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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

**HOUSE FILE No. 3200**

February 18, 2008

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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 taxation; conforming to certain changes made to the Internal  
1.3 Revenue Code; providing for additions for certain tuition expenses and teachers'  
1.4 expenses; requiring withholding by contractors for certain payments; temporarily  
1.5 modifying the indexing of income tax brackets; assigning certain income of  
1.6 nonresidents to this state; requiring a report; amending Minnesota Statutes 2006,  
1.7 sections 289A.02, subdivision 7; 289A.12, subdivision 4; 290.01, subdivision  
1.8 19a; 290.06, subdivision 2c; 290.17, subdivision 2; 290.92, by adding a  
1.9 subdivision; 291.005, subdivision 1; Minnesota Statutes 2007 Supplement,  
1.10 sections 290.01, subdivisions 19, 31; 290A.03, subdivision 15.

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

1.12 Section 1. Minnesota Statutes 2006, section 289A.02, subdivision 7, is amended to  
1.13 read:

1.14 Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal  
1.15 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~May 18,~~  
1.16 ~~2006~~ February 13, 2008.

1.17 **EFFECTIVE DATE.** This section is effective the day following final enactment.

1.18 Sec. 2. Minnesota Statutes 2006, section 289A.12, subdivision 4, is amended to read:

1.19 Subd. 4. **Returns by persons, corporations, cooperatives, governmental entities,**  
1.20 **or school districts.** (a) The commissioner may by notice and demand require to the  
1.21 extent required by section 6041 of the Internal Revenue Code, a person, corporation,  
1.22 or cooperative, the state of Minnesota and its political subdivisions, and a city, county,  
1.23 and school district in Minnesota, making payments in the regular course of a trade or  
1.24 business during the taxable year to any person or corporation of \$600 or more on account  
1.25 of rents or royalties, or of \$10 or more on account of interest, or \$10 or more on account

2.1 of dividends or patronage dividends, or \$600 or more on account of either wages, salaries,  
2.2 commissions, fees, prizes, awards, pensions, annuities, or any other fixed or determinable  
2.3 gains, profits or income, not otherwise reportable under section 289A.09, subdivision 2, or  
2.4 on account of earnings of \$10 or more distributed to its members by savings associations  
2.5 or credit unions chartered under the laws of this state or the United States, (1) to file with  
2.6 the commissioner a return (except in cases where a valid agreement to participate in the  
2.7 combined federal and state information reporting system has been entered into, and the  
2.8 return is filed only with the commissioner of internal revenue under the applicable filing  
2.9 and informational reporting requirements of the Internal Revenue Code) with respect to  
2.10 the payments in excess of the amounts named, giving the names and addresses of the  
2.11 persons to whom the payments were made, the amounts paid to each, and (2) to make  
2.12 a return with respect to the total number of payments and total amount of payments,  
2.13 for each category of income named, which were in excess of the amounts named. This  
2.14 subdivision does not apply to the payment of interest or dividends to a person who was a  
2.15 nonresident of Minnesota for the entire year.

2.16 (b) For payments for which a return is covered by paragraph (a), regardless of  
2.17 whether the commissioner has required filing under paragraph (a), the payor must file a  
2.18 copy of the return with the commissioner if:

2.19 (i) the return is for a payment made to a Minnesota resident, to a recipient with a  
2.20 Minnesota address, or for activity occurring in the state of Minnesota; and

2.21 (ii) the payment is for wages, salaries, or other compensation for services provided.  
2.22 The commissioner may require this information to be filed in electronic or another form  
2.23 that the commissioner determines is appropriate, notwithstanding the provisions of  
2.24 paragraph (c).

2.25 (c) A person, corporation, or cooperative required to file returns under this  
2.26 subdivision must file the returns on magnetic media if magnetic media was used to satisfy  
2.27 the federal reporting requirement under section 6011(e) of the Internal Revenue Code,  
2.28 unless the person establishes to the satisfaction of the commissioner that compliance with  
2.29 this requirement would be an undue hardship.

2.30 **EFFECTIVE DATE.** This section is effective for forms required to be filed by  
2.31 federal law after December 31, 2009.

2.32 Sec. 3. Minnesota Statutes 2007 Supplement, section 290.01, subdivision 19, is  
2.33 amended to read:

2.34 Subd. 19. **Net income.** The term "net income" means the federal taxable income,  
2.35 as defined in section 63 of the Internal Revenue Code of 1986, as amended through the

3.1 date named in this subdivision, incorporating the federal effective dates of changes to the  
3.2 Internal Revenue Code and any elections made by the taxpayer in accordance with the  
3.3 Internal Revenue Code in determining federal taxable income for federal income tax  
3.4 purposes, and with the modifications provided in subdivisions 19a to 19f.

3.5 In the case of a regulated investment company or a fund thereof, as defined in section  
3.6 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment  
3.7 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,  
3.8 except that:

3.9 (1) the exclusion of net capital gain provided in section 852(b)(2)(A) of the Internal  
3.10 Revenue Code does not apply;

3.11 (2) the deduction for dividends paid under section 852(b)(2)(D) of the Internal  
3.12 Revenue Code must be applied by allowing a deduction for capital gain dividends and  
3.13 exempt-interest dividends as defined in sections 852(b)(3)(C) and 852(b)(5) of the Internal  
3.14 Revenue Code; and

3.15 (3) the deduction for dividends paid must also be applied in the amount of any  
3.16 undistributed capital gains which the regulated investment company elects to have treated  
3.17 as provided in section 852(b)(3)(D) of the Internal Revenue Code.

3.18 The net income of a real estate investment trust as defined and limited by section  
3.19 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust  
3.20 taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

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

3.24 The Internal Revenue Code of 1986, as amended through ~~May 18, 2006~~ February  
3.25 13, 2008, shall be in effect for taxable years beginning after December 31, 1996, ~~and~~  
3.26 ~~before January 1, 2006, and for taxable years beginning after December 31, 2006. The~~  
3.27 ~~Internal Revenue Code of 1986, as amended through December 31, 2006, is in effect for~~  
3.28 ~~taxable years beginning after December 31, 2005, and before January 1, 2007.~~

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

3.32 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
3.33 December 31, 2006.

3.34 Sec. 4. Minnesota Statutes 2006, section 290.01, subdivision 19a, is amended to read:

4.1 Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and  
4.2 trusts, there shall be added to federal taxable income:

4.3 (1)(i) interest income on obligations of any state other than Minnesota or a political  
4.4 or governmental subdivision, municipality, or governmental agency or instrumentality  
4.5 of any state other than Minnesota exempt from federal income taxes under the Internal  
4.6 Revenue Code or any other federal statute; and

4.7 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue  
4.8 Code, except the portion of the exempt-interest dividends derived from interest income  
4.9 on obligations of the state of Minnesota or its political or governmental subdivisions,  
4.10 municipalities, governmental agencies or instrumentalities, but only if the portion of the  
4.11 exempt-interest dividends from such Minnesota sources paid to all shareholders represents  
4.12 95 percent or more of the exempt-interest dividends that are paid by the regulated  
4.13 investment company as defined in section 851(a) of the Internal Revenue Code, or the  
4.14 fund of the regulated investment company as defined in section 851(g) of the Internal  
4.15 Revenue Code, making the payment; and

4.16 (iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal  
4.17 government described in section 7871(c) of the Internal Revenue Code shall be treated as  
4.18 interest income on obligations of the state in which the tribe is located;

4.19 (2) the amount of income or sales and use taxes paid or accrued within the taxable  
4.20 year under this chapter and the amount of taxes based on net income paid or sales and use  
4.21 taxes paid to any other state or to any province or territory of Canada, to the extent allowed  
4.22 as a deduction under section 63(d) of the Internal Revenue Code, but the addition may not  
4.23 be more than the amount by which the itemized deductions as allowed under section 63(d)  
4.24 of the Internal Revenue Code exceeds the amount of the standard deduction as defined  
4.25 in section 63(c) of the Internal Revenue Code. For the purpose of this paragraph, the  
4.26 disallowance of itemized deductions under section 68 of the Internal Revenue Code of  
4.27 1986, income or sales and use tax is the last itemized deduction disallowed;

4.28 (3) the capital gain amount of a lump sum distribution to which the special tax under  
4.29 section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

4.30 (4) the amount of income taxes paid or accrued within the taxable year under this  
4.31 chapter and taxes based on net income paid to any other state or any province or territory  
4.32 of Canada, to the extent allowed as a deduction in determining federal adjusted gross  
4.33 income. For the purpose of this paragraph, income taxes do not include the taxes imposed  
4.34 by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

5.1 (5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10  
 5.2 other than expenses or interest used in computing net interest income for the subtraction  
 5.3 allowed under subdivision 19b, clause (1);

5.4 (6) the amount of a partner's pro rata share of net income which does not flow  
 5.5 through to the partner because the partnership elected to pay the tax on the income under  
 5.6 section 6242(a)(2) of the Internal Revenue Code;

5.7 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the  
 5.8 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that  
 5.9 in the taxable year generates a deduction for depreciation under section 168(k) and the  
 5.10 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for  
 5.11 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is  
 5.12 limited to excess of the depreciation claimed by the activity under section 168(k) over the  
 5.13 amount of the loss from the activity that is not allowed in the taxable year. In succeeding  
 5.14 taxable years when the losses not allowed in the taxable year are allowed, the depreciation  
 5.15 under section 168(k) is allowed;

5.16 (8) 80 percent of the amount by which the deduction allowed by section 179 of the  
 5.17 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal  
 5.18 Revenue Code of 1986, as amended through December 31, 2003;

5.19 (9) to the extent deducted in computing federal taxable income, the amount of the  
 5.20 deduction allowable under section 199 of the Internal Revenue Code; ~~and~~

5.21 (10) the exclusion allowed under section 139A of the Internal Revenue Code for  
 5.22 federal subsidies for prescription drug plans;

5.23 (11) for taxable years beginning after December 31, 2006, and before January 1,  
 5.24 2008, the amount deducted for qualified tuition and related expenses under section 222 of  
 5.25 the Internal Revenue Code, to the extent deducted from gross income; and

5.26 (12) for taxable years beginning after December 31, 2006, and before January 1,  
 5.27 2008, the amount deducted for certain expenses of elementary and secondary school  
 5.28 teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted  
 5.29 from gross income.

5.30 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
 5.31 December 31, 2006.

5.32 Sec. 5. Minnesota Statutes 2007 Supplement, section 290.01, subdivision 31, is  
 5.33 amended to read:

5.34 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, ~~for~~  
 5.35 ~~taxable years beginning before January 1, 2006, and after December 31, 2006,~~ "Internal

6.1 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~May 18,~~  
 6.2 ~~2006; and for taxable years beginning after December 31, 2005, and before January 1,~~  
 6.3 ~~2007, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended~~  
 6.4 ~~through December 31, 2006~~ February 13, 2008.

6.5 **EFFECTIVE DATE.** This section is effective the day following final enactment  
 6.6 except the changes incorporated by federal changes are effective at the same time as the  
 6.7 changes were effective for federal purposes.

6.8 Sec. 6. Minnesota Statutes 2006, section 290.06, subdivision 2c, is amended to read:

6.9 Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income  
 6.10 taxes imposed by this chapter upon married individuals filing joint returns and surviving  
 6.11 spouses as defined in section 2(a) of the Internal Revenue Code must be computed by  
 6.12 applying to their taxable net income the following schedule of rates:

- 6.13 (1) On the first \$25,680, 5.35 percent;
- 6.14 (2) On all over \$25,680, but not over \$102,030, 7.05 percent;
- 6.15 (3) On all over \$102,030, 7.85 percent.

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

6.19 (b) The income taxes imposed by this chapter upon unmarried individuals must be  
 6.20 computed by applying to taxable net income the following schedule of rates:

- 6.21 (1) On the first \$17,570, 5.35 percent;
- 6.22 (2) On all over \$17,570, but not over \$57,710, 7.05 percent;
- 6.23 (3) On all over \$57,710, 7.85 percent.

6.24 (c) The income taxes imposed by this chapter upon unmarried individuals qualifying  
 6.25 as a head of household as defined in section 2(b) of the Internal Revenue Code must be  
 6.26 computed by applying to taxable net income the following schedule of rates:

- 6.27 (1) On the first \$21,630, 5.35 percent;
- 6.28 (2) On all over \$21,630, but not over \$86,910, 7.05 percent;
- 6.29 (3) On all over \$86,910, 7.85 percent.

6.30 (d) In lieu of a tax computed according to the rates set forth in this subdivision, the  
 6.31 tax of any individual taxpayer whose taxable net income for the taxable year is less than  
 6.32 an amount determined by the commissioner must be computed in accordance with tables  
 6.33 prepared and issued by the commissioner of revenue based on income brackets of not  
 6.34 more than \$100. The amount of tax for each bracket shall be computed at the rates set

7.1 forth in this subdivision, provided that the commissioner may disregard a fractional part of  
 7.2 a dollar unless it amounts to 50 cents or more, in which case it may be increased to \$1.

7.3 (e) An individual who is not a Minnesota resident for the entire year must compute  
 7.4 the individual's Minnesota income tax as provided in this subdivision. After the  
 7.5 application of the nonrefundable credits provided in this chapter, the tax liability must  
 7.6 then be multiplied by a fraction in which:

7.7 (1) the numerator is the individual's Minnesota source federal adjusted gross income  
 7.8 as defined in section 62 of the Internal Revenue Code and increased by the additions  
 7.9 required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), ~~and~~ (9),  
 7.10 (11), and (12) and reduced by the Minnesota assignable portion of the subtraction for  
 7.11 United States government interest under section 290.01, subdivision 19b, clause (1),  
 7.12 and the subtractions under section 290.01, subdivision 19b, clauses (9), (10), (14), (15),  
 7.13 and (16), after applying the allocation and assignability provisions of section 290.081,  
 7.14 clause (a), or 290.17; and

7.15 (2) the denominator is the individual's federal adjusted gross income as defined in  
 7.16 section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in  
 7.17 section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), ~~and~~ (9), (11), and (12) and  
 7.18 reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9),  
 7.19 (10), (14), (15), and (16).

7.20 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
 7.21 December 31, 2006.

7.22 Sec. 7. Minnesota Statutes 2006, section 290.17, subdivision 2, is amended to read:

7.23 Subd. 2. **Income not derived from conduct of a trade or business.** The income of  
 7.24 a taxpayer subject to the allocation rules that is not derived from the conduct of a trade or  
 7.25 business must be assigned in accordance with paragraphs (a) to (f):

7.26 (a)(1) Subject to paragraphs (a)(2); and (a)(3), ~~and (a)(4)~~; income from wages as  
 7.27 defined in section 3401(a) and (f) of the Internal Revenue Code is assigned to this state if,  
 7.28 and to the extent that, the work of the employee is performed within it; all other income  
 7.29 from such sources is treated as income from sources without this state.

7.30 Severance pay shall be considered income from labor or personal or professional  
 7.31 services.

7.32 (2) In the case of an individual who is a nonresident of Minnesota and who is an  
 7.33 athlete or entertainer, income from compensation for labor or personal services performed  
 7.34 within this state shall be determined in the following manner:

8.1 (i) The amount of income to be assigned to Minnesota for an individual who is a  
8.2 nonresident salaried athletic team employee shall be determined by using a fraction in  
8.3 which the denominator contains the total number of days in which the individual is under  
8.4 a duty to perform for the employer, and the numerator is the total number of those days  
8.5 spent in Minnesota. For purposes of this paragraph, off-season training activities, unless  
8.6 conducted at the team's facilities as part of a team imposed program, are not included in  
8.7 the total number of duty days. Bonuses earned as a result of play during the regular season  
8.8 or for participation in championship, play-off, or all-star games must be allocated under  
8.9 the formula. Signing bonuses are not subject to allocation under the formula if they are  
8.10 not conditional on playing any games for the team, are payable separately from any other  
8.11 compensation, and are nonrefundable; and

8.12 (ii) The amount of income to be assigned to Minnesota for an individual who is a  
8.13 nonresident, and who is an athlete or entertainer not listed in clause (i), for that person's  
8.14 athletic or entertainment performance in Minnesota shall be determined by assigning to  
8.15 this state all income from performances or athletic contests in this state.

8.16 (3) For purposes of this section, amounts received by a nonresident as "retirement  
8.17 income" as defined in section (b)(1) of the State Income Taxation of Pension Income  
8.18 Act, Public Law 104-95, are not considered income derived from carrying on a trade  
8.19 or business or from wages or other compensation for work an employee performed in  
8.20 Minnesota, and are not taxable under this chapter.

8.21 ~~(4) Wages, otherwise assigned to this state under clause (1) and not qualifying under~~  
8.22 ~~clause (3), are not taxable under this chapter if the following conditions are met:~~

8.23 ~~(i) the recipient was not a resident of this state for any part of the taxable year in~~  
8.24 ~~which the wages were received; and~~

8.25 ~~(ii) the wages are for work performed while the recipient was a resident of this state.~~

8.26 (b) Income or gains from tangible property located in this state that is not employed  
8.27 in the business of the recipient of the income or gains must be assigned to this state.

8.28 (c) Income or gains from intangible personal property not employed in the business  
8.29 of the recipient of the income or gains must be assigned to this state if the recipient of the  
8.30 income or gains is a resident of this state or is a resident trust or estate.

8.31 Gain on the sale of a partnership interest is allocable to this state in the ratio of the  
8.32 original cost of partnership tangible property in this state to the original cost of partnership  
8.33 tangible property everywhere, determined at the time of the sale. If more than 50 percent  
8.34 of the value of the partnership's assets consists of intangibles, gain or loss from the sale  
8.35 of the partnership interest is allocated to this state in accordance with the sales factor of

9.1 the partnership for its first full tax period immediately preceding the tax period of the  
9.2 partnership during which the partnership interest was sold.

9.3 Gain on the sale of goodwill or income from a covenant not to compete that is  
9.4 connected with a business operating all or partially in Minnesota is allocated to this state  
9.5 to the extent that the income from the business in the year preceding the year of sale was  
9.6 assignable to Minnesota under subdivision 3.

9.7 When an employer pays an employee for a covenant not to compete, the income  
9.8 allocated to this state is in the ratio of the employee's service in Minnesota in the calendar  
9.9 year preceding leaving the employment of the employer over the total services performed  
9.10 by the employee for the employer in that year.

9.11 (d) Income from winnings on a bet made by an individual while in Minnesota is  
9.12 assigned to this state. In this paragraph, "bet" has the meaning given in section 609.75,  
9.13 subdivision 2, as limited by section 609.75, subdivision 3, clauses (1), (2), and (3).

9.14 (e) All items of gross income not covered in paragraphs (a) to (d) and not part of the  
9.15 taxpayer's income from a trade or business shall be assigned to the taxpayer's domicile.

9.16 (f) For the purposes of this section, working as an employee shall not be considered  
9.17 to be conducting a trade or business.

9.18 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
9.19 December 31, 2007.

9.20 Sec. 8. Minnesota Statutes 2006, section 290.92, is amended by adding a subdivision  
9.21 to read:

9.22 **Subd. 31. Payments to persons who are not employees.** (a) For purposes of this  
9.23 subdivision, "contractor" means a person carrying on a trade or business described in  
9.24 industry code numbers 23 through 238990 of the North American Industry Classification  
9.25 System.

9.26 (b) A contractor or a third-party bulk filer acting on behalf of a contractor, who  
9.27 makes payments to an individual, carrying on a trade or business described in paragraph  
9.28 (a) as a sole proprietorship, must deduct and withhold two percent of the payment as  
9.29 Minnesota withholding tax when the amount the contractor paid to that individual during  
9.30 the calendar year exceeds \$600.

9.31 (c) A payment subject to withholding under this subdivision must be treated as if  
9.32 the payment were a wage paid by an employer to an employee. The requirements in the  
9.33 definitions of "employee" and "employer" in subdivision 1 relating to geographic location  
9.34 apply in determining whether withholding tax applies under this subdivision, but without  
9.35 regard to whether the contractor or the individual otherwise satisfy the definition of an

10.1 employer or an employee. Each recipient of a payment subject to withholding under this  
10.2 subdivision must furnish the contractor with a statement of the recipient's name, address,  
10.3 and Social Security account number.

10.4 **EFFECTIVE DATE.** This section is effective for payments made after December  
10.5 31, 2008.

10.6 Sec. 9. Minnesota Statutes 2007 Supplement, section 290A.03, subdivision 15, is  
10.7 amended to read:

10.8 Subd. 15. **Internal Revenue Code.** ~~For taxable years beginning before January 1,~~  
10.9 ~~2006, and after December 31, 2006,~~ "Internal Revenue Code" means the Internal Revenue  
10.10 Code of 1986, as amended through ~~May 18, 2006;~~ and for taxable years beginning after  
10.11 ~~December 31, 2005, and before January 1, 2007,~~ "Internal Revenue Code" means the  
10.12 ~~Internal Revenue Code of 1986, as amended through December 31, 2006~~ February 13,  
10.13 2008.

10.14 **EFFECTIVE DATE.** This section is effective for property tax refunds based on  
10.15 property taxes payable on or after December 31, 2006, and rent paid on or after December  
10.16 31, 2005.

10.17 Sec. 10. Minnesota Statutes 2006, section 291.005, subdivision 1, is amended to read:

10.18 Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following  
10.19 terms used in this chapter shall have the following meanings:

10.20 (1) "Federal gross estate" means the gross estate of a decedent as valued and  
10.21 otherwise determined for federal estate tax purposes by federal taxing authorities pursuant  
10.22 to the provisions of the Internal Revenue Code.

10.23 (2) "Minnesota gross estate" means the federal gross estate of a decedent after (a)  
10.24 excluding therefrom any property included therein which has its situs outside Minnesota,  
10.25 and (b) including therein any property omitted from the federal gross estate which is  
10.26 includable therein, has its situs in Minnesota, and was not disclosed to federal taxing  
10.27 authorities.

10.28 (3) "Personal representative" means the executor, administrator or other person  
10.29 appointed by the court to administer and dispose of the property of the decedent. If there  
10.30 is no executor, administrator or other person appointed, qualified, and acting within this  
10.31 state, then any person in actual or constructive possession of any property having a situs in  
10.32 this state which is included in the federal gross estate of the decedent shall be deemed

11.1 to be a personal representative to the extent of the property and the Minnesota estate tax  
11.2 due with respect to the property.

11.3 (4) "Resident decedent" means an individual whose domicile at the time of death  
11.4 was in Minnesota.

11.5 (5) "Nonresident decedent" means an individual whose domicile at the time of  
11.6 death was not in Minnesota.

11.7 (6) "Situs of property" means, with respect to real property, the state or country in  
11.8 which it is located; with respect to tangible personal property, the state or country in which  
11.9 it was normally kept or located at the time of the decedent's death; and with respect to  
11.10 intangible personal property, the state or country in which the decedent was domiciled  
11.11 at death.

11.12 (7) "Commissioner" means the commissioner of revenue or any person to whom the  
11.13 commissioner has delegated functions under this chapter.

11.14 (8) "Internal Revenue Code" means the United States Internal Revenue Code of  
11.15 1986, as amended through ~~May 18, 2006~~ February 13, 2008.

11.16 (9) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as  
11.17 defined by section 2011(b)(3) of the Internal Revenue Code, increased by the amount of  
11.18 deduction for state death taxes allowed under section 2058 of the Internal Revenue Code.

11.19 **EFFECTIVE DATE.** This section is effective the day following final enactment.

11.20 Sec. 11. **AUDIT AND REPORT TO LEGISLATURE.**

11.21 The commissioner must conduct a random sample audit of withholdings under  
11.22 Minnesota Statutes, section 290.92, subdivision 31, and returns associated with those  
11.23 withholdings. The commissioner must report on the findings of the audit to the committees  
11.24 of the senate and house of representatives with jurisdiction over taxes, in compliance with  
11.25 Minnesota Statutes, sections 3.195 and 3.197, no later than February 14, 2011. The report  
11.26 must also include information on the number and amount of payments received, and on  
11.27 the types of contractors making payments, grouped by specialty skills definitions provided  
11.28 in the North American Industry Classification System.

11.29 Sec. 12. **INDEXING FOR TAX BRACKETS; TAX YEARS 2009 and 2010.**

11.30 (a) Notwithstanding the provisions of Minnesota Statutes, section 290.06,  
11.31 subdivision 2d, the commissioner of revenue shall adjust each individual income tax rate  
11.32 bracket as provided in paragraphs (b) and (c) for taxable years beginning after December  
11.33 31, 2008, and before January 1, 2011. The commissioner of revenue shall construct the

12.1 withholding tables for taxable years beginning after December 31, 2008, and before  
12.2 January 1, 2011, to incorporate the adjustments provided in paragraphs (b) and (c).

12.3 (b) For taxable years beginning after December 31, 2008, and before January 1,  
12.4 2010, the commissioner of revenue shall first calculate the percentage adjustment of the  
12.5 brackets from the 2000 base year to 2009 in the manner as provided in Minnesota Statutes,  
12.6 section 290.06, subdivision 2d. The commissioner shall then reduce the percentage  
12.7 adjustment, but not below the percentage adjustment used for taxable years beginning  
12.8 after December 31, 2007, and before January 1, 2009, so that the net impact of this act  
12.9 on the revenues to the state from the individual income and the corporate franchise taxes  
12.10 under Minnesota Statutes, chapter 290, for fiscal years 2008 and 2009, after the rounding  
12.11 of the brackets as provided in this paragraph, is zero. The commissioner shall adjust the  
12.12 brackets by the resulting percentage. The rate applicable to any rate bracket must not be  
12.13 changed. The dollar amounts setting forth the tax must be adjusted to reflect the changes  
12.14 in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10  
12.15 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.  
12.16 The determination of the commissioner under this section is not a "rule" and is not subject  
12.17 to the Administrative Procedure Act in Minnesota Statutes, chapter 14. No later than  
12.18 December 15, 2008, the commissioner shall announce the specific percentage that will be  
12.19 used to adjust the tax rate brackets under this paragraph.

12.20 (c) For taxable years beginning after December 31, 2009, and before January 1, 2011,  
12.21 the commissioner of revenue shall first calculate the percentage adjustment of the brackets  
12.22 from the 2000 base year to 2010 in the manner as provided in Minnesota Statutes, section  
12.23 290.06, subdivision 2d. The commissioner shall then increase the percentage adjustment  
12.24 so that the net impact of this act on the revenues to the state from the individual income and  
12.25 the corporate franchise taxes under Minnesota Statutes, chapter 290, for fiscal years 2010  
12.26 and 2011, after the rounding of the brackets as provided in this paragraph, is zero. The  
12.27 commissioner shall adjust the brackets by the resulting percentage. The rate applicable to  
12.28 any rate bracket must not be changed. The dollar amounts setting forth the tax must be  
12.29 adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be  
12.30 rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up  
12.31 to the nearest \$10 amount. The determination of the commissioner under this section is  
12.32 not a "rule" and is not subject to the Administrative Procedure Act in Minnesota Statutes,  
12.33 chapter 14. No later than December 15, 2009, the commissioner shall announce the  
12.34 specific percentage that will be used to adjust the tax rate brackets under this paragraph.

12.35 (d) The adjustments under this section apply only for taxable years beginning after  
12.36 December 31, 2008, and before January 1, 2011. For taxable years beginning after

- 13.1 December 31, 2010, the commissioner of revenue shall calculate the adjustments under
- 13.2 Minnesota Statutes, section 290.06, subdivision 2d, without regard to this section.
- 13.3 **EFFECTIVE DATE.** This section is effective only for taxable years beginning after
- 13.4 December 31, 2008, and before January 1, 2011.