSTEM.] The board may construct, acquire, own in whole or in part, operate, and sell and retain and spend the payment received from selling energy from a wind energy conversion system, as defined in section 216C.06, subdivision 19. The board's share of the installed capacity of the wind energy conversion systems authorized by this subdivision must not exceed 3.3 megawatts of nameplate capacity. A board owning, operating, or selling energy from a wind energy conversion system must integrate information about wind energy conversion systems in its educational programming.

[EFFECTIVE DATE.] This section is effective the day following final enactment.

- Sec. 2. Minnesota Statutes 2002, section 216B.16, subdivision 14, is amended to read:
- Subd. 14. [LOW-INCOME ELECTRIC RATE DISCOUNT.] A public utility shall provide fund an affordability program for low-income customers in an amount based on a 50 percent electric rate discount on the first 300 kilowatt hours consumed in a billing period for a low-income residential customer customers of the utility. For the purposes of this subdivision, "low-income" means describes a customer who is receiving assistance from the federal low-income home energy assistance program. The affordability program must be designed to target participating customers with the lowest incomes and highest energy costs in order to lower the percentage of income they devote to energy bills, increase their payments, and lower costs associated with collection activities on their accounts. For low-income customers who are 62 years of age or older or disabled, the program must, in addition to any other program benefits, include a 50 percent electric rate discount on the first 300 kilowatt hours consumed in a billing period. For the purposes of this subdivision, "public utility" includes only those public utilities with more than 200,000 residential electric service customers. The commission may issue orders necessary to implement, administer, and recover the discount rate costs of the program on a timely basis.

[EFFECTIVE DATE.] This section is effective July 1, 2004.

Sec. 3. Minnesota Statutes 2003 Supplement, section 216B.241, subdivision 1b, is amended to read:

Subd. 1b. [CONSERVATION IMPROVEMENT BY COOPERATIVE ASSOCIATION OR MUNICIPALITY.] (a) This subdivision applies to:

- (1) a cooperative electric association that provides retail service to its members;
- (2) a municipality that provides electric service to retail customers; and
- (3) a municipality with gross operating revenues in excess of \$5,000,000 from sales of natural gas to retail customers.
- (b) Each cooperative electric association and municipality subject to this subdivision shall spend and invest for energy conservation improvements under this subdivision the following amounts:
- (1) for a municipality, 0.5 percent of its gross operating revenues from the sale of gas and 1.5 percent of its gross operating revenues from the sale of electricity, excluding gross operating revenues from electric and gas service provided in the state to large electric customer facilities; and
- (2) for a cooperative electric association, 1.5 percent of its gross operating revenues from service provided in the state, excluding gross operating revenues from service provided in the state to large electric customer facilities indirectly through a distribution cooperative electric association.
- (c) Each municipality and cooperative electric association subject to this subdivision shall identify and implement energy conservation improvement spending and investments that are appropriate for the municipality or association, except that a municipality or association may not spend or invest for energy conservation improvements that directly benefit a large electric customer facility for which the commissioner has issued an exemption under subdivision 1a, paragraph (b).
- (d) Each municipality and cooperative electric association subject to this subdivision may spend and invest annually up to ten percent of the total amount required to be spent and invested on energy conservation improvements under this subdivision on research and development projects that meet the definition of energy conservation improvement in subdivision 1 and that are funded directly by the municipality or cooperative electric association.

- (e) Load-management activities that do not reduce energy use but that increase the efficiency of the electric system may be used to meet the following percentage of the conservation investment and spending requirements of this subdivision:
 - (1) 2002 90 percent;
 - (2) 2003 80 percent;
 - (3) 2004 65 percent; and
 - (4) 2005 and thereafter 50 percent.
- (f) A generation and transmission cooperative electric association that provides energy services to cooperative electric associations that provide electric service at retail to consumers may invest in energy conservation improvements on behalf of the associations it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis. A municipal power agency or other not-for-profit entity that provides energy service to municipal utilities that provide electric service at retail may invest in energy conservation improvements on behalf of the municipal utilities it serves and may fulfill the conservation, spending, reporting, and energy savings goals on an aggregate basis, under an agreement between the municipal power agency or not-for-profit entity and each municipal utility for funding the investments.
- (g) By June 1, 2002, and Every two years thereafter, on a schedule determined by the commissioner, each municipality or cooperative shall file an overview of its conservation improvement plan with the commissioner. With this overview, the municipality or cooperative shall also provide an evaluation to the commissioner detailing its energy conservation improvement spending and investments for the previous period. The evaluation must briefly describe each conservation program and must specify the energy savings or increased efficiency in the use of energy within the service territory of the utility or association that is the result of the spending and investments. The evaluation must analyze the cost-effectiveness of the utility's or association's conservation programs, using a list of baseline energy and capacity savings assumptions developed in consultation with the department. commissioner shall review each evaluation and make recommendations, where appropriate, to the municipality or association to increase the effectiveness of conservation improvement activities. Up to three percent of a utility's conservation spending obligation under this section may be used for program pre-evaluation, testing, and monitoring and program evaluation. The overview and evaluation filed by a municipality with less than \$2,500,000 60,000,000 kilowatt hours in annual gross revenues from the retail sale sales of electric service may consist of a letter from the governing board of the municipal utility to the department providing the amount of annual conservation spending required of that municipality and certifying that the required amount has been spent on conservation programs pursuant to this subdivision.
- (h) The commissioner shall also review each evaluation for whether a portion of the money spent on residential conservation improvement programs is devoted to programs that directly address the needs of renters and low-income persons unless an insufficient number of appropriate programs are available. For the purposes of this subdivision and subdivision 2, "low-income" means an income at or below 50 percent of the state median income.
- (i) As part of its spending for conservation improvement, a municipality or association may contribute to the energy and conservation account. A municipality or association may propose to the commissioner to designate that all or a portion of funds contributed to the account be used for research and development projects that can best be implemented on a statewide basis. Any amount contributed must be remitted to the commissioner by February 1 of each year.
- (j) A municipality may spend up to 50 percent of its required spending under this section to refurbish an existing district heating or cooling system. This paragraph expires July 1, 2007.

Sec. 4. [REPEALER.]

Minnesota Statutes 2002, section 325E.015, is repealed."

Delete the title and insert:

"A bill for an act relating to utilities; modifying provisions related to wind energy systems; modifying low-income electric rate discount program; regulating conservation improvement by cooperatives and municipalities; eliminating duplicate language related to budget payment plans as a required customer option; amending Minnesota Statutes 2002, sections 123B.02, by adding a subdivision; 216B.16, subdivision 14; Minnesota Statutes 2003 Supplement, section 216B.241, subdivision 1b; repealing Minnesota Statutes 2002, section 325E.015."

We request adoption of this report and repassage of the bill.

Senate Conferees: ELLEN R. ANDERSON, GARY W. KUBLY AND DAVID C. GAITHER.

House Conferees: Torrey Westrom, Raymond Cox and Dan Larson.

Westrom moved that the report of the Conference Committee on S. F. No. 1753 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1753, A bill for an act relating to utilities; modifying low-income electric rate discount program; amending Minnesota Statutes 2002, section 216B.16, subdivision 14.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler Abrams Adolphson Anderson, B. Anderson, I. Anderson, J. Atkins Bernardy Biernat Blaine Borrell Boudreau Bradley Brod Buesgens Carlson Clark Cornish	Davids Davnie DeLaForest Demmer Dempsey Dill Dorman Dorn Eastlund Eken Ellison Entenza Erhardt Erickson Finstad Fuller Goodwin Greiling	Haas Hackbarth Harder Hausman Heidgerken Hilstrom Hilty Holberg Hoppe Hornstein Howes Huntley Jacobson Jaros Johnson, J. Johnson, S. Juhnke Kahn	Klinzing Knoblach Koenen Kohls Krinkie Kuisle Lanning Larson Latz Lenczewski Lesch Lieder Lindgren Lindner Lipman Magnus Mahoney Mariani	McNamara Meslow Mullery Murphy Nelson, C. Nelson, M. Nelson, P. Newman Nornes Olsen, S. Olson, M. Opatz Osterman Otremba Otto Ozment Paulsen Paymar	Penas Peterson Powell Pugh Rhodes Rukavina Ruth Samuelson Seagren Seifert Sertich Sieben Simpson Slawik Smith Soderstrom Solberg Stang
Cox	Gunther	Kelliher	Marquart	Pelowski	Strachan

SwensonThissenVandeveerWalzWesterbergSykoraTingelstadWageniusWardlowWestromThaoUrdahlWalkerWasilukWilkin

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 2068 and 1790.

PATRICK E. FLAHAVEN, Secretary of the Senate

Spk. Sviggum

FIRST READING OF SENATE BILLS

S. F. No. 2068, A bill for an act relating to drainage; prohibiting the planting of trees over certain public or private tile lines; amending Minnesota Statutes 2002, section 103E.081, by adding subdivisions.

The bill was read for the first time.

Swenson moved that S. F. No. 2068 and H. F. No. 2478, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1790, A bill for an act relating to local government; increasing the flexibility of local government contracting; increasing the purchasing authority of city managers in plan B cities; increasing the competitive bidding threshold for small cities; authorizing the use of reverse auction and electronic bidding and selling; amending Minnesota Statutes 2002, sections 373.01, subdivision 1; 412.691; 429.041, subdivisions 1, 2; 469.015, subdivisions 1, 3; 471.345, subdivisions 3, 4, by adding subdivisions; Minnesota Statutes 2003 Supplement, section 16C.10, subdivision 7.

The bill was read for the first time.

Lanning moved that S. F. No. 1790 and H. F. No. 1717, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Paulsen from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Supplemental Calendar for the Day for Wednesday, May 12, 2004:

S. F. Nos. 2274 and 2177; H. F. Nos. 2976, 2479 and 2034; S. F. No. 2141; H. F. No. 580; S. F. Nos. 2455 and 806; and H. F. Nos. 1703, 2986 and 2247.

CALENDAR FOR THE DAY

H. F. No. 606 was reported to the House.

Wilkin moved to amend H. F. No. 606, the fourth engrossment, as follows:

Page 2, after line 24, insert:

"Sec. 3. [62Q.7321] [ALLOCATION OF COST.]

- (a) <u>Health plan companies must not build their costs of complying with sections 62Q.732 to 62Q.75 into the premium rates they charge to individuals and employers.</u>
- (b) Health plan companies may reduce their reimbursement of providers by the cost to health plan companies of complying with sections 62Q.732 to 62Q.75."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Wilkin amendment and the roll was called. There were 36 yeas and 94 nays as follows:

Those who voted in the affirmative were:

Adolphson	Eastlund	Johnson, J.	Kuisle	Osterman	Soderstrom
Anderson, B.	Erickson	Juhnke	Lindner	Otremba	Thissen
Borrell	Gerlach	Klinzing	Nelson, C.	Paymar	Urdahl
Boudreau	Heidgerken	Knoblach	Nelson, P.	Powell	Vandeveer
Bradley	Holberg	Koenen	Olsen, S.	Ruth	Wardlow
Buesgens	Jacobson	Krinkie	Olson, M.	Severson	Wilkin

Those who voted in the negative were:

Abeler	Davids	Goodwin	Jaros	Mariani	Pelowski
Abrams	DeLaForest	Greiling	Johnson, S.	Marquart	Penas
Anderson, I.	Demmer	Gunther	Kahn	McNamara	Peterson
Anderson, J.	Dempsey	Haas	Kelliher	Meslow	Pugh
Atkins	Dill	Hackbarth	Kohls	Mullery	Rhodes
Bernardy	Dorman	Harder	Lanning	Murphy	Rukavina
Biernat	Dorn	Hausman	Larson	Nelson, M.	Samuelson
Blaine	Eken	Hilstrom	Latz	Newman	Seagren
Brod	Ellison	Hilty	Lenczewski	Nornes	Seifert
Carlson	Entenza	Hoppe	Lesch	Opatz	Sertich
Clark	Erhardt	Hornstein	Lieder	Otto	Sieben
Cornish	Finstad	Howes	Lindgren	Ozment	Simpson
Cox	Fuller	Huntley	Mahoney	Paulsen	Slawik

Smith Strachan Thao Walker Westerberg Spk. Sviggum Solberg Swenson Tingelstad Walz Westrom Wagenius Zellers Stang Sykora Wasiluk

The motion did not prevail and the amendment was not adopted.

H. F. No. 606, A bill for an act relating to health; modifying prior authorization requirements for health care services; establishing requirements for provider contracting; modifying provisions for payment of claims; amending Minnesota Statutes 2002, sections 62M.07; 62Q.74; 62Q.75, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 62Q; repealing Minnesota Statutes 2002, section 62Q.745.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 129 year and 3 nays as follows:

Those who voted in the affirmative were:

Abeler Dempsey Hilty Lenczewski Otremba Solberg Abrams Dill Holberg Lesch Otto Stang Adolphson Dorman Hoppe Lieder Ozment Strachan Swenson Anderson, B. Dorn Hornstein Lindgren Paulsen Anderson, I. Eastlund Howes Lindner Paymar Sykora Anderson, J. Eken Huntley Lipman Pelowski Thao Atkins Ellison Jacobson Magnus Thissen Penas Bernardy Entenza Mahoney Tingelstad Jaros Peterson **Biernat** Erhardt Johnson, J. Mariani Powell Urdahl Blaine Erickson Johnson, S. Marquart Pugh Vandeveer Borrell Juhnke McNamara Rhodes Wagenius Finstad Boudreau Fuller Kahn Meslow Rukavina Walker Bradley Gerlach Kelliher Mullery Walz Ruth Wardlow Brod Goodwin Klinzing Murphy Seagren Carlson Nelson, C. Wasiluk Greiling Knoblach Seifert Gunther Nelson, M. Westerberg Clark Koenen Sertich Cornish Haas Kohls Nelson, P. Severson Westrom Hackbarth Newman Cox Krinkie Sieben Zellers Davids Harder Kuisle Nornes Simpson Spk. Sviggum Davnie Hausman Lanning Olsen, S. Slawik DeLaForest Heidgerken Larson Opatz Smith Demmer Hilstrom Osterman Soderstrom Latz

Those who voted in the negative were:

Buesgens Olson, M. Wilkin

The bill was passed and its title agreed to.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2175:

Abeler, Wilkin and Otremba.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2207:

Bradley, Wilkin and Huntley.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1530:

Strachan, Lindgren and Murphy.

The Speaker called Abrams to the Chair.

CALENDAR FOR THE DAY, Continued

H. F. No. 2095 was reported to the House.

Westerberg moved to amend H. F. No. 2095, the second engrossment, as follows:

Page 10, after line 11, insert:

"Subd. 5. [RESALE.] "Resale" means a bona fide market sale of the property subject to the foreclosure reconveyance by the foreclosure purchaser to an unaffiliated third party.

Subd. 6. [RESALE PRICE.] "Resale price" means the gross sale price of the property on resale."

Page 15, delete lines 20 to 22 and insert:

"(ii) the time for determining the fair market value amount shall be determined in the foreclosure reconveyance contract as either at the time of the execution of the foreclosure reconveyance contract or at resale. If the contract states that the fair market value shall be determined at the time of resale, the fair market value shall be the resale price if it is sold within 120 days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner. If the contract states that the fair market value shall be determined at the time of resale, and the resale is not completed within 120 days of the eviction or voluntary relinquishment of the property by the foreclosed homeowner, the fair market value shall be determined by an appraisal conducted during this 120 day period and payment, if required, shall be made to the homeowner, but the fair market value shall be recalculated as the resale price on resale and an additional payment amount, if appropriate based on the resale price, shall be made to the foreclosed homeowner within 15 days of resale; and"

Page 18, line 3, delete everything before "engages"

Lipman, Westerberg, Murphy and Vandeveer moved to amend H. F. No. 2095, the second engrossment, as amended, as follows:

Page 8, after line 31, insert:

"(d) Notwithstanding any other provision of this section, no action may be brought on the basis of a violation of sections 325N.01 to 325N.09, except by an owner against whom the violation was committed or by the attorney general. This limitation does not apply to administrative action by the commissioner of commerce."

Page 15, line 11, delete "85" and insert "80"

Page 15, line 12, delete "120" and insert "150"

Page 17, after line 20, insert:

"Subd. 1a. [LIMITATION.] Notwithstanding any other provision of this section, no action may be brought on the basis of a violation of sections 325N.10 to 325N.18, except by an owner against whom the violation was committed or by the attorney general. This limitation does not apply to administrative action by the commissioner of commerce."

Page 18, line 3, delete everything before "engages"

Page 18, line 6, delete "\$100,000" and insert "\$50,000"

Page 18, after line 8, insert:

"Subd. 5. [FAILURE OF TRANSACTION.] <u>Failure of the parties to complete the reconveyance transaction, in the absence of additional misconduct, shall not subject a foreclosure purchaser to the criminal penalties under section 325N.07 or 325N.18."</u>

Page 19, after line 28, insert:

"Sec. 22. [EFFECTIVE DATE; EXPIRATION.]

Sections 1 to 21 are effective August 1, 2004, and expire December 31, 2006."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 2095, A bill for an act relating to mortgage foreclosure; providing for rescission of foreclosure consultant contracts; regulating foreclosure consultant contracts; providing remedies for foreclosure violations; requiring foreclosure purchasers to enter foreclosure reconveyances in the form of written contracts; regulating foreclosure contracts; prohibiting certain foreclosure purchaser practices; providing enforcement remedies; requiring certain foreclosure notices; imposing criminal penalties; amending Minnesota Statutes 2002, section 580.03; proposing coding for new law in Minnesota Statutes, chapter 580; proposing coding for new law as Minnesota Statutes, chapter 325N.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Holberg	Lieder	Ozment	Strachan
Abrams	Dill	Hoppe	Lindgren	Paulsen	Swenson
Adolphson	Dorman	Hornstein	Lindner	Paymar	Sykora
Anderson, B.	Dorn	Howes	Lipman	Pelowski	Thao
Anderson, I.	Eastlund	Huntley	Magnus	Penas	Thissen
Anderson, J.	Eken	Jacobson	Mahoney	Peterson	Tingelstad
Atkins	Ellison	Jaros	Mariani	Powell	Urdahl
Bernardy	Entenza	Johnson, J.	Marquart	Pugh	Vandeveer
Biernat	Erhardt	Johnson, S.	McNamara	Rhodes	Wagenius
Blaine	Erickson	Juhnke	Meslow	Rukavina	Walker
Borrell	Finstad	Kahn	Mullery	Ruth	Walz
Boudreau	Fuller	Kelliher	Murphy	Samuelson	Wardlow
Bradley	Gerlach	Klinzing	Nelson, C.	Seagren	Wasiluk
Brod	Goodwin	Knoblach	Nelson, M.	Seifert	Westerberg
Buesgens	Greiling	Koenen	Nelson, P.	Sertich	Westrom
Carlson	Gunther	Kohls	Newman	Severson	Wilkin
Clark	Haas	Krinkie	Nornes	Sieben	Zellers
Cornish	Hackbarth	Kuisle	Olsen, S.	Simpson	Spk. Sviggum
Cox	Harder	Lanning	Olson, M.	Slawik	
Davids	Hausman	Larson	Opatz	Smith	
Davnie	Heidgerken	Latz	Osterman	Soderstrom	
DeLaForest	Hilstrom	Lenczewski	Otremba	Solberg	
Demmer	Hilty	Lesch	Otto	Stang	

The bill was passed, as amended, and its title agreed to.

S. F. No. 1080 was reported to the House.

Samuelson moved to amend S. F. No. 1080 as follows:

Page 1, lines 20 and 21, delete the new language

The motion prevailed and the amendment was adopted.

McNamara; Magnus; Anderson, B.; Severson; Lieder; Samuelson and Adolphson moved to amend S. F. No. 1080, as amended, as follows:

Page 1, line 10, delete the first "to" and insert "a"

Page 2, after line 26, insert:

"Sec. 5. Minnesota Statutes 2002, section 198.261, is amended to read:

198.261 [CANTEEN AND, COFFEE SHOP, AND WOOD SHOP.]

Any profits derived from the operation of canteens and, coffee shops, and wood shops at the Minnesota veterans homes shall be used by the board only for the direct benefit of the residents of the homes."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Brod; Wardlow; Juhnke; Magnus; Anderson, B.; Dempsey; Eastlund; Rhodes; Severson; Knoblach; Samuelson; Gunther; Cornish; Zellers; Lieder and Cox moved to amend S. F. No. 1080, as amended, as follows:

Page 2, after line 26, insert:

- "Sec. 5. Minnesota Statutes 2003 Supplement, section 192.501, subdivision 2, is amended to read:
- Subd. 2. [TUITION AND TEXTBOOK REIMBURSEMENT GRANT PROGRAM.] (a) The adjutant general shall establish a program to provide tuition and textbook reimbursement grants to eligible members of the Minnesota National Guard within the limitations of this subdivision.
 - (b) Eligibility is limited to a member of the National Guard who:
 - (1) is serving satisfactorily as defined by the adjutant general;
- (2) is attending a postsecondary educational institution, as defined by section 136A.15, subdivision 6, including a vocational or technical school operated or regulated by this state or another state or province; and
 - (3) provides proof of satisfactory completion of coursework, as defined by the adjutant general.

In addition, if a member of the Minnesota National Guard is killed in the line of state active service or federally funded state active service, as defined in section 190.05, subdivisions 5a and 5b, the member's surviving spouse, and any surviving dependent who has not yet reached 24 years of age, is eligible for a tuition and textbook reimbursement grant.

The adjutant general may, within the limitations of this paragraph and other applicable laws, determine additional eligibility criteria for the grant, and must specify the criteria in department regulations and publish changes as necessary.

- (c) The amount of a tuition and textbook reimbursement grant must be specified on a schedule as determined and published in department regulations by the adjutant general, but is limited to a maximum of an amount equal to the greater of:
- (1) 75 percent of the cost of tuition for lower division programs in the College of Liberal Arts at the Twin Cities campus of the University of Minnesota in the most recent academic year; or
- (2) 50 percent of the cost of tuition for the program in which the person is enrolled at that Minnesota public institution, or if that public institution is outside the state of Minnesota, for the cost of a comparable program at the University of Minnesota, except that in the case of a survivor as defined in paragraph (b), the amount of the tuition and textbook reimbursement grant for coursework satisfactorily completed by the person is limited to 100 percent of the cost of tuition for postsecondary courses at a Minnesota public educational institution.

Paragraph (b) notwithstanding, a person is no longer eligible for a grant under this subdivision once the person has received grants under this subdivision for the equivalent of 208 quarter credits or 144 semester credits of coursework.

- (d) Tuition and textbook reimbursement grants received under this subdivision may not be considered by the Minnesota Higher Education Services Office or by any other state board, commission, or entity in determining a person's eligibility for a scholarship or grant-in-aid under sections 136A.095 to 136A.1311.
- (e) If a member fails to complete a term of enlistment during which a tuition and textbook reimbursement grant was paid, the adjutant general may seek to recoup a prorated amount as determined by the adjutant general.

[EFFECTIVE DATE.] This section is effective July 1, 2004."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 1080, A bill for an act relating to veterans homes; updating and correcting certain language; amending Minnesota Statutes 2002, sections 198.001, by adding a subdivision; 198.004, subdivision 1; 198.005; 198.007; repealing Minnesota Statutes 2002, sections 198.001, subdivision 7; 198.002, subdivision 5; 198.003, subdivision 2.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey Dill Dorman Dorn Eastlund	Holberg	Lieder	Ozment	Strachan
Abrams		Hoppe	Lindgren	Paulsen	Swenson
Adolphson		Hornstein	Lindner	Paymar	Sykora
Anderson, B.		Howes	Lipman	Pelowski	Thao
Anderson, I.		Huntley	Magnus	Penas	Thissen
Anderson, J.	Eken	Jacobson	Mahoney	Peterson	Tingelstad
Atkins	Ellison	Jaros	Mariani	Powell	Urdahl
Bernardy	Entenza	Johnson, J.	Marquart	Pugh	Vandeveer
Biernat	Erhardt	Johnson, S.	McNamara	Rhodes	Wagenius
Blaine	Erickson	Juhnke	Meslow	Rukavina	Walker
Borrell	Finstad	Kahn	Mullery	Ruth	Walz
Boudreau	Fuller	Kelliher	Murphy	Samuelson	Wardlow
Bradley	Gerlach	Klinzing	Nelson, C.	Seagren	Wasiluk
Brod	Goodwin	Knoblach	Nelson, M.	Seifert	Westerberg
Buesgens Carlson	Greiling Gunther	Koenen Kohls	Nelson, P. Newman	Sertich Severson	Westerberg Westrom Wilkin
Clark Cornish Cox	Haas Hackbarth Harder	Krinkie Kuisle Lanning	Nornes Olsen, S. Olson, M.	Sieben Simpson Slawik	Zellers Spk. Sviggum
Davids Davnie DeLaForest Demmer	Hausman Heidgerken Hilstrom Hilty	Larson Latz Lenczewski Lesch	Opatz Osterman Otremba Otto	Smith Soderstrom Solberg Stang	

The bill was passed, as amended, and its title agreed to.

Wasiluk was excused between the hours of 1:35 p.m. and 3:15 p.m.

H. F. No. 1800 was reported to the House.

Erickson moved to amend H. F. No. 1800, the first engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. [REPORT REQUIRED.]

By January 3, 2005, the commissioner of natural resources shall report to the legislature all costs incurred by the Department of Natural Resources associated with any agreement between the state and a tribe related to the management of game and fish or other natural resources or to the administration of treaties. Costs reported must include expenditures for outsourcing and any payments to federal agencies for assistance in administering or implementing agreements. The commissioner shall itemize the costs incurred by category and year since the commencement of any agreement."

POINT OF ORDER

Entenza raised a point of order pursuant to rule 4.03, relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills, that the Erickson amendment was not in order.

Pursuant to section 244 of "Mason's Manual of Legislative Procedure," Speaker pro tempore Abrams deferred his decision on the Entenza point of order.

Clark moved to amend the Erickson amendment to H. F. No. 1800, the first engrossment, as follows:

Page 1, line 12, after "agreements" insert "including law enforcement costs to enforce treaty rights"

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called. There were 61 years and 71 nays as follows:

Solberg Sykora Thao Thissen Wagenius Walker

Those who voted in the affirmative were:

Abrams	Eken	Huntley	Lenczewski	Osterman
Anderson, I.	Ellison	Jacobson	Lesch	Otto
Atkins	Entenza	Jaros	Lieder	Paymar
Bernardy	Goodwin	Johnson, S.	Magnus	Pelowski
Biernat	Greiling	Juhnke	Mahoney	Peterson
Brod	Harder	Kahn	Mariani	Pugh
Carlson	Hausman	Kelliher	Marquart	Rhodes
Clark	Hilstrom	Knoblach	Mullery	Rukavina
Davnie	Hilty	Koenen	Murphy	Seagren
Dill	Hornstein	Larson	Nelson, M.	Sertich
Dorn	Howes	Latz	Opatz	Slawik

Those who voted in the negative were:

Abeler	DeLaForest	Hackbarth	Lipman	Penas	Swenson
Adolphson	Demmer	Heidgerken	McNamara	Powell	Tingelstad
Anderson, B.	Dempsey	Holberg	Meslow	Ruth	Urdahl
Anderson, J.	Dorman	Hoppe	Nelson, C.	Samuelson	Vandeveer
Blaine	Eastlund	Johnson, J.	Nelson, P.	Seifert	Walz
Borrell	Erhardt	Klinzing	Newman	Severson	Wardlow
Boudreau	Erickson	Kohls	Nornes	Sieben	Westerberg
Bradley	Finstad	Krinkie	Olsen, S.	Simpson	Westrom
Buesgens	Fuller	Kuisle	Olson, M.	Smith	Wilkin
Cornish	Gerlach	Lanning	Otremba	Soderstrom	Zellers
Cox	Gunther	Lindgren	Ozment	Stang	Spk. Sviggum
Davids	Haas	Lindner	Paulsen	Strachan	

The motion did not prevail and the amendment to the amendment was not adopted.

PENDING POINT OF ORDER

Pursuant to section 245 of "Mason's Manual of Legislative Procedure," Speaker pro tempore Abrams submitted the following question to the House: "Is it the judgment of the House that the pending Entenza point of order is well taken?"

A roll call was requested and properly seconded.

The question was taken on the Entenza point of order and the roll was called. There were 79 yeas and 53 nays as follows:

Those who voted in the affirmative were:

Abrams	Dorn	Huntley	Lieder	Paymar	Strachan
Anderson, I.	Eken	Jacobson	Mahoney	Pelowski	Sykora
Atkins	Ellison	Jaros	Mariani	Penas	Thao
Bernardy	Entenza	Johnson, S.	Marquart	Peterson	Thissen
Biernat	Erhardt	Juhnke	McNamara	Pugh	Tingelstad
Brod	Fuller	Kahn	Meslow	Rhodes	Vandeveer
Carlson	Goodwin	Kelliher	Mullery	Rukavina	Wagenius
Clark	Greiling	Knoblach	Murphy	Ruth	Walker
Cornish	Hausman	Koenen	Nelson, M.	Seagren	Walz
Cox	Hilstrom	Lanning	Opatz	Sertich	
Davids	Hilty	Larson	Osterman	Sieben	
Davnie	Holberg	Latz	Otremba	Simpson	
Dill	Hornstein	Lenczewski	Otto	Slawik	
Dorman	Howes	Lesch	Ozment	Solberg	

Those who voted in the negative were:

Abeler	Blaine	Buesgens	Eastlund	Gunther	Heidgerken
Adolphson	Borrell	DeLaForest	Erickson	Haas	Hoppe
Anderson, B.	Boudreau	Demmer	Finstad	Hackbarth	Johnson, J.
Anderson, J.	Bradley	Dempsey	Gerlach	Harder	Klinzing

Kohls	Lipman	Nornes	Samuelson	Stang	Westrom
Krinkie	Magnus	Olsen, S.	Seifert	Swenson	Wilkin
Kuisle	Nelson, C.	Olson, M.	Severson	Urdahl	Zellers
Lindgren	Nelson, P.	Paulsen	Smith	Wardlow	Spk. Sviggum
Lindner	Newman	Powell	Soderstrom	Westerberg	

So it was the judgment of the House that the Entenza point of order was well taken and the Erickson amendment was out of order.

Greiling was excused between the hours of 2:15 p.m. and 4:35 p.m.

Olson, M., offered an amendment to H. F. No. 1800, the first engrossment.

Kelliher offered an amendment to the Olson, M., amendment to H. F. No. 1800, the first engrossment.

POINT OF ORDER

Ozment raised a point of order pursuant to rule 4.03, relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills, that the Kelliher amendment to the Olson, M., amendment was not in order. Speaker pro tempore Abrams ruled the point of order well taken and the Kelliher amendment to the Olson, M., amendment out of order.

POINT OF ORDER

Entenza raised a point of order pursuant to rule 4.03, relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills, that the Olson, M., amendment was not in order. Speaker pro tempore Abrams ruled the point of order well taken and the Olson, M., amendment out of order.

H. F. No. 1800, A bill for an act relating to natural resources; requiring a report of tribal agreement-related costs.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 70 yeas and 60 nays as follows:

Those who voted in the affirmative were:

Abeler	Bradley	Dempsey	Hackbarth	Knoblach	McNamara
Abrams	Brod	Eastlund	Harder	Kohls	Meslow
Adolphson	Buesgens	Erhardt	Heidgerken	Krinkie	Nelson, C.
Anderson, B.	Cornish	Erickson	Holberg	Kuisle	Nelson, P.
Anderson, J.	Cox	Finstad	Hoppe	Lanning	Newman
Blaine	Davids	Gerlach	Jacobson	Lindner	Nornes
Borrell	DeLaForest	Gunther	Johnson, J.	Lipman	Olsen, S.
Boudreau	Demmer	Haas	Klinzing	Magnus	Olson, M.

Ozment	Ruth	Simpson	Strachan	Vandeveer	Zellers
Paulsen	Samuelson	Smith	Swenson	Walz	Spk. Sviggum
Penas	Seagren	Soderstrom	Sykora	Westerberg	
Powell	Severson	Stang	Tingelstad	Westrom	

Those who voted in the negative were:

Anderson, I.	Eken	Huntley	Lesch	Osterman	Sertich
Atkins	Ellison	Jaros	Lieder	Otremba	Sieben
Bernardy	Entenza	Johnson, S.	Lindgren	Otto	Slawik
Biernat	Fuller	Juhnke	Mahoney	Paymar	Thao
Carlson	Goodwin	Kahn	Mariani	Pelowski	Thissen
Clark	Hausman	Kelliher	Marquart	Peterson	Urdahl
Davnie	Hilstrom	Koenen	Mullery	Pugh	Wagenius
Dill	Hilty	Larson	Murphy	Rhodes	Walker
Dorman	Hornstein	Latz	Nelson, M.	Rukavina	Wardlow
Dorn	Howes	Lenczewski	Opatz	Seifert	Wilkin

The bill was passed and its title agreed to.

H. F. No. 2000 was reported to the House.

Tingelstad and Juhnke moved to amend H. F. No. 2000, the first engrossment, as follows:

Page 2, delete lines 8 to 30 and insert:

- "(d) The rules required in paragraph (a) must also address the following:
- (1) a definition of redoximorphic features and other criteria that can be used by system designers and inspectors;
- (2) <u>direction on the interpretation of observed soil features that may be redoximorphic and their relation to zones of seasonal saturation; and</u>
 - (3) procedures on how to resolve professional disagreements on seasonally saturated soils.

These rules must be in place by March 31, 2006."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 2000, A bill for an act relating to the environment; requiring rules related to individual sewage treatment systems; amending Minnesota Statutes 2002, section 115.55, subdivision 3.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	DeLaForest	Hilstrom	Latz	Opatz	Slawik
Abrams	Demmer	Hilty	Lenczewski	Osterman	Smith
Adolphson	Dempsey	Holberg	Lesch	Otremba	Soderstrom
Anderson, B.	Dill	Hoppe	Lieder	Otto	Solberg
Anderson, I.	Dorman	Hornstein	Lindgren	Ozment	Stang
Anderson, J.	Dorn	Howes	Lindner	Paulsen	Strachan
Atkins	Eastlund	Huntley	Lipman	Paymar	Swenson
Beard	Eken	Jacobson	Magnus	Pelowski	Sykora
Bernardy	Ellison	Jaros	Mahoney	Penas	Thao
Biernat	Entenza	Johnson, J.	Mariani	Peterson	Thissen
Blaine	Erhardt	Johnson, S.	Marquart	Powell	Tingelstad
Borrell	Erickson	Juhnke	McNamara	Pugh	Urdahl
Boudreau	Finstad	Kahn	Meslow	Rhodes	Vandeveer
Bradley	Fuller	Kelliher	Mullery	Rukavina	Wagenius
Brod	Gerlach	Klinzing	Murphy	Ruth	Walker
Buesgens	Goodwin	Knoblach	Nelson, C.	Samuelson	Walz
Carlson	Gunther	Koenen	Nelson, M.	Seagren	Wardlow
Clark	Haas	Kohls	Nelson, P.	Seifert	Westerberg
Cornish	Hackbarth	Krinkie	Newman	Sertich	Westrom
Cox	Harder	Kuisle	Nornes	Severson	Wilkin
Davids	Hausman	Lanning	Olsen, S.	Sieben	Zellers
Davnie	Heidgerken	Larson	Olson, M.	Simpson	Spk. Sviggum

The bill was passed, as amended, and its title agreed to.

S. F. No. 2472, A bill for an act relating to natural resources; providing for certain rulemaking exemptions; granting authorities to the commissioner of natural resources; authorizing fees; modifying civil penalties; amending Minnesota Statutes 2002, sections 83A.02; 84.027, by adding a subdivision; 84.029, by adding a subdivision; 84.033; 84.0855, by adding a subdivision; 84.791, subdivision 2, by adding a subdivision; 84.86, subdivision 1; 84.8712, subdivision 2; 84.925, subdivision 1, by adding a subdivision; 84D.13, subdivision 5; 85.052, subdivisions 1, 2, by adding subdivisions; 85.055, subdivision 1a; 85.22, subdivision 3; 86A.05, subdivision 5; 86A.07, subdivision 3; 86A.21; 86B.321, subdivision 2; 86B.521, by adding a subdivision; 88.79, by adding a subdivision; 89.012; 89.018, subdivisions 1, 2, by adding a subdivision; 89.19; 89.21; 89.37, by adding a subdivision; 89.53, subdivision 1; 89.71, subdivision 1; 97A.101, subdivision 2; 97A.133, subdivision 3; 97A.135, subdivision 1; 97A.145, subdivision 1; 97B.015, by adding a subdivision; 97B.025; 103G.223; 103I.601, subdivision 1; 84.780.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 114 yeas and 18 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, J.	Bernardy	Borrell	Brod	Cornish
Abrams	Atkins	Biernat	Boudreau	Carlson	Cox
Adolphson	Beard	Blaine	Bradley	Clark	Davids

Davnie	Hackbarth	Knoblach	Meslow	Peterson	Strachan
Demmer	Harder	Koenen	Mullery	Powell	Swenson
Dempsey	Hausman	Kohls	Murphy	Pugh	Sykora
Dill	Hilstrom	Kuisle	Nelson, C.	Rhodes	Thao
Dorman	Hilty	Lanning	Nelson, M.	Rukavina	Tingelstad
Eastlund	Hoppe	Larson	Nelson, P.	Ruth	Urdahl
Ellison	Hornstein	Latz	Newman	Samuelson	Vandeveer
Entenza	Howes	Lenczewski	Nornes	Seagren	Wagenius
Erhardt	Huntley	Lesch	Olsen, S.	Sertich	Walker
Erickson	Jaros	Lindgren	Opatz	Severson	Walz
Finstad	Johnson, J.	Lipman	Osterman	Sieben	Wardlow
Fuller	Johnson, S.	Magnus	Otto	Simpson	Westerberg
Gerlach	Juhnke	Mahoney	Ozment	Slawik	Westrom
Goodwin	Kahn	Mariani	Paulsen	Smith	Wilkin
Gunther	Kelliher	Marquart	Pelowski	Soderstrom	Zellers
Haas	Klinzing	McNamara	Penas	Stang	Spk. Sviggum

Those who voted in the negative were:

Anderson, B.	DeLaForest	Heidgerken	Krinkie	Olson, M.	Seifert
Anderson, I.	Dorn	Holberg	Lieder	Otremba	Solberg
Buesgens	Eken	Jacobson	Lindner	Paymar	Thissen

The bill was passed and its title agreed to.

There being no objection, the order of business reverted to Reports of Standing Committees.

REPORTS OF STANDING COMMITTEES

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2640, A bill for an act relating to insurance; creating a law enforcement agency to deal with insurance fraud; prescribing its powers and duties; establishing insurance assessments to fund the insurance fraud prevention account; providing for disclosure of certain data to the Department of Commerce; transferring the automobile theft prevention program to the Department of Commerce; amending Minnesota Statutes 2002, sections 45.0135, subdivision 6, by adding subdivisions; 299A.75, subdivisions 1, 2, 3; 626.84, subdivision 1; Minnesota Statutes 2003 Supplement, section 268.19, subdivision 1; repealing Minnesota Statutes 2002, section 45.0135, subdivisions 1, 2.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. No. 2640 was read for the second time.

CALENDAR FOR THE DAY

H. F. No. 2986 was reported to the House.

Otto moved to amend H. F. No. 2986, the first engrossment, as follows:

Page 1, line 20, delete "and"

Page 1, line 23, delete the period and insert "; and

(5) emit less mercury per-ton of iron ore than the mercury that had been emitted from the permanently shut down furnaces in the year prior to being shut down."

The motion did not prevail and the amendment was not adopted.

H. F. No. 2986, A bill for an act relating to natural resources; granting certain temporary exemptions for an iron nugget production scale demonstration facility.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 128 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Abrams	Dill	Hornstein	Lindgren	Ozment	Stang
Adolphson	Dorman	Howes	Lindner	Paulsen	Strachan
Anderson, I.	Dorn	Huntley	Lipman	Paymar	Swenson
Anderson, J.	Eastlund	Jacobson	Magnus	Pelowski	Sykora
Atkins	Eken	Jaros	Mahoney	Penas	Thao
Beard	Ellison	Johnson, J.	Mariani	Peterson	Thissen
Bernardy	Entenza	Johnson, S.	Marquart	Powell	Tingelstad
Biernat	Erhardt	Juhnke	McNamara	Pugh	Urdahl
Blaine	Erickson	Kahn	Meslow	Rhodes	Vandeveer
Borrell	Finstad	Kelliher	Mullery	Rukavina	Walker
Boudreau	Fuller	Klinzing	Murphy	Ruth	Walz
Bradley	Gerlach	Knoblach	Nelson, C.	Samuelson	Wardlow
Brod	Goodwin	Koenen	Nelson, M.	Seagren	Wasiluk
Buesgens	Gunther	Kohls	Nelson, P.	Seifert	Westerberg
Carlson	Haas	Krinkie	Newman	Sertich	Westrom
Cornish	Hackbarth	Kuisle	Nornes	Severson	Wilkin
Cox	Harder	Lanning	Olsen, S.	Sieben	Zellers
Davids	Heidgerken	Larson	Olson, M.	Simpson	Spk. Sviggum
Davnie	Hilstrom	Latz	Opatz	Slawik	
DeLaForest	Hilty	Lenczewski	Osterman	Smith	
Demmer	Holberg	Lesch	Otremba	Soderstrom	
Dempsey	Hoppe	Lieder	Otto	Solberg	

Those who voted in the negative were:

Abeler

Hausman

Wagenius

The bill was passed and its title agreed to.

Mahoney was excused for the remainder of today's session.

H. F. No. 2034 was reported to the House.

Clark and Mariani moved to amend H. F. No. 2034, the first engrossment, as follows:

Page 2, after line 24, insert:

"Sec. 2. [43A.175] [SICK AND BEREAVEMENT LEAVE.]

- (a) If a collective bargaining agreement or compensation plan covering state employees provides for sick leave with pay, an employee must be granted sick leave with pay, to the extent of the employee's accumulation of sick leave, for absences:
- (1) <u>due to illness or disability of a regular member of the employee's immediate household for a reasonable</u> period as the employee's attendance is necessary; and
 - (2) due to the death of a regular member of the employee's immediate household, for a reasonable period.
- (b) The benefit provided under paragraph (a) is not a replacement for any other sick leave benefit provided for in the collective bargaining agreement or compensation plan."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

Haas moved that H. F. No. 2034 be continued on the Calendar for the Day. The motion prevailed.

S. F. No. 2455, A bill for an act relating to public safety; removing sunset date on propane education and research council established under federal law; repealing Laws 2001, chapter 130, sections 5, 6.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 109 yeas and 23 nays as follows:

Those who voted in the affirmative were:

Abeler Abrams Anderson, I. Anderson, J. Atkins Beard Bernardy Biernat Blaine Boudreau Bradley Brod Carlson Clark Cornish Cox Davids	Dempsey Dill Dorn Eken Ellison Entenza Erhardt Erickson Finstad Fuller Goodwin Gunther Haas Hackbarth Harder Hausman Heidgerken	Hornstein Howes Huntley Jacobson Jaros Johnson, J. Johnson, S. Juhnke Kahn Kelliher Koenen Lanning Larson Latz Lenczewski Lesch Lieder	Magnus Mariani Marquart McNamara Meslow Mullery Murphy Nelson, C. Nelson, M. Nelson, P. Newman Nornes Olsen, S. Opatz Osterman Otremba	Paymar Pelowski Penas Peterson Pugh Rhodes Rukavina Ruth Samuelson Seagren Sertich Sieben Simpson Slawik Smith Soderstrom Solberg	Swenson Sykora Thao Thissen Tingelstad Urdahl Wagenius Walker Wardlow Wasiluk Westerberg Westrom Wilkin Spk. Sviggum
	Hausman Heidgerken Hilstrom Hilty			Soderstrom Solberg Stang Strachan	

Those who voted in the negative were:

Adolphson	DeLaForest	Holberg	Kohls	Olson, M.	Vandeveer
Anderson, B.	Dorman	Hoppe	Krinkie	Powell	Walz
Borrell	Eastlund	Klinzing	Kuisle	Seifert	Zellers
Buesgens	Gerlach	Knoblach	Lipman	Severson	

The bill was passed and its title agreed to.

S. F. No. 806, A bill for an act relating to retirement; various retirement plans; modifying the responsibilities to provide actuarial valuations and proposed legislative cost estimates; reducing an appropriation; amending Minnesota Statutes 2002, sections 352.03, subdivision 6; 352B.02, subdivision 1e; 353.03, subdivision 3a; 354.06, subdivision 2a; 354A.021, subdivision 7; 356.215, subdivisions 2, 18; 422A.06, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 356; repealing Minnesota Statutes 2002, sections 3.85, subdivisions 11, 12; 356.217.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, J.	Blaine	Buesgens	Davids	Dill
Abrams	Atkins	Borrell	Carlson	Davnie	Dorman
Adolphson	Beard	Boudreau	Clark	DeLaForest	Dorn
Anderson, B.	Bernardy	Bradley	Cornish	Demmer	Eastlund
Anderson, I.	Biernat	Brod	Cox	Dempsey	Eken

Ellison	Hoppe	Lanning	Nelson, M.	Pugh	Swenson
Entenza	Hornstein	Larson	Nelson, P.	Rhodes	Sykora
Erhardt	Howes	Latz	Newman	Rukavina	Thao
Erickson	Huntley	Lenczewski	Nornes	Ruth	Thissen
Finstad	Jacobson	Lesch	Olsen, S.	Samuelson	Tingelstad
Fuller	Jaros	Lieder	Olson, M.	Seagren	Urdahl
Gerlach	Johnson, J.	Lindgren	Opatz	Seifert	Vandeveer
Goodwin	Johnson, S.	Lindner	Osterman	Sertich	Wagenius
Gunther	Juhnke	Lipman	Otremba	Severson	Walker
Haas	Kahn	Magnus	Otto	Sieben	Walz
Hackbarth	Kelliher	Mariani	Ozment	Simpson	Wardlow
Harder	Klinzing	Marquart	Paulsen	Slawik	Wasiluk
Hausman	Knoblach	McNamara	Paymar	Smith	Westerberg
Heidgerken	Koenen	Meslow	Pelowski	Soderstrom	Westrom
Hilstrom	Kohls	Mullery	Penas	Solberg	Wilkin
Hilty	Krinkie	Murphy	Peterson	Stang	Zellers
Holberg	Kuisle	Nelson, C.	Powell	Strachan	Spk. Sviggum

The bill was passed and its title agreed to.

Speaker pro tempore Abrams called Paulsen to the Chair.

S. F. No. 2274 was reported to the House.

Abrams moved to amend S. F. No. 2274 as follows:

Page 2, after line 26, insert:

"Sec. 2. Minnesota Statutes 2002, section 462.357, subdivision 1e, is amended to read:

Subd. 1e. [NONCONFORMITIES.] Any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, or maintenance, but if or improvement, but not including expansion, unless the nonconformity or occupancy is discontinued for a period of more than one year, or any nonconforming use is destroyed by fire or other peril to the extent of greater than 50 percent of its market value, and no improvement, repair, replacement, restoration, or maintenance has commenced within the year. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy. A municipality may, by ordinance, permit an expansion or impose upon nonconformities reasonable regulations to prevent and abate nuisances and to protect the public health, welfare, or safety. This subdivision does not prohibit a municipality from enforcing an ordinance that applies to adults-only bookstores, adults-only theaters, or similar adults-only businesses, as defined by ordinance."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

Paymar moved to amend the Abrams amendment to S. F. No. 2274 as follows:

Page 1, line 22, after "to" insert "billboard,"

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Abrams amendment and the roll was called. There were 71 yeas and 61 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Harder	Lindgren	Paulsen	Strachan
Abrams	DeLaForest	Holberg	Lindner	Penas	Swenson
Adolphson	Demmer	Howes	Lipman	Powell	Sykora
Anderson, B.	Dempsey	Jacobson	Magnus	Ruth	Thissen
Anderson, J.	Dorman	Johnson, J.	McNamara	Samuelson	Vandeveer
Blaine	Eastlund	Juhnke	Meslow	Seagren	Walz
Borrell	Erhardt	Klinzing	Nelson, C.	Seifert	Westerberg
Boudreau	Erickson	Knoblach	Nelson, P.	Severson	Westrom
Bradley	Finstad	Kohls	Newman	Simpson	Wilkin
Brod	Fuller	Krinkie	Nornes	Smith	Zellers
Cornish	Gerlach	Kuisle	Olson, M.	Soderstrom	Spk. Sviggum
Cox	Hackbarth	Lesch	Ozment	Stang	2 00

Those who voted in the negative were:

Anderson, I.	Eken	Hornstein	Lieder	Paymar	Tingelstad
Atkins	Ellison	Huntley	Mariani	Pelowski	Urdahl
Beard	Entenza	Jaros	Marquart	Peterson	Wagenius
Bernardy	Goodwin	Johnson, S.	Mullery	Pugh	Walker
Biernat	Greiling	Kahn	Murphy	Rhodes	Wardlow
Buesgens	Gunther	Kelliher	Nelson, M.	Rukavina	Wasiluk
Carlson	Haas	Koenen	Olsen, S.	Sertich	
Clark	Hausman	Lanning	Opatz	Sieben	
Davnie	Heidgerken	Larson	Osterman	Slawik	
Dill	Hilty	Latz	Otremba	Solberg	
Dorn	Hoppe	Lenczewski	Otto	Thao	

The motion prevailed and the amendment was adopted.

Opatz and Knoblach moved to amend S. F. No. 2274, as amended, as follows:

Page 1, line 21, after "effective" insert ". The period of an interim ordinance applicable to an area that is affected by a city's master plan for a municipal airport" and after "and" reinstate the stricken language

Page 1, lines 22 and 23, reinstate the stricken language

Page 1, line 23, before the period, insert "in the case where the Minnesota Department of Transportation has requested a city to review its master plan for a municipal airport prior to August 1, 2004. In all other cases,"

S. F. No. 2274, A bill for an act relating to zoning; providing certain limitations on municipal interim ordinances; amending Minnesota Statutes 2002, section 462.355, subdivision 4.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 93 yeas and 40 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Harder	Magnus	Pugh	Sykora
Abrams	DeLaForest	Heidgerken	McNamara	Rukavina	Thissen
Adolphson	Demmer	Holberg	Meslow	Ruth	Tingelstad
Anderson, B.	Dempsey	Hoppe	Murphy	Samuelson	Urdahl
Anderson, I.	Dill	Howes	Nelson, C.	Seagren	Vandeveer
Anderson, J.	Dorman	Jacobson	Nelson, P.	Seifert	Walz
Atkins	Dorn	Johnson, J.	Newman	Sertich	Wardlow
Beard	Eastlund	Juhnke	Nornes	Severson	Wasiluk
Blaine	Erhardt	Klinzing	Olson, M.	Sieben	Westerberg
Borrell	Erickson	Knoblach	Opatz	Simpson	Westrom
Boudreau	Finstad	Kohls	Osterman	Smith	Wilkin
Bradley	Fuller	Krinkie	Ozment	Soderstrom	Zellers
Brod	Gerlach	Kuisle	Paulsen	Solberg	Spk. Sviggum
Buesgens	Gunther	Lindgren	Pelowski	Stang	
Cornish	Haas	Lindner	Penas	Strachan	
Cox	Hackbarth	Lipman	Powell	Swenson	

Those who voted in the negative were:

Bernardy	Entenza	Huntley	Larson	Mullery	Rhodes
Biernat	Goodwin	Jaros	Latz	Nelson, M.	Slawik
Carlson	Greiling	Johnson, S.	Lenczewski	Olsen, S.	Thao
Clark	Hausman	Kahn	Lesch	Otremba	Wagenius
Davnie	Hilstrom	Kelliher	Lieder	Otto	Walker
Eken	Hilty	Koenen	Mariani	Paymar	
Ellison	Hornstein	Lanning	Marquart	Peterson	

The bill was passed, as amended, and its title agreed to.

S. F. No. 2177 was reported to the House.

Vandeveer and Abrams moved to amend S. F. No. 2177 as follows:

Pages 1 and 2, delete section 1

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Buesgens moved to amend S. F. No. 2177, as amended, as follows:

Page 8, after line 29, insert:

"Sec. 9. Minnesota Statutes 2002, section 473.255, subdivision 3, is amended to read:

Subd. 3. [INCLUSIONARY HOUSING INCENTIVES.] The Metropolitan Council may work with municipalities and developers to provide incentives to inclusionary housing developments such as waiver of service availability charges and other regulatory incentives that would result in identifiable cost avoidance or reductions for an inclusionary housing development. Waivers of service availability charges are not eligible as incentives."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Buesgens amendment and the roll was called. There were 76 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Abeler	Cox	Haas	Lanning	Ozment	Swenson
Abrams	Davids	Hackbarth	Lindgren	Paulsen	Sykora
Adolphson	DeLaForest	Harder	Lindner	Penas	Tingelstad
Anderson, B.	Demmer	Holberg	Lipman	Powell	Urdahl
Anderson, J.	Dempsey	Hoppe	Magnus	Ruth	Walz
Beard	Dorman	Howes	Meslow	Seagren	Wardlow
Blaine	Eastlund	Jacobson	Nelson, C.	Seifert	Westerberg
Borrell	Erhardt	Johnson, J.	Nelson, P.	Severson	Westrom
Boudreau	Erickson	Klinzing	Newman	Simpson	Wilkin
Bradley	Finstad	Knoblach	Nornes	Smith	Zellers
Brod	Fuller	Kohls	Olsen, S.	Soderstrom	Spk. Sviggum
Buesgens	Gerlach	Krinkie	Olson, M.	Stang	
Cornish	Gunther	Kuisle	Osterman	Strachan	

Those who voted in the negative were:

Anderson, I. Atkins Bernardy Biernat Carlson Clark Davnie Dill Dorn	Ellison Entenza Goodwin Greiling Hausman Hilstrom Hilty Hornstein Huntley	Johnson, S. Juhnke Kahn Kelliher Koenen Larson Latz Lenczewski Lesch	Mariani Marquart McNamara Mullery Murphy Nelson, M. Opatz Otremba Otto	Pelowski Peterson Pugh Rhodes Rukavina Samuelson Sertich Sieben Slawik	Thao Thissen Vandeveer Wagenius Walker Wasiluk
Eken	Jaros	Lieder	Paymar	Solberg	

Opatz was excused for the remainder of today's session.

S. F. No. 2177, A bill for an act relating to metropolitan government; clarifying the authority of municipalities' subdivision regulations; modifying the method for determining each municipality's affordable and life-cycle housing opportunities amount; modifying the basis on which nonparticipating municipalities may elect to participate; making conforming changes; amending Minnesota Statutes 2002, sections 462.358, subdivision 11; 473.254, subdivisions 2, 3, 4, 6, 7, 8, by adding a subdivision.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 99 yeas and 32 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hilstrom	Lipman	Paulsen	Soderstrom
Abrams	Dempsey	Hilty	Magnus	Paymar	Solberg
Adolphson	Dill	Holberg	Mariani	Pelowski	Stang
Anderson, I.	Dorman	Hornstein	Marquart	Penas	Strachan
Anderson, J.	Dorn	Howes	McNamara	Peterson	Swenson
Atkins	Eastlund	Huntley	Meslow	Powell	Sykora
Beard	Eken	Jacobson	Murphy	Pugh	Urdahl
Bernardy	Ellison	Juhnke	Nelson, C.	Rhodes	Vandeveer
Blaine	Entenza	Kelliher	Nelson, M.	Ruth	Walz
Borrell	Erhardt	Knoblach	Nelson, P.	Samuelson	Westerberg
Boudreau	Erickson	Koenen	Newman	Seagren	Westrom
Bradley	Finstad	Kuisle	Nornes	Seifert	Wilkin
Brod	Fuller	Lanning	Olson, M.	Severson	Zellers
Cornish	Gunther	Lenczewski	Osterman	Sieben	Spk. Sviggum
Cox	Haas	Lesch	Otremba	Simpson	
Davids	Hackbarth	Lieder	Otto	Slawik	
Davnie	Harder	Lindgren	Ozment	Smith	

Those who voted in the negative were:

Anderson, B.	Gerlach	Jaros	Krinkie	Rukavina	Walker
Biernat	Goodwin	Johnson, J.	Larson	Sertich	Wasiluk
Buesgens	Greiling	Johnson, S.	Latz	Thao	
Carlson	Hausman	Kahn	Lindner	Thissen	
Clark	Heidgerken	Klinzing	Mullery	Tingelstad	
DeLaForest	Hoppe	Kohls	Olsen, S.	Wagenius	

The bill was passed, as amended, and its title agreed to.

H. F. No. 2247 was reported to the House.

Kuisle moved to amend H. F. No. 2247, the second engrossment, as follows:

Page 39, line 26, before "public" insert "primarily" and delete ", not private,"

Kuisle moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 35, line 22, delete "16 and 17" and insert "25 and 26"

Page 54, line 25, delete "EXCEPTION" and insert "RECONVEYANCE OF LAND"

The motion prevailed and the amendment was adopted.

Knoblach moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 43, delete section 5

Renumber the sections in sequence

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Atkins moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 32, after line 33, insert:

"Sec. 45. Minnesota Statutes 2002, section 473.608, is amended by adding a subdivision to read:

<u>Subd.</u> <u>15a.</u> [CERTAIN LEASE TERMS PROHIBITED.] <u>The commission may not enter into any lease of property if:</u>

(1) the property is located at an airport designated by the federal aviation administration as a reliever airport; and

(2) the lease includes a term providing for the reversion of any improvements made to the property by the lessee to the commission at the end of the lease term."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Atkins amendment and the roll was called. There were 41 yeas and 89 nays as follows:

Those who voted in the affirmative were:

Atkins Clark Dorn Greiling Hilty Johnson, S. Bernardy Davnie Ellison Hausman Hornstein Juhnke **Biernat** Dill Entenza Hilstrom Jaros Kahn

Kelliher	Lesch	Paymar	Rukavina	Strachan	Wagenius
Koenen	Mariani	Pelowski	Sertich	Thao	Walker
Krinkie	Nelson, M.	Peterson	Sieben	Thissen	Wasiluk
Latz	Otremba	Pugh	Solberg	Vandeveer	

Those who voted in the negative were:

Abeler	Cox	Hackbarth	Lenczewski	Olson, M.	Smith
Abrams	Davids	Harder	Lieder	Osterman	Soderstrom
Adolphson	DeLaForest	Heidgerken	Lindgren	Otto	Stang
Anderson, B.	Demmer	Holberg	Lindner	Ozment	Swenson
Anderson, I.	Dempsey	Hoppe	Lipman	Paulsen	Sykora
Anderson, J.	Dorman	Howes	Magnus	Penas	Tingelstad
Beard	Eastlund	Huntley	Marquart	Powell	Urdahl
Blaine	Eken	Jacobson	McNamara	Rhodes	Walz
Borrell	Erhardt	Johnson, J.	Meslow	Ruth	Wardlow
Boudreau	Erickson	Klinzing	Murphy	Samuelson	Westerberg
Bradley	Finstad	Knoblach	Nelson, C.	Seagren	Westrom
Brod	Fuller	Kohls	Nelson, P.	Seifert	Wilkin
Buesgens	Gerlach	Kuisle	Newman	Severson	Zellers
Carlson	Gunther	Lanning	Nornes	Simpson	Spk. Sviggum
Cornish	Haas	Larson	Olsen, S.	Slawik	_

The motion did not prevail and the amendment was not adopted.

Seagren moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 16, after line 33, insert:

"Sec. 23. Minnesota Statutes 2002, section 169.685, subdivision 5, is amended to read:

- Subd. 5. [VIOLATION; PETTY MISDEMEANOR.] (a) Every motor vehicle operator, when transporting a child under the age of four subject to the requirements of paragraph (b) on the streets and highways of this state in a motor vehicle equipped with factory-installed seat belts, shall equip and install for use in the motor vehicle, according to the manufacturer's instructions, a child passenger restraint system or a booster seat meeting federal motor vehicle safety standards.
- (b) No motor vehicle operator who is operating a motor vehicle on the streets and highways of this state may transport:
- (1) a child under the age of four in a seat of a motor vehicle equipped with a factory-installed seat belt, unless the child is properly fastened in the child passenger restraint system; or
- (2) <u>a child four years of age or older, but less than nine years of age, unless the child is 57 or more inches in height, if the child is not properly fastened in a booster seat.</u>

Any motor vehicle operator who violates this subdivision is guilty of a petty misdemeanor and may be sentenced to pay a fine of not more than \$50. The fine may be waived or the amount reduced if the motor vehicle operator produces evidence that within 14 days after the date of the violation a child passenger restraint system or booster seat meeting federal motor vehicle safety standards was purchased or obtained for the exclusive use of the operator.

- (c) The fines collected for violations of this subdivision must be deposited in the state treasury and credited to a special account to be known as the Minnesota child passenger restraint and education account.
 - Sec. 24. Minnesota Statutes 2002, section 169.685, subdivision 6, is amended to read:
 - Subd. 6. [EXCEPTIONS.] (a) This section does not apply to:
- (1) a person transporting a child in an emergency medical vehicle while in the performance of official duties and when the physical or medical needs of the child make the use of a child passenger restraint system unreasonable or when a child passenger restraint system is not available;
- (2) a peace officer transporting a child while in the performance of official duties and when a child passenger restraint system or booster seat is not available, provided that a seat belt must be substituted; and
- (3) a person while operating a motor vehicle for hire, including a taxi, airport limousine, and bus, but excluding a rented, leased, or borrowed motor vehicle.
- (b) A child passenger restraint system or booster seat is not required for a child who cannot, in the judgment of a licensed physician, be safely transported in a child passenger restraint system or booster seat because of a medical condition, body size, or physical disability. A motor vehicle operator claiming exemption for a child under this paragraph must possess a typewritten statement from the physician stating that the child cannot be safely transported in a child passenger restraint system or booster seat. The statement must give the name and birth date of the child, be dated within the previous six months, and be made on the physician's letterhead or contain the physician's name, address, and telephone number. A person charged with violating subdivision 5 may not be convicted if the person produces the physician's statement in court or in the office of the arresting officer.
- (c) A person offering a motor vehicle for rent or lease shall provide a child passenger restraint device <u>or booster seat</u> to a customer renting or leasing the motor vehicle <u>who requests the device upon request of the customer</u>. A reasonable rent or fee may be charged for use of the child passenger restraint device <u>or booster seat</u>.
 - Sec. 25. Minnesota Statutes 2002, section 169.685, subdivision 7, is amended to read:
- Subd. 7. [APPROPRIATION; SPECIAL ACCOUNT; LEGISLATIVE REPORT.] The Minnesota child passenger restraint, booster seat, and education account is created in the state treasury, consisting of fines collected under subdivision 5 and other money appropriated or donated. The money in the account is annually appropriated to the commissioner of public safety, to be used to provide child passenger restraint systems and booster seats to families in financial need and to provide an educational program on the need for and proper use of child passenger restraint systems and booster seats. The commissioner shall report to the legislature by February 1 of each odd-numbered year on the commissioner's activities and expenditure of funds under this section.
 - Sec. 26. Minnesota Statutes 2002, section 169.686, subdivision 1, is amended to read:

Subdivision 1. [SEAT BELT REQUIREMENT.] (a) A properly adjusted and fastened seat belt, including both the shoulder and lap belt when the vehicle is so equipped, shall must be worn by:

- (1) the driver of a passenger vehicle or commercial motor vehicle;
- (2) a passenger riding in the front seat of a passenger vehicle or commercial motor vehicle; and
- (3) a passenger riding in any seat of a passenger vehicle who is <u>nine years of age or</u> older than three but younger than 11 18 years of age.

(b) A person who is 15 years of age or older and who violates paragraph (a), clause (1) or (2), is subject to a fine of \$25. The driver of the passenger vehicle or commercial motor vehicle in which the violation occurred is subject to a \$25 fine for a violation of paragraph (a), clause (2) or (3), by a child of the driver under the age of 15 or any child under the age of 11. A peace officer may not issue a citation for a violation of this section unless the officer lawfully stopped or detained the driver of the motor vehicle for a moving violation other than a violation involving motor vehicle equipment. The Department of Public Safety shall not record a violation of this subdivision on a person's driving record."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Paymar, Entenza and Mariani moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 15, delete section 20

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Paymar et al amendment and the roll was called. There were 46 yeas and 84 nays as follows:

Those who voted in the affirmative were:

Atkins	Entenza	Jaros	Lesch	Ozment	Strachan
Bernardy	Greiling	Johnson, S.	Lipman	Paymar	Thao
Biernat	Hausman	Juhnke	Mariani	Pelowski	Thissen
Carlson	Hilstrom	Kahn	Marquart	Rukavina	Wagenius
Clark	Hilty	Kelliher	Mullery	Sertich	Walker
Davnie	Hoppe	Larson	Nelson, M.	Sieben	Wasiluk
Dorn	Hornstein	Latz	Otremba	Slawik	
Ellison	Huntley	Lenczewski	Otto	Solberg	

Those who voted in the negative were:

Abeler Abrams	Boudreau Bradley	Dempsey Dorman	Gunther Haas	Klinzing Knoblach	Lindner Magnus
Adolphson	Brod	Eastlund	Hackbarth	Koenen	McNamara
Anderson, B.	Buesgens	Eken	Harder	Kohls	Meslow
Anderson, I.	Cornish	Erhardt	Heidgerken	Krinkie	Murphy
Anderson, J.	Cox	Erickson	Holberg	Kuisle	Nelson, C.
Beard	Davids	Finstad	Howes	Lanning	Nelson, P.
Blaine	DeLaForest	Fuller	Jacobson	Lieder	Newman
Borrell	Demmer	Gerlach	Johnson, J.	Lindgren	Nornes

Olsen, S.	Peterson	Samuelson	Smith	Tingelstad	Westerberg
Olson, M.	Powell	Seagren	Soderstrom	Urdahl	Westrom
Osterman	Pugh	Seifert	Stang	Vandeveer	Wilkin
Paulsen	Rhodes	Severson	Swenson	Walz	Zellers
Penas	Ruth	Simpson	Sykora	Wardlow	Spk. Sviggum

The motion did not prevail and the amendment was not adopted.

Mariani was excused for the remainder of today's session.

Vandeveer moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 4, delete section 6

Page 5, delete sections 7 and 8

Page 6, delete sections 9 and 10

Page 7, delete sections 11 and 12

Page 7, after line 17, insert:

"Sec. 13. [160.95] [TOLL FACILITIES PROHIBITED.]

Neither the commissioner nor a local road authority may impose or authorize the imposition of a toll for the use of a bridge or a highway or highway lane, except a toll may be imposed for a bridge entering or leaving the state. This section does not apply to (1) any toll that was being collected on January 1, 2004, or (2) any toll authorized under section 160.93 that is collected on marked Interstate highway No. 394."

Page 35, line 32, before "Minnesota" insert "(a)"

Page 35, after line 33, insert:

"(b) Minnesota Statutes 2002, sections 160.84, 160.85, 160.86, 160.87, 160.88, 160.89, 160.90, 160.91, and 160.92, are repealed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Kahn moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 30, after line 2, insert:

"Sec. 39. [171.57] [MOTORCYCLE OPERATORS NOT WEARING HELMETS; LIABILITY; MEDICAL COSTS.]

Subdivision 1. [LIABILITY.] An operator of a motor vehicle is not liable regardless of fault for head injuries incurred in a motor vehicle crash by another person who at the time of the crash was operating a motorcycle, with or without a two-wheeled vehicle endorsement, and was not wearing protective headgear that complies with standards prescribed by the commissioner.

Subd. 2. [EXPENDITURES FOR MEDICAL CARE.] No agency of a state or local government may expend any public funds for the non-emergency treatment of, or medical care related directly to, injuries sustained by a person in a motor vehicle crash if at the time of the crash the person was operating a motorcycle, with or without a two-wheeled vehicle endorsement, and was not wearing protective headgear that complies with standards prescribed by the commissioner."

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Kahn amendment and the roll was called. There were 3 yeas and 125 nays as follows:

Those who voted in the affirmative were:

Kahn Samuelson Thissen

Those who voted in the negative were:

Abeler	Davnie	Heidgerken	Latz	Otremba	Soderstrom
Abrams	DeLaForest	Hilty	Lenczewski	Otto	Solberg
Adolphson	Demmer	Holberg	Lesch	Ozment	Stang
Anderson, B.	Dempsey	Hoppe	Lieder	Paulsen	Strachan
Anderson, I.	Dill	Hornstein	Lindgren	Paymar	Swenson
Anderson, J.	Dorman	Howes	Lindner	Pelowski	Sykora
Atkins	Dorn	Huntley	Lipman	Penas	Thao
Beard	Eastlund	Jacobson	Magnus	Peterson	Tingelstad
Bernardy	Eken	Jaros	Marquart	Powell	Urdahl
Biernat	Ellison	Johnson, J.	McNamara	Pugh	Vandeveer
Blaine	Entenza	Johnson, S.	Meslow	Rhodes	Wagenius
Borrell	Erhardt	Juhnke	Mullery	Rukavina	Walker
Boudreau	Erickson	Kelliher	Murphy	Ruth	Walz
Bradley	Finstad	Klinzing	Nelson, C.	Seagren	Wardlow
Brod	Fuller	Knoblach	Nelson, M.	Seifert	Wasiluk
Buesgens	Gerlach	Koenen	Nelson, P.	Sertich	Westerberg
Carlson	Greiling	Kohls	Newman	Severson	Westrom
Clark	Gunther	Krinkie	Nornes	Sieben	Wilkin
Cornish	Haas	Kuisle	Olsen, S.	Simpson	Zellers
Cox	Hackbarth	Lanning	Olson, M.	Slawik	Spk. Sviggum
Davids	Harder	Larson	Osterman	Smith	

The motion did not prevail and the amendment was not adopted.

Jaros moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Page 34, after line 7, insert:

"Sec. 46. [609.777] [LIMITING USE OF CELLPHONES IN MOTOR VEHICLES; PENALTY.]

(a) A person operating a motor vehicle may use a cellphone only with a hands-free device or in emergency circumstances.

(b) A violation of paragraph (a) is a misdemeanor."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Hilty moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Pages 30 to 32, delete sections 41 and 42

Page 34, delete section 46

A roll call was requested and properly seconded.

The question was taken on the Hilty amendment and the roll was called. There were 59 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Abrams	Dempsey	Hilstrom	Koenen	Otremba	Slawik
Anderson, I.	Dill	Hilty	Krinkie	Otto	Solberg
Anderson, J.	Dorn	Hornstein	Larson	Ozment	Thao
Atkins	Eken	Howes	Latz	Pelowski	Thissen
Bernardy	Ellison	Huntley	Lenczewski	Peterson	Vandeveer
Biernat	Entenza	Jaros	Lesch	Pugh	Wagenius
Buesgens	Erickson	Johnson, S.	Lieder	Rhodes	Walker
Carlson	Goodwin	Juhnke	Mullery	Rukavina	Walz
Clark	Greiling	Kahn	Murphy	Sertich	Wasiluk
Davnie	Hausman	Kelliher	Nelson, M.	Sieben	

Those who voted in the negative were:

Abeler	Boudreau	DeLaForest	Fuller	Heidgerken	Knoblach
Adolphson	Bradley	Demmer	Gerlach	Holberg	Kohls
Anderson, B.	Brod	Dorman	Gunther	Hoppe	Kuisle
Beard	Cornish	Eastlund	Haas	Jacobson	Lanning
Blaine	Cox	Erhardt	Hackbarth	Johnson, J.	Lindgren
Borrell	Davids	Finstad	Harder	Klinzing	Lindner

Thissen Urdahl Walz Westerberg Westrom Zellers Spk. Sviggum

Lipman	Nelson, P.	Paulsen	Seifert	Strachan	Westerberg
Magnus	Newman	Penas	Severson	Swenson	Westrom
Marquart	Nornes	Powell	Simpson	Sykora	Wilkin
McNamara	Olsen, S.	Ruth	Smith	Tingelstad	Zellers
Meslow	Olson, M.	Samuelson	Soderstrom	Urdahl	Spk. Sviggum
Nelson C	Osterman	Seagren	Stang	Wardlow	

The motion did not prevail and the amendment was not adopted.

DeLaForest was excused for the remainder of today's session.

Heidgerken moved to amend H. F. No. 2247, the second engrossment, as amended, as follows:

Pages 51 to 60, delete sections 1 to 14

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Heidgerken amendment and the roll was called. There were 63 yeas and 67 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Ellison	Jacobson	Lieder	Paymar	Thao
Atkins	Entenza	Jaros	Lindner	Pelowski	Tingelstad
Bernardy	Gerlach	Johnson, S.	Marquart	Penas	Vandeveer
Biernat	Goodwin	Juhnke	Mullery	Peterson	Wagenius
Brod	Greiling	Kahn	Murphy	Pugh	Walker
Buesgens	Hausman	Kelliher	Nelson, M.	Rukavina	Wardlow
Carlson	Heidgerken	Koenen	Newman	Sertich	Wasiluk
Davnie	Hilstrom	Krinkie	Olsen, S.	Sieben	Wilkin
Dill	Hilty	Lanning	Olson, M.	Slawik	
Dorn	Hornstein	Latz	Otremba	Solberg	
Eken	Huntley	Lesch	Otto	Swenson	

Those who voted in the negative were:

Abeler	Cox	Hackbarth	Lindgren	Rhodes
Abrams	Davids	Harder	Lipman	Ruth
Adolphson	Demmer	Holberg	Magnus	Samuelson
Anderson, B.	Dempsey	Hoppe	McNamara	Seagren
Anderson, J.	Dorman	Howes	Meslow	Seifert
Beard	Eastlund	Johnson, J.	Nelson, C.	Severson
Blaine	Erhardt	Klinzing	Nelson, P.	Simpson
Borrell	Erickson	Knoblach	Nornes	Smith
Boudreau	Finstad	Kohls	Osterman	Soderstrom
Bradley	Fuller	Kuisle	Ozment	Stang
Clark	Gunther	Larson	Paulsen	Strachan
Cornish	Haas	Lenczewski	Powell	Sykora

The motion did not prevail and the amendment was not adopted.

Howes was excused for the remainder of today's session.

H. F. No. 2247, A bill for an act relating to transportation; requiring the commissioner of transportation to evaluate principal arterial alignments surrounding the metropolitan area as part of evaluation of a second beltway; requiring future use of highway centerline rumble strips; allowing state agency mail-related functions to be carried out by an outside agency; limiting weight restrictions for recycling and garbage vehicles under certain circumstances; requiring evaluation of the St. Cloud transportation plan; requiring a bus driver duty of care; making changes to transportation policy provisions; providing for premium paratransit project; regulating toll facilities; modifying interstate vehicle registration provisions; modifying bond requirements for vehicle dealers; modifying vehicle certificate of title provisions pertaining to dealers and authorizing a fee for deputy registrars; regulating day activity center buses; modifying gross vehicle weight provisions; extending duration of driver instruction permits to two years; modifying requirements for commercial vehicle drivers; modifying driver's license fee provisions; requiring plan for county ten-ton highway system; modifying provisions relating to public safety radio communications operators; requiring preparation of 20-year state aviation plan; including the Division of Driver and Vehicle Services in the definition of appropriate agency for purposes of certain property forfeitures; authorizing rulemaking; requiring a report; modifying highway rest area and land management provisions; amending Minnesota Statutes 2002, sections 16B.49; 117.075; 160.08, subdivision 7; 160.15; 160.276; 160.277; 160.278; 160.28; 160.85, subdivisions 1, 3a; 160.86; 160.87, by adding a subdivision; 161.125, subdivision 3; 161.23, subdivision 3; 161.433, subdivision 2; 161.434; 161.44, by adding a subdivision; 161.442; 168.187, by adding a subdivision; 168.27, subdivision 24; 168A.11, subdivisions 1, 2; 169.01, subdivision 78; 169.14, by adding a subdivision; 169.448, by adding a subdivision; 169.81, subdivision 3c, by adding a subdivision; 169.824, subdivision 2; 169.87, subdivisions 4, 6; 169.99, subdivision 1b; 171.05, subdivisions 1, 2; 171.12, subdivision 6; 171.165, subdivisions 1, 4, by adding a subdivision; 174.03, by adding a subdivision; 179A.03, subdivision 7; 179A.10, subdivision 2; 299D.08; 360.015, by adding a subdivision; 515B.1-107; 515B.3-102; 515B.3-112; 609.531, subdivision 1; Minnesota Statutes 2003 Supplement, sections 13.44, subdivision 3; 117.036; 168.013, subdivision 3; 169.86, subdivision 5; 171.20, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 160; 169; 171; 174; repealing Minnesota Statutes 2002, sections 161.115, subdivision 199; 161.44, subdivision 9; 169.685, subdivision 4.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 98 yeas and 31 nays as follows:

Those who voted in the affirmative were:

Abeler	Cornish	Gerlach	Knoblach	Nelson, C.	Rukavina
Abrams	Cox	Greiling	Koenen	Nelson, P.	Ruth
Adolphson	Davids	Gunther	Kohls	Newman	Samuelson
Anderson, B.	Demmer	Haas	Kuisle	Nornes	Seifert
Anderson, I.	Dempsey	Hackbarth	Lanning	Olson, M.	Sertich
Anderson, J.	Dill	Harder	Latz	Osterman	Severson
Atkins	Dorman	Holberg	Lieder	Ozment	Sieben
Beard	Dorn	Hoppe	Lindgren	Paulsen	Simpson
Blaine	Eastlund	Huntley	Lindner	Pelowski	Slawik
Borrell	Eken	Jacobson	Lipman	Penas	Smith
Boudreau	Erhardt	Johnson, J.	Magnus	Peterson	Soderstrom
Bradley	Erickson	Juhnke	McNamara	Powell	Solberg
Brod	Finstad	Kahn	Meslow	Pugh	Stang
Carlson	Fuller	Klinzing	Murphy	Rhodes	Strachan

Swenson	Tingelstad	Walz	Westerberg	Zellers
Sykora	Urdahl	Wardlow	Westrom	Spk. Sviggum
Thissen	Vandeveer	Wasiluk	Wilkin	, 66

Those who voted in the negative were:

Entenza	Hornstein	Lenczewski	Otremba Walker
Goodwin	Jaros	Lesch	Otto
Hausman	Johnson, S.	Marquart	Paymar
Heidgerken	Kelliher	Mullery	Seagren
Hilstrom	Krinkie	Nelson, M.	Thao
Hilty	Larson	Olsen, S.	Wagenius
	Goodwin Hausman Heidgerken Hilstrom	Goodwin Jaros Hausman Johnson, S. Heidgerken Kelliher Hilstrom Krinkie	Goodwin Jaros Lesch Hausman Johnson, S. Marquart Heidgerken Kelliher Mullery Hilstrom Krinkie Nelson, M.

The bill was passed, as amended, and its title agreed to.

Speaker pro tempore Paulsen called Seifert to the Chair.

H. F. No. 2087 was reported to the House.

Holberg; Nelson, C.; Borrell; Kuisle and Bradley moved to amend H. F. No. 2087, the first engrossment, as follows:

Page 22, delete section 20

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Borrell moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 4, line 22, delete "city and county of residence;"

Page 4, line 23, after the second semicolon, insert "and"

Page 4, line 25, delete "such" and insert "payroll timesheets or other comparable" and after "disclose" insert a colon

Page 4, lines 25, 26, and 27, delete the semicolon, and insert a comma

Page 6, line 34, after the stricken "means" insert "<u>Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this paragraph are governed by section 270B.14, subdivision 1."</u>

The motion prevailed and the amendment was adopted.

Borrell moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 2, delete lines 2 to 6 and insert:

"Subd. 3. [OFFICE OF HEALTH FACILITY COMPLAINTS; INVESTIGATIVE DATA.] <u>All investigative data maintained by the Department of Health's Office of Health Facility Complaints are subject to the provisions of and classified pursuant to section 626.557, subdivision 12b, paragraphs (b) and (c)."</u>

The motion prevailed and the amendment was adopted.

Borrell moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 4, line 32, after "city" insert "or county"

Page 4, line 33, after "city" insert "or county"

Page 4, line 34, after "city" insert "or county"

The motion prevailed and the amendment was adopted.

Borrell moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 17, after line 11, insert:

"Sec. 16. Minnesota Statutes 2002, section 13D.05, subdivision 3, is amended to read:

- Subd. 3. [WHAT MEETINGS MAY BE CLOSED.] (a) A public body may close a meeting to evaluate the performance of an individual who is subject to its authority. The public body shall identify the individual to be evaluated prior to closing a meeting. At its next open meeting, the public body shall summarize its conclusions regarding the evaluation. A meeting must be open at the request of the individual who is the subject of the meeting.
- (b) Meetings may be closed if the closure is expressly authorized by statute or permitted by the attorney-client privilege.
- (c) Meetings may be closed to receive security briefings and reports, to discuss issues related to security systems, to discuss emergency response procedures and to discuss security deficiencies in or recommendations regarding public services, infrastructure and facilities, if disclosure of the information discussed would pose a danger to public safety or compromise security procedures or responses. Financial issues related to security matters must be discussed and all related financial decisions must be made at an open meeting. Before closing a meeting under this paragraph, the public body, in describing the subject to be discussed, must refer to the facilities, systems, procedures, services, or infrastructures to be considered during the closed meeting. A closed meeting must be tape recorded at the expense of the governing body.

[EFFECTIVE DATE.] This section is effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Borrell moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 1, after line 20, insert:

"Section 1. Minnesota Statutes 2002, section 13.03, is amended by adding a subdivision to read:

<u>Subd. 12.</u> [LITIGATION DOCUMENTS.] <u>A complaint, answer, and other litigation pleadings served by or on a government entity are public data to the same extent that the data would be public if filed with the court."</u>

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Holberg moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 2, after line 6, insert:

"Sec. 3. Minnesota Statutes 2002, section 13.3806, is amended by adding a subdivision to read:

<u>Subd.</u> 4a. [BIRTH DEFECTS INFORMATION SYSTEM.] <u>Information collected for the birth defects information system is governed by section 144.2217."</u>

Page 18, delete section 18, and insert:

"Sec. 19. Minnesota Statutes 2002, section 144.2215, is amended to read:

144.2215 [MINNESOTA BIRTH DEFECTS REGISTRY INFORMATION SYSTEM.]

<u>Subdivision 1.</u> [ESTABLISHMENT.] The commissioner of health shall develop a statewide birth defects registry system to provide for the collection, analysis, and dissemination of birth defects information establish and maintain an information system containing data on the cause, treatment, prevention, and cure of major birth defects. The commissioner shall consult with representatives and experts in epidemiology, medicine, insurance, health maintenance organizations, genetics, consumers, and voluntary organizations in developing the system and may phase in the implementation of the system.

- <u>Subd.</u> 2. [DUTIES OF COMMISSIONER.] <u>The commissioner of health shall design a system that allows the commissioner to:</u>
- (1) monitor incidence trends of birth defects to detect potential public health problems, predict risks, and assist in responding to birth defects clusters;
 - (2) more accurately target intervention, prevention, and services for communities, patients, and their families;
 - (3) inform health professionals and citizens of the prevalence of and risks for birth defects;
- (4) conduct scientific investigation and surveys of the causes, mortality, methods of treatment, prevention, and cure for birth defects;

- (5) modify, as necessary, the birth defects information system through demonstration projects;
- (6) remove identifying information about a child whose parent or legal guardian has chosen not to participate in the system as permitted by section 144.2216, subdivision 4;
 - (7) protect the individually identifiable information as required by section 144.2217; and
 - (8) limit the dissemination of identifying information as required by sections 144.2218 and 144.2219.
 - Sec. 20. [144.2216] [BIRTH DEFECTS RECORDS AND REPORTS REQUIRED.]
- <u>Subdivision 1.</u> [HOSPITALS AND SIMILAR INSTITUTIONS.] <u>With the informed consent of a parent or guardian, a hospital, medical clinic, medical laboratory, or other institution for the hospitalization, clinical or laboratory diagnosis, or care of human beings shall provide the commissioner of health with access to information on each birth defect case in the manner and at the times that the commissioner designates.</u>
- <u>Subd. 2.</u> [OTHER INFORMATION REPOSITORIES.] <u>With the informed consent of a parent or guardian, other repositories of information on the diagnosis or care of infants may provide the commissioner with access to information on each case of birth defects in the manner and at the times that the commissioner designates.</u>
- <u>Subd. 3.</u> [REPORTING WITHOUT LIABILITY.] <u>Furnishing information in good faith in compliance with this section does not subject the person, hospital, medical clinic, medical laboratory, data repository, or other institution furnishing the information to any action for damages or relief.</u>
- Subd. 4. [OPT OUT.] A parent or legal guardian must be informed by the commissioner and the medical provider at the time of the initial information collection that they may request to opt out of the system at any time using a written form prescribed by the commissioner. The parent or guardian must also be informed that removing the child from the system, means that all information identifying the child will be deleted and no further information about the child will be collected and stored in the system.

Sec. 21. [144.2217] [CLASSIFICATION OF BIRTH DEFECTS INFORMATION.]

Information collected on individuals for the birth defects information system are private data on individuals as defined in section 13.02, subdivision 12, and may only be used for the purposes in sections 144.2215 to 144.2219. Any disclosure other than one provided for in sections 144.2215 to 144.2219 is a misdemeanor.

Sec. 22. [144.2218] [TRANSFERS OF INFORMATION TO OTHER GOVERNMENT AGENCIES.]

Information collected by the birth defects information system may be disseminated to a state or local government agency in Minnesota or another state solely for purposes consistent with sections 144.2215 to 144.2219, provided that the state or local government agency maintains the classification of the information as provided under section 144.2217. Information collected by other states consistent with sections 144.2215 to 144.2219 may be received by the commissioner of health and must be maintained according to section 144.2217.

Sec. 23. [144.2219] [TRANSFERS OF INFORMATION TO RESEARCH ENTITIES.]

Information from the birth defects information system that does not contain identifying information may be shared with research entities upon request for studies approved by the commissioner and appropriate institutional review boards. For studies approved by the commissioner that require identifying information about a child or a parent or legal guardian of the child, the commissioner shall contact the parent or legal guardian to obtain informed

consent to share identifying information with the research entity. Notwithstanding section 144.335, subdivision 3a, paragraph (d), the parent or legal guardian must provide informed consent before the information may be shared. The commissioner must collect all reasonable costs of locating and obtaining consent from the research entity."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Abeler moved to amend the Holberg amendment to H. F. No. 2087, the first engrossment, as amended, as follows:

Page 2, line 18, delete "and"

Page 2, line 20, delete the period and insert "; and

(9) use the birth defects coding scheme defined by the Centers for Disease Control and Prevention (CDC) of the United States Public Health Service."

Page 3, delete lines 5 to 13 and insert:

- "Subd. 4. [OPT OUT.] A parent or legal guardian must be informed by the commissioner at the time of the initial data collection that they may request removal at any time of personal identifying information concerning a child from the birth defects information system using a written form prescribed by the commissioner. The commissioner shall advise parents or legal guardians of infants:
 - (1) that the information on birth defects may be retained by the Department of Health;
 - (2) the benefit of retaining birth defects records; and
- (3) that they may elect to have the birth defects information collected once, within one year of birth, but to require that all personally identifying information be destroyed immediately upon the commissioner receiving the information.

If the parents of an infant object in writing to the maintaining of birth defects information, the objection or election shall be recorded on a form that is signed by a parent or legal guardian and submitted to the commissioner of health."

Page 3, line 28, delete "maintains" and insert "agrees to maintain"

The motion prevailed and the amendment to the amendment was adopted.

The Speaker resumed the Chair.

The question recurred on the Holberg amendment, as amended, to H. F. No. 2087, the first engrossment, as amended. The motion prevailed and the amendment, as amended, was adopted.

Holberg moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 1, after line 20, insert:

"ARTICLE 1

VARIOUS DATA"

Page 27, after line 18, insert:

"ARTICLE 2

CriMNET

- Section 1. Minnesota Statutes 2002, section 13.02, is amended by adding a subdivision to read:
- <u>Subd.</u> 7b. [INFORMATION MANAGEMENT SYSTEM.] "<u>Information management system</u>" means an electronic system used or maintained by a government entity for the management of government data.
 - Sec. 2. Minnesota Statutes 2002, section 13.02, is amended by adding a subdivision to read:
- <u>Subd.</u> 7c. [INFORMATION POLICY STATUTES.] (a) "Information policy statutes" means this chapter, section 15.17, and sections 138.163 to 138.225.
 - (b) "Compliance with information policy statutes" means that a government entity must do the following:
- (1) appoint a responsible authority and prepare a public document identifying the responsible authority's name, title, and work address and the private and confidential data maintained by the entity;
 - (2) appoint a compliance official;
 - (3) train designees and other staff in information policy statutes compliance;
 - (4) establish procedures:
 - (i) to ensure that officials respond promptly to requests for public government data;
 - (ii) to provide required notices to individuals concerning data collection;
 - (iii) to provide individuals with access to and notice of data maintained about them;
 - (iv) to provide individuals with the ability to challenge data about them;
 - (v) to ensure that data on individuals are accurate, complete, and current;
 - (vi) to ensure security safeguards for data on individuals; and
 - (vii) to provide for parents to access data about their minor children;
- (5) prepare a public document describing how the rights of a data subject under section 13.04 may be exercised in the entity and the procedures necessary to verify the subject's identity;

- (6) publish procedures to prevent unauthorized access to private and confidential data;
- (7) share not public data with another entity only as required or authorized by state statute or federal law;
- (8) make and preserve all records necessary to a full and accurate knowledge of the entity's official activities;
- (9) dispose of records or transfer them to archives in accordance with statutory procedures and approved records retention schedules;
- (10) when preparing a contract by which a private sector contractor performs government functions or obtains data on individuals from a government entity, include provisions that require the private contractor to comply with this chapter; and
- (11) in the case of CriMNet, maintain and ensure data subject access to audit trail data, and provide subscription service only as authorized by law.
 - Sec. 3. Minnesota Statutes 2002, section 13.02, subdivision 18, is amended to read:
- Subd. 18. [STATEWIDE SYSTEM.] "Statewide system" includes any record-keeping system, <u>including an information management system</u>, in which government data is collected, stored, disseminated and used by means of a system common to one or more state agencies or more than one of its political subdivisions or any combination of state agencies and, political subdivisions, and <u>nongovernmental entities to the extent, as specified in section 13.05</u>, subdivision 11, that the <u>nongovernmental entity is performing functions normally performed by the government entity</u>.
 - Sec. 4. Minnesota Statutes 2002, section 13.03, subdivision 4, is amended to read:
- Subd. 4. [CHANGE IN CLASSIFICATION OF DATA; EFFECT OF DISSEMINATION AMONG AGENCIES.] (a) The classification of data in the possession of an agency shall change if it is required to do so to comply with either judicial or administrative rules pertaining to the conduct of legal actions or with a specific statute applicable to the data in the possession of the disseminating or receiving agency.
- (b) If data on individuals is classified as both private and confidential by this chapter, or any other statute or federal law, the data is private.
- (c) To the extent that government data is disseminated to state agencies, political subdivisions, or statewide systems by another state agency, political subdivision, or statewide system, the data disseminated shall have the same classification in the hands of the agency receiving it as it had in the hands of the entity providing it.
- (d) If a state agency, statewide system, or political subdivision disseminates data to another state agency, statewide system, or political subdivision, a classification provided for by law in the hands of the entity receiving the data does not affect the classification of the data in the hands of the entity that disseminates the data.
- (e) To the extent that judicial branch data is disseminated to government entities by the judicial branch, the data disseminated shall have the same level of accessibility in the hands of the entity receiving it as it had in the hands of the judicial branch entity providing it.
 - Sec. 5. [13.055] [INFORMATION MANAGEMENT SYSTEMS; COMPLIANCE WITH LAW.]
- (a) A person who believes an information management system is not in compliance with information policy statutes may seek an advisory opinion under section 13.072. A government entity operating an information management system must comply with any request for information from the commissioner for purposes of the advisory opinion.

- (b) In an action to compel compliance pursuant to section 13.08 against a government entity operating an information management system, if the court finds that the information management system is not in compliance, the court may fashion any appropriate remedy. Upon a finding that the entity is not making satisfactory progress to cure compliance deficits, the court may order the entity to cease operation until satisfactory progress is made.
- (c) No state agency may assume or share operational responsibility for any information management system that is not in compliance with information policy statutes. Before a state agency assumes or shares operational responsibility for an information management system created by a political subdivision, statewide system, or a nongovernmental entity, the responsible authority for that state agency shall ensure that the information management system is in compliance with information policy statutes and federal law. A state agency must not assume costs associated with enhancements of an information management system described in this paragraph unless approved by the legislature or required by federal law.

Sec. 6. [13.074] [INFORMATION MANAGEMENT SYSTEM REVIEW.]

- (a) The commissioner must review information management systems that are to be added to CriMNet after the effective date of this section in order to determine that the systems are in compliance with information policy statutes. An information management system described in this paragraph must not proceed beyond the design phase until the commissioner's determination is received. Each responsible authority for a system under review must promptly provide information to the commissioner to enable the determination to be made. The commissioner shall determine what reports or other information must be made available by the responsible authority for the proposed information management system in order to establish compliance.
- (b) No later than January 15, 2005, the commissioner must provide the legislature with a proposed schedule to review information management systems and the design for any new information management systems that are operated by a state agency or a statewide system that has at least one state agency as a participant. As part of the report, the commissioner must provide the legislature with an estimate of the costs to conduct the reviews.
- (c) The legislative auditor should, as resources permit, include continuing compliance as part of each periodic audit.
- (d) If the legislative auditor finds that an information management system described in this section is not in compliance with information policy statutes, the responsible authority for the government entity should, within 60 days, present a plan to the commissioner to bring the system into compliance. The commissioner must monitor the information management system's progress toward compliance. If the commissioner finds a failure to make satisfactory progress, the commissioner may require the government entity to cease operating the information management system until progress is satisfactory. If an information management system is found out of compliance under this paragraph, the government entity operating the system must report the amount spent to develop and implement the information management system and the amount spent on compliance to the committees in the house of representatives and the senate with fiscal authority over that government entity.
 - Sec. 7. Minnesota Statutes 2002, section 13.82, subdivision 24, is amended to read:
- Subd. 24. [EXCHANGES OF INFORMATION.] (a) Except as otherwise provided by law, nothing in this chapter prohibits the exchange of information by law enforcement agencies provided the exchanged information is pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation, except not public personnel data.
- (b) When a law enforcement agency requests or disseminates private or confidential data on individuals by means of a statewide system for a purpose authorized by this subdivision, it must document the purpose of the request or dissemination, including the case number if available. Data under this paragraph must be retained for six

years. When an investigation becomes inactive under subdivision 7, the data under this paragraph are private data on the subject of the investigation. The provisions of this paragraph apply (1) on and after July 1, 2012, to statewide systems that are part of CriMNet on the effective date of this paragraph; and (2) on and after the effective date of this paragraph to information management systems added to CriMNet after that date.

Sec. 8. [13.8703] [CRIMNET DATA.]

- Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.
- (b) "CriMNet" is a statewide system as defined in section 13.02, subdivision 18, that integrates or interconnects data from multiple criminal justice information systems.
- (c) "CriMNet data" are criminal justice agency data created, collected, used, or maintained in the prevention, investigation, or prosecution of crime and any resulting criminal justice system response that are held or accessed by CriMNet.
- (d) "Audit trail data" are data created, used, or maintained by CriMNet for the purposes of ensuring and verifying that CriMNet was only accessed by authorized persons for authorized purposes.
- Subd. 2. [DATA CLASSIFICATION; DISSEMINATION.] (a) Data accessed or maintained by CriMNet are subject to the provisions of section 13.03, subdivision 4, paragraphs (c) and (e). The fact that data held by government entities are accessed by CriMNet does not change the classification of the data in those government entities. Except for the exercise of rights by individuals under this section and section 13.04, access to CriMNet data is available only as provided by state or federal law to criminal justice agencies as defined in section 299C.46, subdivision 2; public defenders as provided in section 611.272; federal criminal justice agencies as defined in Code of Federal Regulations, title 28, section 20.3(g); and criminal justice agencies of other states.
 - (b) In addition to the purposes provided in section 13.82, subdivision 24, CriMNet data may be released:
 - (1) for purposes of auditing data quality, data protection, and system development and maintenance; or
- (2) with the informed consent of the subject of the data as provided by section 13.05, subdivision 4. In the case of data on a juvenile, notwithstanding section 299C.095, subdivision 1, a minor may not consent to release of the data, but (i) the minor's parent or guardian may consent to release, and (ii) an adult may consent to release of data on the adult that was created when the adult was a minor.
- <u>Subd.</u> 3. [REQUESTS BY DATA SUBJECT.] <u>If an individual makes a request for CriMNet data about that individual under section 13.04, subdivision 3, a local or state law enforcement agency with access to CriMNet must:</u>
- (1) give the individual a list of any state agencies, political subdivisions, statewide systems, or other entities that provided data to CriMNet; and
- (2) allow the individual to obtain a copy of any public or private CriMNet data, subject to standards established by the CriMNet responsible authority, and inform the individual of the availability of audit trail data from the CriMNet responsible authority. The individual must pay a fee of \$10 for a copy of the CriMNet data. Of this fee, \$5 remains with the law enforcement agency that received the request and \$5 must be forwarded to CriMNet.
- Subd. 4. [AUDIT TRAIL DATA.] (a) Audit trail data must indicate the purpose for which CriMNet data on an individual was accessed and the case file number, if available. Audit trail data must be retained for six years.

- (b) Audit trail data created during the course of an investigation are confidential data or protected nonpublic data while the investigation is active. When an investigation is no longer active, as defined by section 13.82, subdivision 7, or if audit trail data are created as the result of access unrelated to an active investigation, audit trail data that identify an entity that requested or provided CriMNet data about a data subject are nonpublic data. The nonpublic data are accessible to the individual data subject if the responsible authority for CriMNet, after consultation with an entity that requested CriMNet data about an individual data subject, determines that the data subject's need to know outweighs the risk of harm disclosure would create for public safety.
- (c) Between the effective date of this subdivision and June 30, 2012, the requirements of this subdivision apply to (1) CriMNet audit trail data, to the extent it exists; and (2) any new information management system added to CriMNet during that period. Beginning July 1, 2012, this subdivision applies to CriMNet and to all information management systems that are a part of CriMNet.
- <u>Subd.</u> <u>5.</u> [SUBSCRIPTION SERVICE.] (a) <u>For purposes of this subdivision, "subscription service" means a process by which criminal justice agency personnel may obtain ongoing, automatic electronic notice of any contacts an individual has with any criminal justice agency.</u>
- (b) If CriMNet provides for subscription service, it must include the capability to allow for release of data on a data subject to the data subject by subscription service.
 - (c) Except as otherwise provided by this subdivision, CriMNet data may be released by a subscription service:
- (1) with the informed consent of the subject of the data. In the case of data on a juvenile, notwithstanding section 299C.095, subdivision 1, a minor may not consent to release of the data, but (i) the minor's parent or guardian may consent to release, and (ii) an adult may consent to release of data on the adult that was created when the adult was a minor; or
- (2) for any purpose of which the data subject is notified before the subscription service is implemented. The notice must include how long the subscription service will be in effect.
- (d) CriMNet data on an individual may be released by subscription service without the request or consent of the data subject or notice to the data subject to criminal justice agency personnel for purposes of:
 - (1) investigating a crime or act of delinquency;
 - (2) seeking to apprehend an individual who is fleeing to avoid prosecution or custody;
 - (3) enforcing a warrant;
 - (4) enforcing terms of pretrial release;
- (5) seeking an individual to determine if the individual is violating a condition of probation, conditional release, or supervised release;
 - (6) prosecuting, defending, trying, or sentencing an individual;
- (7) seeking an individual who is likely to have information necessary to criminal justice agency personnel acting under clauses (1) to (6); or
- (8) determining that an individual may be engaged in illegal activities or seeking another individual who may have information about those activities.

- (e) A criminal justice agency may seek to release or receive data described in paragraph (d), clause (8), by subscription service for a period longer than 90 days by seeking a court order in the same manner as seeking a search warrant. To grant the order, the court must find that one of the purposes listed in paragraph (d) continues to exist. The court must specify how long the subscription service may continue, which must not exceed 18 months without a showing of imminent threat to public safety or health.
 - Subd. 6. [PENALTIES.] A person who violates this section is subject to the penalties provided by section 13.09.
- <u>Subd.</u> 7. [LEGISLATIVE REVIEW OF ACCESS MODIFICATIONS.] <u>Notwithstanding any contrary provisions in section 13.82, any CriMNet feature that would provide access to data on individuals by an entity that is not subject to this chapter, other than the judiciary as defined in section 13.90, must be submitted to the legislature for review before implementation and must be implemented by a statute, contract, or interstate compact that addresses data practices issues and complies with this section.</u>

Sec. 9. [13.8704] [CRIMINAL JUSTICE SYSTEM IMPLEMENTATION REPORT.]

Not less than 45 days prior to implementation of an information management system to be created or maintained by a state criminal justice agency, the agency must report to the chairs of the House Committee on Judiciary Policy and Finance, the House Committee on Civil Law, the Senate Committee on Judiciary, and the Senate Committee on Finance, State Government Budget Division the following information: the entities participating in creating or maintaining the system, the responsible authority for the system, the costs of development and implementation, state statutory or federal law authorization for the system, information to be shared, policies for data subject access to data, and time frame for implementation.

- Sec. 10. Minnesota Statutes 2002, section 299C.10, subdivision 1, is amended to read:
- Subdivision 1. [REQUIRED FINGERPRINTING.] (a) Sheriffs, peace officers, and community corrections agencies operating secure juvenile detention facilities The initial law enforcement jurisdiction responsible for a person's arrest or appearance in court shall take or cause to be taken immediately finger and thumb prints, photographs, distinctive physical mark identification data, information on any known aliases or street names, and other identification data requested or required by the superintendent of the bureau, of the following:
- (1) persons arrested for, appearing in court on a charge of, or convicted of a felony, gross misdemeanor, or targeted misdemeanor;
- (2) juveniles arrested for, appearing in court on a charge of, adjudicated delinquent for, or alleged to have committed felonies or gross misdemeanors as distinguished from those committed by adult offenders;
 - (3) persons reasonably believed by the arresting officer to be fugitives from justice;
- (4) persons in whose possession, when arrested, are found concealed firearms or other dangerous weapons, burglar tools or outfits, high-power explosives, or articles, machines, or appliances usable for an unlawful purpose and reasonably believed by the arresting officer to be intended for such purposes; and
- (5) juveniles referred by a law enforcement agency to a diversion program for a felony or gross misdemeanor offense.
- (b) If the initial law enforcement agency fails to obtain the required identification data described in paragraph (a), the sheriff may obtain the required identification data and assess the cost to the initiating agency.

- (c) Unless the superintendent of the bureau requires a shorter period, within 24 hours the fingerprint records and other identification data specified under paragraph (a) must be forwarded to the bureau on such forms and in such manner as may be prescribed by the superintendent.
- (e) (d) Prosecutors, courts, and probation officers and their agents, employees, and subordinates shall attempt to ensure that the required identification data is taken on a person described in paragraph (a). When it is determined that a person has not provided the required identification data described in paragraph (a), the court shall order the sheriff to obtain that data and the sheriff may assess the cost to the initiating agency.
- (d) (e) For purposes of this section, a targeted misdemeanor is a misdemeanor violation of section 169A.20 (driving while impaired), 518B.01 (order for protection violation), 609.224 (fifth degree assault), 609.2242 (domestic assault), 609.746 (interference with privacy), 609.748 (harassment or restraining order violation), or 617.23 (indecent exposure).
- (f) The criminal justice agencies described in paragraph (a) shall take or cause to be taken fingerprints of persons currently involved in the criminal justice process, on probation, on parole, or in custody for the offenses in suspense whom the superintendent of the bureau identifies as being the subject of a court disposition record and:
 - (1) who cannot be linked to an arrest record;
- (2) whose fingerprints are necessary in order to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files; or
- (3) to comply with the mandates of section 299C.111, relating to the reduction of the number of suspense files. This duty to obtain fingerprints for the offenses in suspense at the request of the bureau shall include the requirement that fingerprints be taken in postarrest interviews, while making court appearances, while in custody, or while on any form of probation, diversion, or supervised release.
 - Sec. 11. Minnesota Statutes 2002, section 299C.10, is amended by adding a subdivision to read:
- Subd. 1a. [COURT DISPOSITION RECORD IN SUSPENSE; FINGERPRINTING.] The superintendent of the bureau shall inform a prosecuting authority that a person prosecuted by that authority is the subject of a court disposition record in suspense which requires fingerprinting under this section. Upon being notified by the superintendent or otherwise learning of the suspense status of a court disposition record, any prosecuting authority may bring a motion in district court to compel the taking of the person's fingerprints upon a showing to the court that the person is the subject of the court disposition record in suspense.
 - Sec. 12. Minnesota Statutes 2002, section 299C.10, subdivision 2, is amended to read:
- Subd. 2. [LAW ENFORCEMENT EDUCATION.] The sheriffs and police officers and their agents, employees, and subordinates who take finger and thumb prints must obtain training in the proper methods of taking and transmitting finger prints under this section consistent with bureau requirements.
 - Sec. 13. Minnesota Statutes 2002, section 299C.14, is amended to read:

299C.14 [INFORMATION ON RELEASED PRISONER.]

It shall be the duty of the officials having charge of the penal institutions of the state or the release of prisoners therefrom to furnish to the bureau, as the superintendent may require, finger and thumb prints, photographs, distinctive physical mark identification data, other identification data, modus operandi reports, and criminal records of prisoners heretofore, now, or hereafter confined in such penal institutions, together with the period of their service

and the time, terms, and conditions of their discharge. This duty to furnish information includes, but is not limited to, requests for fingerprints as the superintendent of the bureau deems necessary to maintain and ensure the accuracy of the bureau's criminal history files, to reduce the number of suspense files, or to comply with the mandates of section 299C.111 relating to the reduction of the number of suspense files where a disposition record is received that cannot be linked to an arrest record.

- Sec. 14. Minnesota Statutes 2002, section 299C.65, is amended by adding a subdivision to read:
- <u>Subd. 1a.</u> [DATA CLASSIFICATION.] <u>Data held by and accessible through CriMNet is classified under section 13.8703.</u>
 - Sec. 15. Minnesota Statutes 2003 Supplement, section 611.272, is amended to read:

611.272 [ACCESS TO GOVERNMENT DATA.]

The district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216 has access to the criminal justice data communications network described in section 299C.46, as provided in this section. Access to data under this section is limited to data regarding the public defender's own client as necessary to prepare criminal cases in which the public defender has been appointed, including as follows:

- (1) access to data about witnesses in a criminal case shall be limited to records of criminal convictions; and
- (2) access to data regarding the public defender's own client which includes, but is not limited to, criminal history data under section 13.87; juvenile offender data under section 299C.095; warrant information data under section 299C.115; incarceration data under section 299C.14; conditional release data under section 299C.147; and diversion program data under section 299C.46, subdivision 5.

The public defender has access to data under this section whether accessed via CriMNet or other methods. The public defender does not have access to law enforcement active investigative data under section 13.82, subdivision 7; data protected under section 13.82, subdivision 17; or confidential arrest warrant indices data under section 13.82, subdivision 19, or to data systems maintained by a prosecuting attorney. The public defender has access to the data at no charge, except for the monthly network access charge under section 299C.46, subdivision 3, paragraph (b), and a reasonable installation charge for a terminal. Notwithstanding section 13.87, subdivision 3; 299C.46, subdivision 3, paragraph (b); 299C.48, or any other law to the contrary, there shall be no charge to public defenders for Internet access to the criminal justice data communications network.

Sec. 16. [REPORTS REQUIRED.]

- (a) The Juvenile and Criminal Information Task Force established under Minnesota Statutes, section 299C.65, shall study and prepare recommendations for policy group consideration of the following:
 - (1) advisability of providing Web-based access to CriMNet data by data subjects;
 - (2) standards for use of subscription services;
- (3) advisability of use of CriMNet data for noncriminal justice background checks without the consent of the data subject;
 - (4) advisability of providing public access;
 - (5) standards for dissemination of CriMNet data to entities that are not subject to Minnesota Statutes, chapter 13;

- (6) retention schedules for CriMNet data;
- (7) effect of federal requirements on the rights of individuals under Minnesota Statutes, chapter 13; and
- (8) <u>implementing the Minnesota Government Data Practices Act and court rules of access requirements</u> regarding disclosure of disputed data held by CriMNet.
- (b) The report must be submitted pursuant to Minnesota Statutes, section 299C.65, subdivision 3, and is due no later than December 15, 2004.
- (c) The commissioner of administration must study and prepare recommendations on possibilities for the state to maximize its return on investments in information management systems. The report must be submitted to the chair of the House Committee on State Government Finance and the chair of the Senate Committee on Finance, State Government Budget Division by January 15, 2005."

Amend the title accordingly

Holberg moved to amend the Holberg amendment to H. F. No. 2087, the first engrossment, as amended, as follows:

Page 6, line 22, delete "<u>information management</u>" and insert "<u>any newly developed or acquired and implemented state information management system added to CriMNet after that date."</u>

Page 6, delete line 23

Page 8, delete line 26 and insert "CriMNet <u>audit trail data</u>, <u>created by the CriMNet search function</u>, <u>for any new implemented information management system added to CriMNet after January 1, 2006."</u>

Page 8, line 27, delete "period."

Pages 10 to 12, delete section 10

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment to the amendment was adopted.

The Speaker called Abrams to the Chair.

The question recurred on the Holberg amendment, as amended, to H. F. No. 2087, the first engrossment, as amended. The motion prevailed and the amendment, as amended, was adopted.

Kohls, Holberg and Borrell moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 12, line 12, delete "must" and insert "may"

Page 12, line 22, delete everything after "emergency" and insert a period

- Page 12, line 23, delete everything before "Disclosure"
- Page 12, line 30, delete "The record maintained" and insert "Any mental health data obtained"
- Page 12, line 31, after "agency" insert "pursuant to this subdivision" and after "individuals" insert "and may not be used by the law enforcement agency for any other purpose. A law enforcement agency that obtains mental health data under this paragraph shall inform the subject of the data that mental health data was obtained"
 - Page 12, line 34, delete "may" and insert "must"
 - Page 12, line 35, delete everything after "personnel" and insert "if they"
 - Page 12, delete line 36
- Page 13, line 16, before "This" insert "The data relayed pursuant to this paragraph may be used for the sole purpose of determining whether the person is eligible for participation in mental health court."
 - Page 13, line 17, after "limit" insert "or otherwise extend"
 - Page 21, line 20, delete "must" and insert "may"
 - Page 21, line 30, delete everything after "emergency" and insert a period
 - Page 21, line 31, delete everything before "A"
- Page 21, line 34, delete "The record maintained" and insert "Any health records obtained" and after "agency" insert "pursuant to this subdivision"
 - Page 21, line 35, before the period, insert ", and it may not be used by law enforcement for any other purpose"

The motion prevailed and the amendment was adopted.

Holberg moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 17, after line 11, insert:

"Sec. 16. [15.175] [CERTAIN EMPLOYEE RECORDS.]

Data, records, files, and all written or electronic materials of, or relating to, a state employee who is involuntarily terminated from employment with a state agency must be preserved for a period of at least three years after the employee's termination from employment, or a longer period as required under section 138.17. A state agency that intentionally destroys, shreds, or alters data, records, files, or materials in violation of this requirement is liable to the employee for damages resulting from that violation, plus costs and reasonable attorney fees incurred by the employee in enforcing the employee's rights under this section."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Holberg moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 22, after line 18, insert:

"Sec. 21. Minnesota Statutes 2002, section 168.346, is amended to read:

168.346 [PRIVACY OF NAME OR RESIDENCE ADDRESS.]

- (a) The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9 Data on individuals provided to register a motor vehicle is public data on individuals and must be disclosed to the extent permitted by United States Code, title 18, section 2721, subsection (b).
- (b) An individual registered owner of a motor vehicle must be informed in a clear and conspicuous manner on the forms for issuance or renewal of titles and registrations, that the owner's personal information may be disclosed consent in writing to the department to disclose their personal information exempted by United States Code, title 18, section 2721, subsection (b), to any person who makes a request for the personal information, and that, except for uses permitted by United States Code, title 18, section 2721, subsection (b), If the registered owner may prohibit disclosure of the personal information by so indicating on the form so authorizes, the commissioner shall implement the request in a timely manner. For purposes of this paragraph, access by requesters making requests described in section 168.345 168.325, subdivision 4 7, is deemed to be related to public safety.
- (c) At the time of registration or renewal, If authorized by the individual registered owner of a motor vehicle must also be informed in a clear and conspicuous manner on forms that as indicated in paragraph (b), the owner's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes including surveys, marketing, and solicitation. The commissioner shall implement methods and procedures that enable the registered owner to request that bulk surveys, marketing, or solicitation not be directed to the owner. If the registered owner so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.
- (d) The commissioner shall disclose personal information when the use is related to the operation of a motor vehicle or public safety. The use of personal information is related to public safety if it concerns the physical safety or security of drivers, vehicles, pedestrians, or property. The commissioner may refuse to disclose data under this paragraph when the commissioner concludes that the requester is likely to use the data for illegal, improper, or noninvestigative purposes.
- (e) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to register a motor vehicle is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, subsection (b). The registered owner of a motor vehicle may request in writing that the owner's residence address or name and residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the owner that the classification is required for the safety of the owner or the owner's family, if the statement also provides a valid, existing address where the owner consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the motor

vehicle. The residence address or name and residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9.

- Sec. 22. Minnesota Statutes 2002, section 171.12, subdivision 7, is amended to read:
- Subd. 7. [PRIVACY OF RESIDENCE ADDRESS.] (a) An applicant for Data on individuals provided to obtain a driver's license or a Minnesota identification card may request that the applicant's residence address be classified as private is public data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the driver's license or identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9 and must be disclosed to the extent permitted by United States Code, title 18, section 2721, subsection (b).
- (b) An applicant for a driver's license or a Minnesota identification card must be informed in a clear and conspicuous manner on the forms for the issuance or renewal that may consent in writing to the department to disclose the applicant's personal information may be disclosed exempted by United States Code, title 18, section 2721, subsection (b), to any person who makes a request for the personal information, and that except for uses permitted by United States Code, title 18, section 2721, subsection (b), the applicant may prohibit disclosure of the personal information by so indicating on the form. If the applicant so authorizes, the commissioner shall implement the request in a timely manner and the personal information may be so used.
- (c) If authorized by an applicant for a driver's license or a Minnesota identification card must be also informed in a clear and conspicuous manner on forms that, as indicated in paragraph (b), the applicant's personal information may be used, rented, or sold solely for bulk distribution by organizations for business purposes, including surveys, marketing, or solicitation. The commissioner shall implement methods and procedures that enable the applicant to request that bulk surveys, marketing, or solicitation not be directed to the applicant. If the applicant so requests, the commissioner shall implement the request in a timely manner and the personal information may not be so used.
- (d) To the extent permitted by United States Code, title 18, section 2721, data on individuals provided to obtain a Minnesota identification eard or a driver's license is public data on individuals and shall be disclosed as permitted by United States Code, title 18, section 2721, subsection (b). An applicant for a driver's license or a Minnesota identification card may request that the applicant's residence address be classified as private data on individuals, as defined in section 13.02, subdivision 12. The commissioner shall grant the classification upon receipt of a signed statement by the individual that the classification is required for the safety of the applicant or the applicant's family, if the statement also provides a valid, existing address where the applicant consents to receive service of process. The commissioner shall use the mailing address in place of the residence address in all documents and notices pertaining to the driver's license or identification card. The residence address and any information provided in the classification request, other than the mailing address, are private data on individuals and may be provided to requesting law enforcement agencies, probation and parole agencies, and public authorities, as defined in section 518.54, subdivision 9."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Haas, Davids, Wilkin and Samuelson moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 22, after line 18, insert:

- "Sec. 21. Minnesota Statutes 2002, section 169.09, subdivision 13, is amended to read:
- Subd. 13. [REPORTS CONFIDENTIAL; EVIDENCE, FEE, PENALTY, APPROPRIATION.] (a) All written reports and supplemental reports required under this section shall be for the use of the commissioner of public safety and other appropriate state, federal, county, and municipal governmental agencies for accident analysis purposes, except:
- (1) the commissioner of public safety or any law enforcement agency shall, upon written request of any person involved in an accident or upon written request of the representative of the person's estate, surviving spouse, or one or more surviving next of kin, or a trustee appointed pursuant to section 573.02, disclose to the requester, the requester's legal counsel, or a representative of the requester's insurer the report required under subdivision 8;
- (2) the commissioner of public safety shall, upon written request, provide the driver filing a report under subdivision 7 with a copy of the report filed by the driver;
- (3) the commissioner of public safety may verify with insurance companies vehicle insurance information to enforce sections 65B.48, 169.792, 169.793, 169.796, and 169.797;
- (4) the commissioner of public safety shall provide the commissioner of transportation the information obtained for each traffic accident involving a commercial motor vehicle, for purposes of administering commercial vehicle safety regulations; and
- (5) the commissioner of public safety may give to the United States Department of Transportation commercial vehicle accident information in connection with federal grant programs relating to safety.
- (b) Accident reports and data contained in the reports shall not be discoverable under any provision of law or rule of court. No report shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that the commissioner of public safety shall furnish upon the demand of any person who has, or claims to have, made a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the commissioner solely to prove compliance or failure to comply with the requirements that the report be made to the commissioner.
- (c) Nothing in this subdivision prevents any person who has made a report pursuant to this section from providing information to any persons involved in an accident or their representatives or from testifying in any trial, civil or criminal, arising out of an accident, as to facts within the person's knowledge. It is intended by this subdivision to render privileged the reports required, but it is not intended to prohibit proof of the facts to which the reports relate.
- (d) Disclosing any information contained in any accident report, except as provided in this subdivision, section 13.82, subdivision 3 or 6, or other statutes, is a misdemeanor.
- (e) The commissioner of public safety may charge authorized persons a \$5 fee for a copy of an accident report. The commissioner may also furnish copies of the modified accident records database to private agencies as provided in paragraph (g), for not less than the cost of preparing the copies on a bulk basis.

- (f) The commissioner and law enforcement agencies may charge commercial users who request access to response or incident data relating to accidents a fee not to exceed 50 cents per report, which cannot include the address of any person involved in an accident. "Commercial user" is a user who in one location requests access to data in more than five accident reports per month, unless the user establishes that access is not for a commercial purpose. Money collected by the commissioner under this paragraph is appropriated to the commissioner.
- (g) The commissioner may provide a modified copy of the accident records database that does not contain names, driver's license numbers, vehicle license plate numbers, addresses, or other identifying data to the public upon request. However, unless the accident records data base includes the motor vehicle identification number, the commissioner shall include the vehicle license plate number if a private agency certifies and agrees that the agency:
 - (1) is in the business of collecting accident and damage information on vehicles;
- (2) will use the vehicle license plate number only for the purpose of identifying vehicles that have been involved in accidents or damaged in order to provide this information to persons seeking access to a vehicle's history and not for the purpose of identifying individuals or for any other purpose; and
 - (3) will be subject to the penalties and remedies under sections 13.08 and 13.09."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

POINT OF ORDER

Abeler raised a point of order pursuant to rule 3.21 that the Haas et al amendment was not in order. Speaker pro tempore Abrams ruled the point of order not well taken and the Haas et al amendment in order.

The question recurred on the Haas et al amendment to H. F. No. 2087, the first engrossment, as amended. The motion prevailed and the amendment was adopted.

The Speaker resumed the Chair.

Sieben moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 18, after line 17, insert:

"Sec. 18. [135A.145] [SALE OF STUDENT INFORMATION; MARKETING CREDIT CARDS TO STUDENTS.]

<u>Subdivision 1.</u> [PROHIBITED PRACTICES.] (a) <u>Unless a student expressly otherwise directs in writing, a public postsecondary educational institution in this state, including its agents, employees, student or alumni organizations, or affiliates, may:</u>

(1) sell, give, or otherwise transfer to any card issuer the names, addresses, telephone numbers, or other contact information of the students at the postsecondary educational institution; or

(2) enter into any agreement to market credit cards to students at a postsecondary educational institution.

For purposes of this section, the terms "credit," "credit card," and "card issuer" have the meanings given them in the Truth in Lending Act, United States Code, title 15, section 1602.

- (b) An institution specified in paragraph (a) shall provide students the opportunity to give written direction to the institution before information is sold, given, or otherwise transferred or credit cards are marketed pursuant to this section.
- <u>Subd.</u> 2. [VIOLATIONS.] <u>The attorney general may seek the penalties and remedies available under section 8.31 against any person who violates this section."</u>

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

POINT OF ORDER

Borrell raised a point of order pursuant to rule 3.21 that the Sieben amendment was not in order. The Speaker ruled the point of order not well taken and the Sieben amendment in order.

Wilkin moved to amend the Sieben amendment to H. F. No. 2087, the first engrossment, as amended, as follows:

Page 1, line 14, delete "or"

Page 1, line 16, before the period, insert "; or

(3) not collect mandatory student fees not associated with a specific class"

POINT OF ORDER

Kahn raised a point of order pursuant to rule 3.21 that the Wilkin amendment to the Sieben amendment was not in order. The Speaker ruled the point of order not well taken and the Wilkin amendment to the Sieben amendment in order.

Sieben withdrew her amendment to H. F. No. 2087, the first engrossment, as amended.

Thissen, Abeler and Wagenius moved to amend H. F. No. 2087, the first engrossment, as amended, as follows:

Page 1 of the Abeler amendment to the second Holberg amendment, line 18, after the semicolon, delete "and"

Page 2 of the Abeler amendment to the second Holberg amendment, line 2, delete the period and insert "; and"

Page 2 of the Abeler amendment to the second Holberg amendment, after line 2, insert:

"(4) that if the parent or legal guardian chooses to opt-out, the commissioner will not be able to inform the parent or legal guardian of a child of information related to the prevention, treatment, or cause of a particular birth defect."

The motion prevailed and the amendment was adopted.

H. F. No. 2087, A bill for an act relating to data practices; providing for the classification and dissemination of various data; making clarifying, conforming, and technical changes; amending the CriMNet law; requiring information management systems to be in compliance with information policy statutes; prescribing legislative auditor duties; providing for the classification and dissemination of CriMNet data; amending Minnesota Statutes 2002, sections 13.02, subdivision 18, by adding subdivisions; 13.03, subdivision 4, by adding a subdivision; 13.3805, by adding a subdivision; 13.46, by adding a subdivision 2, by adding a subdivision; 13.47, subdivision 4; 13.51, subdivision 2; 13.598, as amended; 13.7931, by adding a subdivision; 13.82, subdivisions 5, 24; 13.871, by adding a subdivision; 13D.05, subdivision 3; 119B.02, subdivision 6; 144.2215; 144.335, subdivision 3a; 168.346; 169.09, subdivision 13; 171.12, subdivision 7; 270B.14, subdivision 2; 278.05, subdivision 3; 299C.10, subdivision 2, by adding a subdivision; 299C.14; 299C.65, by adding a subdivision; 629.341, subdivision 4; Minnesota Statutes 2003 Supplement, sections 13.46, subdivision 2; 268.19, subdivisions 1, 2; 611.272; proposing coding for new law in Minnesota Statutes, chapters 13; 15; 84; 144; repealing Minnesota Statutes 2002, sections 13.319, subdivision 7; 13.475.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 115 yeas and 14 nays as follows:

Those who voted in the affirmative were:

Abeler	Davnie	Heidgerken	Lieder	Ozment
Abrams	Demmer	Hilty	Lindgren	Paulsen
Adolphson	Dempsey	Holberg	Lindner	Paymar
Anderson, B.	Dill	Hoppe	Lipman	Pelowski
Anderson, I.	Dorman	Huntley	Magnus	Penas
Anderson, J.	Dorn	Jacobson	Marquart	Peterson
Atkins	Eastlund	Jaros	McNamara	Powell
Beard	Eken	Johnson, J.	Meslow	Pugh
Biernat	Ellison	Johnson, S.	Mullery	Rhodes
Blaine	Entenza	Juhnke	Murphy	Rukavina
Borrell	Erhardt	Kahn	Nelson, C.	Ruth
Boudreau	Erickson	Klinzing	Nelson, M.	Samuelson
Bradley	Finstad	Knoblach	Nelson, P.	Seifert
Brod	Fuller	Koenen	Newman	Sertich
Buesgens	Gerlach	Kohls	Nornes	Severson
Carlson	Goodwin	Kuisle	Olsen, S.	Sieben
Clark	Gunther	Lanning	Olson, M.	Simpson
Cornish	Haas	Larson	Osterman	Slawik
Cox	Hackbarth	Lenczewski	Otremba	Smith
Davids	Harder	Lesch	Otto	Soderstrom

Solberg Stang Swenson Sykora Thao Tingelstad Urdahl Walz Wardlow Wasiluk Westerberg Westrom Wilkin Zellers Spk. Sviggum

Those who voted in the negative were:

Bernardy	Hilstrom	Krinkie	Strachan	Wagenius
Greiling	Hornstein	Latz	Thissen	Walker
Hausman	Kelliher	Seagren	Vandeveer	

The bill was passed, as amended, and its title agreed to.

Paulsen moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Eken moved that his name be stricken as an author on H. F. No. 165. The motion prevailed.

Eken moved that his name be stricken as an author on H. F. No. 877. The motion prevailed.

Eken moved that his name be stricken as an author on H. F. No. 3014. The motion prevailed.

Mariani moved that the name of Clark be added as an author on H. F. No. 3198. The motion prevailed.

Abrams moved that S. F. No. 2647 be recalled from the Committee on Taxes and together with H. F. No. 2936, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

ADJOURNMENT

Paulsen moved that when the House adjourns today it adjourn until 1:30 p.m., Thursday, May 13, 2004. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 1:30 p.m., Thursday, May 13, 2004.

EDWARD A. BURDICK, Chief Clerk, House of Representatives