

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-FIFTH
SESSION**

HOUSE FILE No. 2365

March 26, 2007

Authored by Holberg, Buesgens, Kohls, Emmer, Erickson and others
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act
1.2 relating to taxes; providing a sales tax rebate; appropriating money.

1.3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.4 Section 1. **STATEMENT OF PURPOSE.**

1.5 (a) The state of Minnesota derives revenues from a variety of taxes, fees, and other
1.6 sources, including the state sales tax.

1.7 (b) It is fair and reasonable to refund the existing state budget surplus in the form of
1.8 a rebate of nonbusiness consumer sales taxes paid by individuals in calendar year 2005.

1.9 (c) Information concerning the amount of sales tax paid at various income levels is
1.10 contained in the Minnesota tax incidence report, which is written by the commissioner of
1.11 revenue and presented to the legislature according to Minnesota Statutes, section 270C.13.

1.12 (d) It is fair and reasonable to use information contained in the Minnesota tax
1.13 incidence report to determine the proportionate share of the sales tax rebate due each
1.14 eligible taxpayer since no effective or practical mechanism exists for determining the
1.15 amount of actual sales tax paid by each eligible individual.

1.16 Sec. 2. **SALES TAX REBATE.**

1.17 Subdivision 1. **Eligibility; rebate based on income.** An individual who was a
1.18 resident of Minnesota for any part of 2005, and filed a 2005 Minnesota income tax return
1.19 on or before November 30, 2007, and had a tax liability before refundable credits on that
1.20 return of at least \$1 and who was not allowed to be claimed as a dependent on a 2005
1.21 federal income tax return filed by another person is eligible for a sales tax rebate based on
1.22 income under either subdivision 2 or 3.

2.1 Subd. 2. Married joint and head of household filers. The sales tax rebate for
 2.2 taxpayers who qualify under subdivision 1 and are married filing joint or head of household
 2.3 filers is computed according to the following schedule:

	<u>Income</u>	<u>Sales Tax Rebate</u>
2.4		
2.5	<u>less than \$2,500</u>	<u>\$.....</u>
2.6	<u>at least \$2,500 but less than \$5,000</u>	<u>\$.....</u>
2.7	<u>at least \$5,000 but less than \$10,000</u>	<u>\$.....</u>
2.8	<u>at least \$10,000 but less than \$15,000</u>	<u>\$.....</u>
2.9	<u>at least \$15,000 but less than \$20,000</u>	<u>\$.....</u>
2.10	<u>at least \$20,000 but less than \$25,000</u>	<u>\$.....</u>
2.11	<u>at least \$25,000 but less than \$30,000</u>	<u>\$.....</u>
2.12	<u>at least \$30,000 but less than \$35,000</u>	<u>\$.....</u>
2.13	<u>at least \$35,000 but less than \$40,000</u>	<u>\$.....</u>
2.14	<u>at least \$40,000 but less than \$45,000</u>	<u>\$.....</u>
2.15	<u>at least \$45,000 but less than \$50,000</u>	<u>\$.....</u>
2.16	<u>at least \$50,000 but less than \$60,000</u>	<u>\$.....</u>
2.17	<u>at least \$60,000 but less than \$70,000</u>	<u>\$.....</u>
2.18	<u>at least \$70,000 but less than \$80,000</u>	<u>\$.....</u>
2.19	<u>at least \$80,000 but less than \$90,000</u>	<u>\$.....</u>
2.20	<u>at least \$90,000 but less than \$100,000</u>	<u>\$.....</u>
2.21	<u>at least \$100,000 but less than \$120,000</u>	<u>\$.....</u>
2.22	<u>at least \$120,000 but less than \$140,000</u>	<u>\$.....</u>
2.23	<u>at least \$140,000 but less than \$160,000</u>	<u>\$.....</u>
2.24	<u>at least \$160,000 but less than \$180,000</u>	<u>\$.....</u>
2.25	<u>at least \$180,000 but less than \$200,000</u>	<u>\$.....</u>
2.26	<u>at least \$200,000 but less than \$400,000</u>	<u>\$.....</u>
2.27	<u>at least \$400,000 but less than \$600,000</u>	<u>\$.....</u>
2.28	<u>at least \$600,000 but less than \$800,000</u>	<u>\$.....</u>
2.29	<u>at least \$800,000 but less than \$1,000,000</u>	<u>\$.....</u>
2.30	<u>\$1,000,000 and over</u>	<u>\$.....</u>

2.31 Subd. 3. Single and married separate filers. The sales tax rebate for individuals
 2.32 who qualify under subdivision 1 as single or married filing separately must be computed
 2.33 according to the following schedule:

	<u>Income</u>	<u>Sales Tax Rebate</u>
2.34		
2.35	<u>less than \$2,500</u>	<u>\$.....</u>
2.36	<u>at least \$2,500 but less than \$5,000</u>	<u>\$.....</u>
2.37	<u>at least \$5,000 but less than \$10,000</u>	<u>\$.....</u>
2.38	<u>at least \$10,000 but less than \$15,000</u>	<u>\$.....</u>
2.39	<u>at least \$15,000 but less than \$20,000</u>	<u>\$.....</u>
2.40	<u>at least \$20,000 but less than \$25,000</u>	<u>\$.....</u>
2.41	<u>at least \$25,000 but less than \$30,000</u>	<u>\$.....</u>
2.42	<u>at least \$30,000 but less than \$40,000</u>	<u>\$.....</u>

3.1	<u>at least \$40,000 but less than \$50,000</u>	<u>\$.....</u>
3.2	<u>at least \$50,000 but less than \$70,000</u>	<u>\$.....</u>
3.3	<u>at least \$70,000 but less than \$100,000</u>	<u>\$.....</u>
3.4	<u>at least \$100,000 but less than \$140,000</u>	<u>\$.....</u>
3.5	<u>at least \$140,000 but less than \$200,000</u>	<u>\$.....</u>
3.6	<u>at least \$200,000 but less than \$400,000</u>	<u>\$.....</u>
3.7	<u>at least \$400,000 but less than \$600,000</u>	<u>\$.....</u>
3.8	<u>\$600,000 and over</u>	<u>\$.....</u>

3.9 Subd. 4. **Nonresidents.** Individuals who were not residents of Minnesota for any
3.10 part of 2005 and who paid more than \$10 in Minnesota sales tax under Minnesota Statutes,
3.11 chapter 297A, on nonbusiness consumer purchases in that year qualify for a rebate under
3.12 this subdivision only. Qualifying nonresidents must file a claim for rebate on a form
3.13 prescribed by the commissioner by November 30, 2007. The claim must include receipts
3.14 showing the Minnesota sales tax paid and the date of the sale. Taxes paid on purchases
3.15 allowed in the computation of federal taxable income or reimbursed by an employer are
3.16 not eligible for the rebate. The commissioner shall determine the qualifying taxes paid
3.17 and rebate the lesser of:

- 3.18 (1) ... percent of that amount; or
- 3.19 (2) the maximum amount for which the claimant would have been eligible as
3.20 determined under subdivision 2 if the taxpayer filed the 2005 federal income tax return as
3.21 a married taxpayer filing jointly or head of household, or as determined under subdivision
3.22 3 for other taxpayers.

3.23 Subd. 5. **Definition of income.** "Income," for purposes of this section other than
3.24 subdivision 4, is taxable income as defined in section 63 of the Internal Revenue Code of
3.25 1986, as amended through April 15, 2005, plus the sum of any additions to federal taxable
3.26 income for the taxpayer under Minnesota Statutes, section 290.01, subdivision 19a, and
3.27 reported on the original 2005 income tax return, including subsequent adjustments to
3.28 that return made within the time limits specified in subdivision 12. For an individual
3.29 who was a resident of Minnesota for less than the entire year, the sales tax rebate equals
3.30 the sales tax rebate calculated under subdivision 2 or 3 multiplied by the percentage
3.31 determined pursuant to Minnesota Statutes, section 290.06, subdivision 2c, paragraph (e),
3.32 as calculated on the original 2005 income tax return, including subsequent adjustments
3.33 to that return made within the time limits specified in subdivision 12. For purposes of
3.34 subdivision 4, "income" is taxable income as defined in section 63 of the Internal Revenue
3.35 Code of 1986, as amended through April 15, 2005, and reported on the taxpayer's original
3.36 federal tax return for the first taxable year beginning after December 31, 2004.

4.1 Subd. 6. **Social Security and public pension recipients.** (a) An individual qualifies
4.2 for a rebate of \$..... under this subdivision if the individual:

4.3 (1) was a resident of Minnesota for all of calendar year 2005;

4.4 (2) is not eligible for a rebate under subdivision 9;

4.5 (3) attained the age of 18 on or before December 31, 2005; and

4.6 (4)(i) received Social Security benefits as defined in section 86(d)(1) of the Internal
4.7 Revenue Code of 1986, as amended through April 15, 2005, in calendar year 2005; or

4.8 (ii) received federal, state, or local public pension or disability benefits in calendar
4.9 year 2005.

4.10 (b) An individual or married couple who qualifies for a rebate under both this
4.11 subdivision and subdivision 1 is eligible for the rebate under whichever subdivision
4.12 provides a larger amount.

4.13 (c) If the Social Security Administration, Railroad Retirement Board, or the
4.14 administrator of a public pension is paying benefits to a recipient by electronic funds
4.15 transfer in calendar year 2007, the commissioner may pay the rebate under this subdivision
4.16 through electronic funds transfer to the same financial institution and into the same
4.17 account into which those benefits are transferred in calendar year 2007.

4.18 (d) For purposes of this subdivision, "public pension plan administrator" means (1)
4.19 a state and local public pension administrator, (2) the federal Civil Service Retirement
4.20 System, (3) the United States Department of Defense for the military retirement and
4.21 survivors benefit programs, and (4) the Federal Employees Retirement System.

4.22 (e) A state and local public pension administrator is an entity paying benefits under a
4.23 pension plan enumerated in Minnesota Statutes, section 356.20, subdivision 2. Each state
4.24 and local pension administrator shall provide to the commissioner of revenue, in a form
4.25 the commissioner prescribes, a list of individuals to whom it pays benefits that meet the
4.26 requirements of paragraph (a), clauses (1) and (3).

4.27 Subd. 7. **Dependents.** An individual who:

4.28 (1) was allowed to be claimed as a dependent on a 2005 federal income tax return
4.29 filed by another person;

4.30 (2) would have otherwise been eligible for a rebate under subdivision 1; and

4.31 (3) reported earned income as defined in section 32(c)(2)(A)(i) of the Internal
4.32 Revenue Code,

4.33 is eligible for a rebate under this subdivision only. The rebate under this subdivision
4.34 equals ... percent of the amount allowed under the schedule in subdivision 3 based on the
4.35 individual's income. For an individual who was a resident of Minnesota for less than
4.36 the entire year, the sales tax rebate equals the rebate calculated under this subdivision

5.1 multiplied by the percentage determined pursuant to Minnesota Statutes, section 290.06,
5.2 subdivision 2c, paragraph (e), as calculated on the original 2005 income tax return.

5.3 Subd. 8. **Credit recipients.** An individual who:

5.4 (1) was a resident of Minnesota for any part of 2005;

5.5 (2) was not eligible for a rebate under subdivision 1, 6, or 9;

5.6 (3) was not allowed to be claimed as a dependent on a 2005 federal income tax
5.7 return by another person; and

5.8 (4)(i) claimed and was eligible for a refund under Minnesota Statutes, chapter
5.9 290A, for property taxes paid in 2006 or rent constituting property taxes paid in 2005 on
5.10 or before November 30, 2007; or

5.11 (ii) filed 2005 Minnesota and federal income tax returns before November 30, 2007,
5.12 in order to

5.13 (A) claim a credit under Minnesota Statutes, section 290.067, 290.0671, or 290.0674;

5.14 (B) claim a refund of withheld taxes; or

5.15 (C) claim a refund of estimated taxes,

5.16 is eligible for a rebate under this subdivision only. For married couples filing joint returns
5.17 and heads of households, the rebate equals the minimum amount in subdivision 2. For
5.18 single filers and married individuals filing separate returns, the rebate equals the minimum
5.19 amount in subdivision 3. For individuals who qualify for a rebate under clause (4)(i), the
5.20 rebate equals the minimum amount in subdivision 3, unless the property tax refund return
5.21 is a joint return and neither of the joint filers qualifies for a rebate under any of the other
5.22 rebate criteria, in which case the rebate equals the minimum amount in subdivision 2. For
5.23 an individual who was a resident of Minnesota for less than the entire year, the sales tax
5.24 rebate equals the rebate calculated under this subdivision multiplied by the percentage
5.25 determined under Minnesota Statutes, section 290.06, subdivision 2c, paragraph (e), as
5.26 calculated on the original 2005 income tax return. Notwithstanding the provisions of
5.27 Minnesota Statutes, section 289A.60, subdivision 12, an individual who files a property
5.28 tax refund claim for property taxes paid in 2006 or rent constituting property taxes paid in
5.29 2005 after August 15, 2007, and before November 30, 2007, is eligible for a refund under
5.30 Minnesota Statutes, chapter 290A, and a rebate under this subdivision.

5.31 Subd. 9. **Claims based on federal liabilities.** An individual who:

5.32 (1) was a resident of Minnesota for any part of 2005;

5.33 (2) filed 2005 Minnesota and federal income tax returns on or before November
5.34 30, 2007;

5.35 (3) had federal taxable income on the federal return of at least \$5; and

6.1 (4) does not qualify for a rebate under subdivision 1 or 7, is eligible for a rebate
6.2 under this subdivision only.

6.3 An individual who was allowed to be claimed as a dependent on a 2005 federal income
6.4 tax return filed by another person is eligible for a rebate under this subdivision only if the
6.5 individual had in 2005 earned income as defined in section 32(c)(2)(A)(i) of the Internal
6.6 Revenue Code; the rebate of a dependent eligible for a rebate under this subdivision
6.7 equals ... percent of the amount allowed under the schedule in subdivision 3 based on the
6.8 individual's income. For all other individuals who qualify under this subdivision, the
6.9 rebate equals the amount allowed based on the individual's income under the schedule
6.10 in subdivision 2 for married couples filing joint returns and heads of household and the
6.11 amount allowed based on the individual's income under the schedule in subdivision 3 for
6.12 single filers and married individuals filing separately; provided, however, that any rebate
6.13 payable under this subdivision to an individual who was a part-year resident of Minnesota
6.14 in 2005 must be prorated according to the formula applicable to part-year residents in
6.15 subdivision 5.

6.16 Subd. 10. **Fiscal year taxpayers.** For a fiscal year taxpayer, the dates in
6.17 subdivisions 1 through 4 are extended one month for each month in calendar year 2005
6.18 that occurred prior to the start of the individual's 2005 fiscal tax year.

6.19 Subd. 11. **Payment dates; interest.** The commissioner of revenue may begin
6.20 paying sales tax rebates by July 1, 2007. Sales tax rebates not paid by January 1, 2008,
6.21 bear interest at the rate specified in Minnesota Statutes, section 270C.40.

6.22 Subd. 12. **No adjustments after processing.** A sales tax rebate may not be adjusted
6.23 based on changes to a 2005 income tax return that are made by order of assessment
6.24 after the date the rebate is processed, or made by the taxpayer that are filed with the
6.25 commissioner of revenue after that date.

6.26 Subd. 13. **Joint rebate rules.** Individuals who filed a joint income tax return for
6.27 2005 must receive a joint sales tax rebate. After the sales tax rebate has been issued, but
6.28 before the check has been cashed, either joint claimant may request a separate check for
6.29 one-half of the joint sales tax rebate. Notwithstanding anything in this section to the
6.30 contrary, if prior to payment, the commissioner has been notified that persons who filed a
6.31 joint 2005 income tax return are living at separate addresses, as indicated on their 2006
6.32 income tax return or otherwise, the commissioner may issue separate checks to each
6.33 person. The amount payable to each person is one-half of the total joint rebate.

6.34 Subd. 14. **Deceased individuals.** If a rebate is received by the estate of a deceased
6.35 individual after the probate estate has been closed, and if the original rebate check is
6.36 returned to the commissioner with a copy of the decree of descent or final account of the

7.1 estate, Social Security numbers, and addresses of the beneficiaries, the commissioner may
7.2 issue separate checks in proportion to their share in the residuary estate in the names of
7.3 the residuary beneficiaries of the estate.

7.4 Subd. 15. **Application of other law.** (a) The sales tax rebate is a "Minnesota tax
7.5 law" for purposes of Minnesota Statutes, section 270B.01, subdivision 8.

7.6 (b) The sales tax rebate is "an overpayment of any tax collected by the commissioner"
7.7 for purposes of Minnesota Statutes, section 270C.64. For purposes of this subdivision,
7.8 a joint sales tax rebate is payable to each spouse equally.

7.9 (c) The sales tax rebate is a refund subject to revenue recapture under Minnesota
7.10 Statutes, chapter 270A. The commissioner of revenue shall remit the entire refund to the
7.11 claimant agency, which shall, upon the request of the spouse who does not owe the debt,
7.12 refund one-half of the joint sales tax rebate to the spouse who does not owe the debt.

7.13 Subd. 16. **Lapse of entitlement.** If the commissioner of revenue cannot locate an
7.14 individual entitled to a sales tax rebate by July 1, 2009, or if an individual to whom a sales
7.15 tax rebate was issued has not cashed the check by July 1, 2009, the right to the sales tax
7.16 rebate lapses and the check must be deposited in the general fund.

7.17 Subd. 17. **Claims for unpaid rebates.** Individuals entitled to a sales tax rebate
7.18 pursuant to subdivision 1, 6, 7, 8, or 9 but who did not receive one, and individuals who
7.19 receive a sales tax rebate that was not correctly computed, must file a claim with the
7.20 commissioner before July 1, 2008, in a form prescribed by the commissioner. These
7.21 claims must be treated as if they are a claim for refund under Minnesota Statutes, section
7.22 289A.50, subdivisions 4 and 7.

7.23 Subd. 18. **Appropriation.** The rebate is a reduction of fiscal year 2007 sales tax
7.24 revenues. The amount necessary to make the sales tax rebates and interest provided in this
7.25 section is appropriated from the general fund to the commissioner of revenue in fiscal year
7.26 2007 and is available until June 30, 2009.

7.27 Subd. 19. **Illegally cashed checks.** If a sales tax rebate check is cashed by someone
7.28 other than the payee or payees of the check, and the commissioner of revenue determines
7.29 that the check has been forged or improperly endorsed or the commissioner determines
7.30 that a rebate was overstated or erroneously issued, the commissioner may issue an order
7.31 of assessment for the amount of the check or the amount the check is overstated against
7.32 the person or persons cashing it. The assessment must be made within two years after
7.33 the check is cashed, but if cashing the check constitutes theft under Minnesota Statutes,
7.34 section 609.52, or forgery under Minnesota Statutes, section 609.631, the assessment can
7.35 be made at any time. The assessment may be appealed administratively and judicially. The

8.1 commissioner may take action to collect the assessment in the same manner as provided by
8.2 Minnesota Statutes, chapter 270C, for any other order of the commissioner assessing tax.

8.3 Subd. 20. **Authority to contract with vendor.** Notwithstanding Minnesota Statutes,
8.4 sections 9.031, 16A.40, 16B.49, and any other law to the contrary, the commissioner
8.5 of revenue may take whatever actions the commissioner deems necessary to pay the
8.6 rebates required by this section, and may, in consultation with the commissioner of
8.7 finance, contract with a private vendor or vendors to process, print, and mail the rebate
8.8 checks or warrants required under this section and receive and disburse state funds to pay
8.9 those checks or warrants.

8.10 Subd. 21. **Electronic payment.** The commissioner may pay rebates required by this
8.11 section by electronic funds transfer to individuals who requested that their 2006 individual
8.12 income tax refund be paid through electronic funds transfer. The commissioner may make
8.13 the electronic funds transfer payments to the same financial institution and into the same
8.14 account as the 2006 individual income tax refund.

8.15 Subd. 22. **Adjustments.** A sales tax rebate of \$1,013,000,000 is authorized for fiscal
8.16 year 2007. Before payment, the commissioner of revenue shall adjust the rebate as follows:

8.17 (1) the rebates calculated in subdivisions 2, 3, 4, 6, 7, 8, and 9 must be
8.18 proportionately reduced to account for 2005 income tax returns that are filed on or after
8.19 January 1, 2007, but before June 1, 2007, so that the estimated amount of sales tax rebates
8.20 payable under subdivisions 2, 3, 4, 6, 7, 8, and 9 on the date the rebate is processed does
8.21 not exceed the total amount available for the rebate; and

8.22 (2) the commissioner of finance shall certify by July 15, 2007, the preliminary fiscal
8.23 2007 general fund net nondedicated revenues. If certified net nondedicated revenues
8.24 are less than the amount forecast in February 2007, the commissioner of revenue shall
8.25 proportionally decrease all rebates under this section to rebate the entire amount of the
8.26 certified net nondedicated revenues. The adjustments under this subdivision are not a rule
8.27 subject to Minnesota Statutes, chapter 14.

8.28 **EFFECTIVE DATE.** This section is effective the day after final enactment.

8.29 Sec. 3. **APPROPRIATIONS.**

8.30 (a) \$..... is appropriated in fiscal year 2007 from the general fund to the
8.31 commissioner of revenue to administer the sales tax rebates in section 2. Any
8.32 unencumbered balance remaining on June 30, 2007, does not cancel but is available
8.33 for expenditure by the commissioner of revenue until June 30, 2008. Notwithstanding
8.34 Minnesota Statutes, section 16A.285, the commissioner of revenue may not use this

9.1 appropriation for any purpose other than administering the sales tax rebates. This is a
9.2 onetime appropriation and may not be added to the agency's budget base.

9.3 (b) \$..... is appropriated in fiscal year 2007 from the general fund to the
9.4 commissioner of finance to pay the cost of clearing sales tax rebate checks through
9.5 commercial banks. Any unencumbered balance remaining on June 30, 2007, does not
9.6 cancel but is available for expenditure by the commissioner of finance until June 30,
9.7 2008. Notwithstanding Minnesota Statutes, section 16A.285, the commissioner of finance
9.8 may not use this appropriation for any purpose other than paying the cost of clearing
9.9 rebate checks.

9.10 **EFFECTIVE DATE.** This section is effective the day after final enactment.