

## THIRTY-SEVENTH DAY

St. Paul, Minnesota, Tuesday, April 5, 2011

The Senate met at 9:30 a.m. and was called to order by the President.

**CALL OF THE SENATE**

Senator Limmer imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Hans Jorgenson.

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

The roll was called, and the following Senators answered to their names:

Bakk	Gazelka	Koch	Nelson	Saxhaug
Benson	Gerlach	Kruse	Newman	Scheid
Berglin	Gimse	Kubly	Nienow	Senjem
Bonoff	Goodwin	Langseth	Olson	Sheran
Brown	Hall	Latz	Ortman	Sieben
Carlson	Hann	Lillie	Pappas	Skoe
Chamberlain	Harrington	Limmer	Parry	Sparks
Cohen	Higgins	Lourey	Pederson	Stumpf
Dahms	Hoffman	Magnus	Pogemiller	Thompson
Daley	Howe	Marty	Reinert	Torres Ray
DeKruif	Ingebrigtsen	Metzen	Rest	Vanderveer
Dibble	Jungbauer	Michel	Robling	Wiger
Fischbach	Kelash	Miller	Rosen	Wolf

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

**MESSAGES FROM THE HOUSE**

Madam President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 119 and 488.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned April 4, 2011

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1101:

**H.F. No. 1101:** A bill for an act relating to higher education; amending postsecondary education provisions; requiring reports; changing Minnesota college savings plan matching grants; making technical changes; modifying definitions; setting requirements for credit transfer; providing stable undergraduate tuition rates; modifying achieve scholarship program; modifying contract and salary provisions; prohibiting use of certain public funds to support human cloning; requiring a study of graduate education in for-profit sector; repealing certain provisions related to equipment and apparel; appropriating money; amending Minnesota Statutes 2010, sections 15A.081, subdivision 7c; 135A.51, subdivision 2; 136A.121, subdivision 6; 136F.40, subdivision 2; 136G.01; 136G.03, subdivisions 1, 18, 27; 136G.05, subdivisions 1, 6, 8; proposing coding for new law in Minnesota Statutes, chapters 136F; 137; 145; repealing Minnesota Statutes 2010, sections 135A.26; 136G.11, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10; 181.986; Laws 2009, chapter 95, article 2, section 39.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Nornes, Dettmer, Daudt, Mazorol and Hancock have been appointed as such committee on the part of the House.

House File No. 1101 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 4, 2011

Senator Fischbach moved that the Senate accede to the request of the House for a Conference Committee on H.F. No.1101, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1140:

**H.F. No. 1140:** A bill for an act relating to government finance; appropriating money for transportation, Metropolitan Council, and public safety activities and programs; providing for fund transfers and tort claims; authorizing an account and certain contingent appropriations; providing for use of revenues from metropolitan transportation area sales tax; reducing funding for 2010 state road construction; authorizing temporary transfers from metropolitan livable communities fund accounts, right-of-way loan acquisition fund for transit operating deficits, and Metropolitan Council operating budget; establishing direct appropriation from transit assistance fund; establishing an account; modifying various provisions related to transportation finance and policy; modifying provisions related to licensing drivers; mandating and amending legislative reports; making technical and clarifying changes; amending Minnesota Statutes 2010, sections 16A.11, subdivision

3a; 16A.86, subdivision 3a; 16A.88; 162.06, subdivision 1; 162.12, subdivision 1; 168.12, subdivision 5; 171.06, subdivision 2; 171.0701; 171.13, subdivision 1, by adding a subdivision; 174.93; 297A.992, subdivision 5, by adding a subdivision; Laws 2009, chapter 36, article 1, section 3, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 171.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Beard; Murdock; Westrom; Benson, M., and Leidiger have been appointed as such committee on the part of the House.

House File No. 1140 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 4, 2011

Senator Gimse moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1140, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 934:

**H.F. No. 934:** A bill for an act relating to education; providing for policy and funding for family, adult, and prekindergarten through grade 12 education including general education, academic excellence, special education, facilities and technology, nutrition and accounting, libraries, early childhood education, prevention, self-sufficiency and lifelong learning, state agencies, and forecast adjustments; requiring reports; requiring studies; appropriating money; amending Minnesota Statutes 2010, sections 13D.02, by adding a subdivision; 16A.152, subdivision 2; 93.22, subdivision 1; 93.2236; 120A.41; 120B.023, subdivision 2; 120B.07; 120B.30, subdivision 1, by adding a subdivision; 120B.35, subdivision 1; 120B.36, subdivision 1; 122A.40, subdivisions 5, 6, 7, 8, 9, 10, 11, by adding subdivisions; 122A.41, subdivisions 2, 3, 4, 5, 6, 14, by adding a subdivision; 122A.414, subdivisions 1a, 2, 2a, 2b, 4; 122A.416; 122A.60; 122A.61, subdivision 1; 123A.55; 123B.02, subdivision 15; 123B.09, subdivision 8; 123B.143, subdivision 1; 123B.54; 123B.59, subdivision 5; 123B.75, subdivision 5; 124D.10, subdivision 3; 124D.19, subdivision 3; 124D.531, subdivision 1; 124D.86, subdivision 3; 125A.07; 125A.21, subdivisions 2, 3, 5, 7; 125A.515, by adding a subdivision; 125A.69, subdivision 1; 125A.76, subdivision 1; 125A.79, subdivision 1; 126C.10, subdivisions 1, 2, 2a, 3, 7, 8, 8a, 13a, 14, by adding a subdivision; 126C.126; 126C.20; 126C.40, subdivision 1; 126C.44; 127A.33; 127A.441; 127A.45, subdivision 2; 179A.16, subdivision 1; 179A.18, subdivisions 1, 3; 298.28, subdivisions 2, 4; Laws 2009, chapter 79, article 5, section 60, as amended; Laws 2009, chapter 96, article 1, section 24, subdivisions 2, as amended, 3, 4, as amended, 5, as amended, 6, as amended, 7, as amended; article 2, section 67, subdivisions 2, as amended, 3, as amended, 4, as amended, 6, 9, as amended; article 3, section 21, subdivisions 3, 4, as amended; article 4, section 12, subdivision 6, as amended; article

5, section 13, subdivisions 2, 3, 4, as amended; article 6, section 11, subdivisions 3, as amended, 4, as amended, 8, as amended, 12, as amended; proposing coding for new law in Minnesota Statutes, chapters 120B; 122A; 124D; 179A; repealing Minnesota Statutes 2010, sections 122A.61; 123B.05; 123B.59, subdivisions 6, 7; 124D.86, subdivisions 1, 1a, 2, 4, 5, 6; 126C.10, subdivision 5; 127A.46; 129C.10, subdivisions 1, 2, 3, 3a, 4, 6, 7, 8; 129C.105; 129C.15; 129C.20; 129C.25; 129C.26; 179A.18, subdivision 2; Laws 2009, chapter 88, article 12, section 23.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Garofalo, Erickson, Kelly, Doepke and Fabian have been appointed as such committee on the part of the House.

House File No. 934 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 4, 2011

Senator Koch, for Senator Olson, moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 934, and that a Conference Committee of 5 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Madam President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 52, 323, 954, 382 and 529.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted April 4, 2011

### FIRST READING OF HOUSE BILLS

The following bills were read the first time.

**H.F. No. 52:** A bill for an act relating to local government; providing for variances from city, county, and town zoning controls and ordinances; amending Minnesota Statutes 2010, sections 394.27, subdivision 7; 462.357, subdivision 6.

Referred to the Committee on Local Government and Elections.

**H.F. No. 323:** A bill for an act relating to real estate professionals; regulating the provision of broker price opinions on residential real estate; amending Minnesota Statutes 2010, sections 82.55, by adding subdivisions; 82.81, subdivision 9; 82B.021, subdivision 19; 82B.035, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 82.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 167, now on General Orders.

**H.F. No. 954:** A bill for an act relating to counties; providing a process for making certain county offices appointive in Kittson County.

Referred to the Committee on Local Government and Elections.

**H.F. No. 382:** A bill for an act relating to commerce; amending statutes regarding receiverships, assignments for the benefit of creditors, and nonprofit corporations; amending Minnesota Statutes 2010, sections 302A.753, subdivisions 2, 3; 302A.755; 302A.759, subdivision 1; 302A.761; 308A.945, subdivisions 2, 3; 308A.951; 308A.961, subdivision 1; 308A.965; 308B.935, subdivisions 2, 3; 308B.941; 308B.951, subdivision 1; 308B.955; 316.11; 317A.255, subdivision 1; 317A.753, subdivisions 3, 4; 317A.755; 317A.759, subdivision 1; 322B.836, subdivisions 2, 3; 322B.84; 462A.05, subdivision 32; 469.012, subdivision 2i; 540.14; 559.17, subdivision 2; 576.04; 576.06; 576.08; 576.09; 576.11; 576.121; 576.123; 576.144; 576.15; 576.16; proposing coding for new law in Minnesota Statutes, chapters 576; 577; repealing Minnesota Statutes 2010, sections 302A.759, subdivision 2; 308A.961, subdivision 2; 308B.951, subdivisions 2, 3; 317A.759, subdivision 2; 576.01; 577.01; 577.02; 577.03; 577.04; 577.05; 577.06; 577.08; 577.09; 577.10.

Referred to the Committee on Judiciary and Public Safety.

**H.F. No. 529:** A bill for an act relating to building codes; requiring equivalent load-bearing capacity for panels used in agricultural building roofs; amending Minnesota Statutes 2010, sections 326B.106, by adding a subdivision; 326B.121, subdivision 1.

Referred to the Committee on Jobs and Economic Growth.

## INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

### Senator Benson introduced—

**S.F. No. 1093:** A bill for an act relating to energy; requiring certain rate impact information related to compliance with renewable energy standard; amending Minnesota Statutes 2010, section 216B.1691, by adding a subdivision.

Referred to the Committee on Energy, Utilities and Telecommunications.

### Senators Olson, Pogemiller and Scheid introduced—

**S.F. No. 1094:** A bill for an act relating to education; creating education boards; allowing school boards to reorganize as education boards; amending Minnesota Statutes 2010, sections 123B.045; 124D.10, subdivisions 3, 8, 17; proposing coding for new law in Minnesota Statutes, chapter 123A.

Referred to the Committee on Education.

### Senator Kubly introduced—

**S.F. No. 1095:** A bill for an act relating to education; including family and consumer science as part of the required academic standards; amending Minnesota Statutes 2010, section 120B.021,

subdivision 1.

Referred to the Committee on Education.

**Senator Newman introduced—**

**S.F. No. 1096:** A bill for an act relating to state government; prohibiting grants to nonprofit groups in certain areas; proposing coding for new law in Minnesota Statutes, chapter 16C.

Referred to the Committee on State Government Innovation and Veterans.

**Senator Newman introduced—**

**S.F. No. 1097:** A bill for an act relating to the judiciary; establishing provisions for determining when a judicial vacancy occurs and requiring elections in certain cases; modifying the effective date of judicial retirements; amending Minnesota Statutes 2010, sections 2.722, subdivision 4; 490.126, subdivision 2.

Referred to the Committee on Judiciary and Public Safety.

**Senators Gerlach, Daley and Thompson introduced—**

**S.F. No. 1098:** A bill for an act relating to traffic regulations; modifying provision authorizing use of highway shoulder by buses; amending Minnesota Statutes 2010, section 169.306.

Referred to the Committee on Transportation.

**Senators Daley, Lillie, Cohen, Dibble and Torres Ray introduced—**

**S.F. No. 1099:** A bill for an act relating to veterans; appropriating money for a grant to the Minnesota Assistance Council for Veterans for continued outreach to homeless veterans in Minnesota.

Referred to the Committee on State Government Innovation and Veterans.

**Senators Brown, Pederson and Parry introduced—**

**S.F. No. 1100:** A bill for an act relating to public sector labor relations; specifying factors that must be considered in interest arbitration; amending Minnesota Statutes 2010, section 179A.16, subdivision 7.

Referred to the Committee on State Government Innovation and Veterans.

**Senators Hann, Chamberlain, Gazelka, Lourey and Berglin introduced—**

**S.F. No. 1101:** A bill for an act relating to human services; establishing the My Life, My Choices Task Force.

Referred to the Committee on Health and Human Services.

**Senators Sparks and Miller introduced–**

**S.F. No. 1102:** A bill for an act relating to taxation; providing for payment of costs and attorney fees in certain tax court actions; amending Minnesota Statutes 2010, section 271.19.

Referred to the Committee on Judiciary and Public Safety.

**MOTIONS AND RESOLUTIONS**

Senator Koch moved that S.F. No. 1028 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on Agriculture and Rural Economies. The motion prevailed.

Senator Koch moved that S.F. No. 1031 be withdrawn from the Committee on Rules and Administration and re-referred to the Committee on State Government Innovation and Veterans. The motion prevailed.

**Senator Brown introduced –**

**Senate Resolution No. 67:** A Senate resolution congratulating Steven Lindula for receiving the Eagle Award.

Referred to the Committee on Rules and Administration.

Senator Koch moved that H.F. No. 42 be taken from the table. The motion prevailed.

Pursuant to Rule 26, Senator Koch, Chair of the Committee on Rules and Administration, designated H.F. No. 42 a Special Order to be heard immediately.

**SPECIAL ORDER**

**H.F. No. 42:** A bill for an act relating to the financing and operation of state and local government; making changes to individual income, corporate franchise, property, aids, credits, payments, refunds, sales and use, tax increment financing, aggregate material, minerals, local, and other taxes and tax-related provisions; making changes to the green acres and rural preserve programs; authorizing border city development zone powers and local taxes; extending levy limits; modifying regional railroad authority provisions; repealing sustainable forest resource management incentive; authorizing grants to local governments for cooperation, consolidation, and service innovation; providing a science and technology program; reducing certain income rates; allowing capital equipment exemption at time of purchase; directing commissioner of revenue to negotiate a reciprocity agreement with state of Wisconsin and permitting its termination only by law; requiring studies; requiring reports; canceling amounts in the cash flow account; appropriating money; amending Minnesota Statutes 2010, sections 97A.061, subdivisions 1, 3; 126C.01, subdivision 3; 270A.03, subdivision 7; 270B.12, by adding a subdivision; 270C.13, subdivision 1; 272.02, by adding a subdivision; 273.111, subdivision 9, by adding a subdivision; 273.114, subdivisions 2, 5, 6; 273.121, subdivision 1; 273.13, subdivisions 21b, 25, 34; 273.1384, subdivisions 1, 3, 4; 273.1393; 273.1398, subdivision 3; 275.025, subdivisions 1, 3, 4; 275.066; 275.08, subdivisions 1a, 1d; 275.70, subdivision 5; 275.71, subdivisions 2, 4, 5; 276.04, subdivision 2; 279.01, subdivision 1;

289A.20, subdivision 4; 289A.50, subdivision 1; 290.01, subdivisions 6, 19b; 290.06, subdivision 2c; 290.068, subdivision 1; 290.081; 290.091, subdivision 2; 290A.03, subdivisions 11, 13; 297A.61, subdivision 3; 297A.62, by adding a subdivision; 297A.63, by adding a subdivision; 297A.668, subdivision 7, by adding a subdivision; 297A.68, subdivision 5; 297A.70, subdivision 3; 297A.75; 297A.99, subdivision 1; 298.01, subdivision 3; 298.015, subdivision 1; 298.018, subdivision 1; 298.28, subdivision 3; 298.75, by adding a subdivision; 398A.04, subdivision 8; 398A.07, subdivision 2; 469.1763, subdivision 2; 473.757, subdivisions 2, 11; 477A.011, by adding a subdivision; 477A.0124, by adding a subdivision; 477A.013, subdivisions 8, 9, by adding a subdivision; 477A.03; 477A.11, subdivision 1; 477A.12, subdivision 1; 477A.14, subdivision 1; 477A.17; Laws 1996, chapter 471, article 2, section 29, subdivision 1, as amended; Laws 1998, chapter 389, article 8, section 43, subdivisions 3, as amended, 4, as amended, 5, as amended; Laws 2008, chapter 366, article 7, section 19, subdivision 3; Laws 2010, chapter 389, article 7, section 22; proposing coding for new law in Minnesota Statutes, chapters 116W; 275; 373; repealing Minnesota Statutes 2010, sections 10A.322, subdivision 4; 13.4967, subdivision 2; 273.114, subdivision 1; 273.1384, subdivision 6; 279.01, subdivision 4; 289A.60, subdivision 31; 290.06, subdivision 23; 290C.01; 290C.02; 290C.03; 290C.04; 290C.05; 290C.055; 290C.06; 290C.07; 290C.08; 290C.09; 290C.10; 290C.11; 290C.12; 290C.13; 477A.145.

Senator Ortman moved to amend the first Ortman amendment to H.F. No. 42, adopted by the Senate April 4, 2011, as follows:

Page 1, lines 29 to 33, delete the new language

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

Senator Rest moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 15, after line 26, insert:

"Section 1. Minnesota Statutes 2010, section 297A.66, is amended by adding a subdivision to read:

Subd. 4a. **Solicitor.** (a) "Solicitor," for purposes of subdivision 1, paragraph (a), means a person, whether an independent contractor or other representative, who directly or indirectly solicits business for the retailer.

(b) A retailer is presumed to have a solicitor in this state if it enters into an agreement with a resident under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet Web site, or otherwise, to the seller. This paragraph only applies if the total gross receipts from sales to customers located in the state who were referred to the retailer by all residents with this type of agreement with the retailer is at least \$10,000 in the 12-month period ending on the last day of the most recent calendar quarter before the calendar quarter in which the sale is made.

(c) The presumption under paragraph (b) may be rebutted by proof that the resident with whom the seller has an agreement did not engage in any solicitation in the state on behalf of the retailer that would satisfy the nexus requirement of the United States Constitution during the 12-month period in question. Nothing in this section shall be construed to narrow the scope of the terms affiliate,

agent, salesperson, canvasser, or other representative for purposes of subdivision 1, paragraph (a).

(d) For purposes of this paragraph, "resident" includes an individual who is a resident of this state, as defined in section 290.01, or a business that owns tangible personal property located in this state or has one or more employees providing services for it in this state.

**EFFECTIVE DATE.** This section is effective for sales and purchases made after June 30, 2011."

Page 25, after line 22, insert:

"Sec. 13. Minnesota Statutes 2010, section 297A.94, is amended to read:

**297A.94 DEPOSIT OF REVENUES.**

(a) Except as provided in this section, 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 management and budget 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, 72.43 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.

(g) The revenues deposited under paragraphs (a) to (f) do not include the revenues, including interest and penalties, generated by the sales tax imposed under section 297A.62, subdivision 1a, which must be deposited as provided under the Minnesota Constitution, article XI, section 15.

(h) The commissioner shall deposit the revenues, including interest and penalties, collected under section 297A.66, subdivision 4a, to the budget reserve established in section 16A.152, subdivision 1a.

**EFFECTIVE DATE.** This section is effective for sales and purchases made after June 30, 2011."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

### CALL OF THE SENATE

Senator Limmer imposed a call of the Senate for the balance of the proceedings on H.F. No. 42. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Rest amendment.

The roll was called, and there were yeas 28 and nays 36, as follows:

Those who voted in the affirmative were:

Bakk	Harrington	Lourey	Rest	Sparks
Berglin	Higgins	Marty	Saxhaug	Stumpf
Bonoff	Kelash	Metzen	Scheid	Torres Ray
Cohen	Kubly	Pappas	Sheran	Wiger
Dibble	Langseth	Pogemiller	Sieben	
Goodwin	Latz	Reinert	Skoe	

Those who voted in the negative were:

Benson	Gazelka	Koch	Newman	Senjem
Brown	Gerlach	Kruse	Nienow	Thompson
Carlson	Gimse	Lillie	Olson	Vandever
Chamberlain	Hall	Limmer	Ortman	Wolf
Dahms	Hann	Magnus	Parry	
Daley	Hoffman	Michel	Pederson	
DeKruif	Howe	Miller	Robling	
Fischbach	Ingebrigtsen	Nelson	Rosen	

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

Senator Skoe moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 63, after line 20, insert:

"Section 1. Minnesota Statutes 2010, section 126C.01, subdivision 3, is amended to read:

Subd. 3. **Referendum market value.** "Referendum market value" means the market value of all taxable property, excluding property classified as class 2, noncommercial 4c(1), or 4c(4) under section 273.13. The portion of class 2a property consisting of the house, garage, and surrounding one acre of land of an agricultural homestead is included in referendum market value. Any class of property, or any portion of a class of property, that is included in the definition of referendum market value and that has a class rate of less than ~~one~~ 0.9 percent under section 273.13 shall have a referendum market value equal to its net tax capacity multiplied by 100.

**EFFECTIVE DATE.** This section is effective for taxes levied in 2011, payable in 2012, and thereafter."

Page 67, after line 8, insert:

"Sec. 8. Minnesota Statutes 2010, section 273.13, subdivision 22, is amended to read:

Subd. 22. **Class 1.** (a) Except as provided in subdivision 23 and in paragraphs (b) and (c), real estate which is residential and used for homestead purposes is class 1a. In the case of a duplex or triplex in which one of the units is used for homestead purposes, the entire property is deemed to be used for homestead purposes. The market value of class 1a property must be determined based upon the value of the house, garage, and land.

The first \$500,000 of market value of class 1a property has a net class rate of ~~one~~ 0.9 percent of its market value; and the market value of class 1a property that exceeds \$500,000 has a class rate of 1.25 percent of its market value.

(b) Class 1b property includes homestead real estate or homestead manufactured homes used

for the purposes of a homestead by:

- (1) any person who is blind as defined in section 256D.35, or the blind person and the blind person's spouse;
- (2) any person who is permanently and totally disabled or by the disabled person and the disabled person's spouse; or
- (3) the surviving spouse of a permanently and totally disabled veteran homesteading a property classified under this paragraph for taxes payable in 2008.

Property is classified and assessed under clause (2) only if the government agency or income-providing source certifies, upon the request of the homestead occupant, that the homestead occupant satisfies the disability requirements of this paragraph, and that the property is not eligible for the valuation exclusion under subdivision 34.

Property is classified and assessed under paragraph (b) only if the commissioner of revenue or the county assessor certifies that the homestead occupant satisfies the requirements of this paragraph.

Permanently and totally disabled for the purpose of this subdivision means a condition which is permanent in nature and totally incapacitates the person from working at an occupation which brings the person an income. The first \$50,000 market value of class 1b property has a net class rate of .45 percent of its market value. The remaining market value of class 1b property has a class rate using the rates for class 1a or class 2a property, whichever is appropriate, of similar market value.

(c) Class 1c property is commercial use real and personal property that abuts public water as defined in section 103G.005, subdivision 15, and is devoted to temporary and seasonal residential occupancy for recreational purposes but not devoted to commercial purposes for more than 250 days in the year preceding the year of assessment, and that includes a portion used as a homestead by the owner, which includes a dwelling occupied as a homestead by a shareholder of a corporation that owns the resort, a partner in a partnership that owns the resort, or a member of a limited liability company that owns the resort even if the title to the homestead is held by the corporation, partnership, or limited liability company. For purposes of this paragraph, property is devoted to a commercial purpose on a specific day if any portion of the property, excluding the portion used exclusively as a homestead, is used for residential occupancy and a fee is charged for residential occupancy. Class 1c property must contain three or more rental units. A "rental unit" is defined as a cabin, condominium, townhouse, sleeping room, or individual camping site equipped with water and electrical hookups for recreational vehicles. Class 1c property must provide recreational activities such as the rental of ice fishing houses, boats and motors, snowmobiles, downhill or cross-country ski equipment; provide marina services, launch services, or guide services; or sell bait and fishing tackle. Any unit in which the right to use the property is transferred to an individual or entity by deeded interest, or the sale of shares or stock, no longer qualifies for class 1c even though it may remain available for rent. A camping pad offered for rent by a property that otherwise qualifies for class 1c is also class 1c, regardless of the term of the rental agreement, as long as the use of the camping pad does not exceed 250 days. If an owner of property that had been classified as class 1c ceases to use that property as a homestead but retains ownership of that property and continues to operate it as a resort, and begins to occupy a second property that is located in the same township as the original class 1c property, both properties will be assessed as a single class 1c property, provided that the second property would separately qualify to be assessed as class 1c property. The portion of the property used as a homestead is class 1a property under paragraph (a). The remainder of the property is classified as

follows: the first \$600,000 of market value is tier I, the next \$1,700,000 of market value is tier II, and any remaining market value is tier III. The class rates for class 1c are: tier I, 0.50 percent; tier II, 1.0 percent; and tier III, 1.25 percent. Owners of real and personal property devoted to temporary and seasonal residential occupancy for recreation purposes in which all or a portion of the property was devoted to commercial purposes for not more than 250 days in the year preceding the year of assessment desiring classification as class 1c, must submit a declaration to the assessor designating the cabins or units occupied for 250 days or less in the year preceding the year of assessment by January 15 of the assessment year. Those cabins or units and a proportionate share of the land on which they are located must be designated as class 1c as otherwise provided. The remainder of the cabins or units and a proportionate share of the land on which they are located must be designated as class 3a commercial. The owner of property desiring designation as class 1c property must provide guest registers or other records demonstrating that the units for which class 1c designation is sought were not occupied for more than 250 days in the year preceding the assessment if so requested. The portion of a property operated as a (1) restaurant, (2) bar, (3) gift shop, (4) conference center or meeting room, and (5) other nonresidential facility operated on a commercial basis not directly related to temporary and seasonal residential occupancy for recreation purposes does not qualify for class 1c.

(d) Class 1d property includes structures that meet all of the following criteria:

(1) the structure is located on property that is classified as agricultural property under section 273.13, subdivision 23;

(2) the structure is occupied exclusively by seasonal farm workers during the time when they work on that farm, and the occupants are not charged rent for the privilege of occupying the property, provided that use of the structure for storage of farm equipment and produce does not disqualify the property from classification under this paragraph;

(3) the structure meets all applicable health and safety requirements for the appropriate season; and

(4) the structure is not salable as residential property because it does not comply with local ordinances relating to location in relation to streets or roads.

The market value of class 1d property has the same class rates as class 1a property under paragraph (a).

**EFFECTIVE DATE.** This section is effective for taxes levied in 2011, payable in 2012, and thereafter."

Page 67, strike line 31 and insert "The first \$500,000 of market value of class 4bb property has a net class rate of one percent of its market value; and the market value of class 4bb property that exceeds \$500,000 has a class rate of 1.25 percent of its market value."

Page 92, line 32, delete "REDUCTIONS" and insert "ADJUSTMENTS"

Page 93, line 3, after the period, insert "On June 30, 2013, the commissioner of management and budget shall deposit \$9,900,000 in the cash flow account."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 26 and nays 38, as follows:

Those who voted in the affirmative were:

Bakk	Higgins	Marty	Scheid	Torres Ray
Berglin	Kelash	Metzen	Sheran	Wiger
Cohen	Kubly	Pappas	Sieben	
Dibble	Langseth	Pogemiller	Skoe	
Goodwin	Latz	Reinert	Sparks	
Harrington	Lourey	Saxhaug	Stumpf	

Those who voted in the negative were:

Benson	Fischbach	Ingebrigtsen	Nelson	Robling
Bonoff	Gazelka	Koch	Newman	Rosen
Brown	Gerlach	Kruse	Nienow	Senjem
Carlson	Gimse	Lillie	Olson	Thompson
Chamberlain	Hall	Limmer	Ortman	Vanderveer
Dahms	Hann	Magnus	Parry	Wolf
Daley	Hoffman	Michel	Pederson	
DeKruif	Howe	Miller	Rest	

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

Senator Marty moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 5, after line 26, insert:

"Sec. 3. Minnesota Statutes 2010, 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~~ \$33,770, 5.35 percent;
- (2) On all over ~~\$25,680~~ \$33,770, but not over ~~\$102,030~~ \$134,170, 7.05 percent;
- (3) On all over ~~\$102,030~~ \$134,170, but not over \$150,000, 7.85 percent;
- (4) On all over \$150,000, 10.95 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~~ \$23,100, 5.35 percent;

- (2) On all over ~~\$17,570~~ \$23,100, but not over ~~\$57,710~~ \$75,890, 7.05 percent;
- (3) On all over ~~\$57,710~~ \$75,890, but not over \$85,000, 7.85 percent;
- (4) On all over \$85,000, 10.95 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~~ \$28,440, 5.35 percent;
- (2) On all over ~~\$21,630~~ \$28,440, but not over ~~\$86,910~~ \$114,290, 7.05 percent;
- (3) On all over ~~\$86,910~~ \$114,290, but not over \$130,000, 7.85 percent;
- (4) On all over \$130,000, 10.95 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), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), and the subtractions under section 290.01, subdivision 19b, clauses (8), (9), (13), (14), (15), and (17), 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), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (8), (9), (13), (14), (15), and (17).

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2010.

Sec. 4. Minnesota Statutes 2010, section 290.06, subdivision 2d, is amended to read:

Subd. 2d. **Inflation adjustment of brackets.** (a) For taxable years beginning after December 31, ~~2000~~ 2011, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under

paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning after December 31, ~~1999~~ 2010, and before January 1, ~~2001~~ 2012. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

(b) The commissioner shall adjust the rate brackets and by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word "~~1999~~" "2010" shall be substituted for the word "1992." For ~~2001~~ 2012, the commissioner shall then determine the percent change from the 12 months ending on August 31, ~~1999~~ 2010, to the 12 months ending on August 31, ~~2000~~ 2011, and in each subsequent year, from the 12 months ending on August 31, ~~1999~~ 2010, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011.

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Senator Marty moved to amend the Marty amendment to H.F. No. 42 as follows:

Page 3, after line 8, insert:

"Pages 37 to 38, delete sections 1 and 2

Page 47, delete sections 11 and 12

Pages 53 to 59, delete sections 20 to 27

Page 63, line 4, delete "sections 275.295; and 477A.145, are" and insert "section 275.295, is"

The question was taken on the adoption of the Marty amendment to the Marty amendment.

The roll was called, and there were yeas 28 and nays 36, as follows:

Those who voted in the affirmative were:

Bakk	Harrington	Lourey	Rest	Sparks
Berglin	Higgins	Marty	Saxhaug	Stumpf
Bonoff	Kelash	Metzen	Scheid	Torres Ray
Cohen	Kubly	Pappas	Sheran	Wiger
Dibble	Langseth	Pogemiller	Sieben	
Goodwin	Latz	Reinert	Skoe	

Those who voted in the negative were:

Benson	Chamberlain	DeKruif	Gerlach	Hann
Brown	Dahms	Fischbach	Gimse	Hoffman
Carlson	Daley	Gazelka	Hall	Howe

Ingebrigtsen	Magnus	Nienow	Robling	Wolf
Koch	Michel	Olson	Rosen	
Kruse	Miller	Ortman	Senjem	
Lillie	Nelson	Parry	Thompson	
Limmer	Newman	Pederson	Vandever	

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

Senator Bakk moved to amend the first Marty amendment to H.F. No. 42 as follows:

Page 3, after line 8, insert:

"Page 15, after line 26, insert:

"Section 1. Minnesota Statutes 2010, section 297A.62, subdivision 1, is amended to read:

Subdivision 1. **Generally.** Except as otherwise provided in subdivision 3 or in this chapter, a sales tax of ~~6.5~~ 5.5 percent is imposed on the gross receipts from retail sales as defined in section 297A.61, subdivision 4, made in this state or to a destination in this state by a person who is required to have or voluntarily obtains a permit under section 297A.83, subdivision 1.

**EFFECTIVE DATE.** This section is effective July 1, 2011."

The question was taken on the adoption of the Bakk amendment to the first Marty amendment.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Gazelka	Kruse	Newman	Scheid
Benson	Gerlach	Kubly	Nienow	Senjem
Berglin	Gimse	Langseth	Olson	Sheran
Bonoff	Goodwin	Latz	Ortman	Sieben
Brown	Hall	Lillie	Pappas	Skoe
Carlson	Hann	Limmer	Parry	Sparks
Chamberlain	Harrington	Lourey	Pederson	Stumpf
Cohen	Higgins	Magnus	Pogemiller	Thompson
Dahms	Hoffman	Marty	Reinert	Torres Ray
Daley	Howe	Metzen	Rest	Vandever
DeKruif	Ingebrigtsen	Michel	Robling	Wiger
Dibble	Kelash	Miller	Rosen	Wolf
Fischbach	Koch	Nelson	Saxhaug	

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

Senator Marty moved to amend the first Marty amendment to H.F. No. 42 as follows:

Page 3, after line 8, insert:

"Page 52, delete sections 18 and 19

Page 61, delete line 30"

The question was taken on the adoption of the Marty amendment to the first Marty amendment.

The roll was called, and there were yeas 28 and nays 35, as follows:

Those who voted in the affirmative were:

Bakk	Berglin	Bonoff	Cohen	Dibble
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Goodwin	Langseth	Pappas	Scheid	Stumpf
Harrington	Latz	Pogemiller	Sheran	Torres Ray
Higgins	Lourey	Reinert	Sieben	Wiger
Kelash	Marty	Rest	Skoe	
Kubly	Metzen	Saxhaug	Sparks	

Those who voted in the negative were:

Brown	Gazelka	Ingebrigtsen	Miller	Pederson
Carlson	Gerlach	Koch	Nelson	Robling
Chamberlain	Gimse	Kruse	Newman	Rosen
Dahms	Hall	Lillie	Nienow	Senjem
Daley	Hann	Limmer	Olson	Thompson
DeKruif	Hoffman	Magnus	Ortman	Vanderveer
Fischbach	Howe	Michel	Parry	Wolf

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

Senator Marty moved to amend the first Marty amendment to H.F. No. 42 as follows:

Page 3, after line 8, insert:

"Page 56, delete section 22 and insert:

"Sec. 22. Minnesota Statutes 2010, section 477A.0124, is amended by adding a subdivision to read:

Subd. 6. **Required expenditures.** In 2013 and thereafter, \$37,000,000 of county program aids must be expended for the following purposes:

- (1) children and community services grants;
- (2) adult mental health grants;
- (3) child support incentive grants under Minnesota Statutes, sections 256.979 and 256.9791;
- (4) Indian Child Welfare Act grants;
- (5) fraud prevention investigation grants;
- (6) children's mental health screening grants;
- (7) the county share of chemical dependency treatment costs;
- (8) the home visiting services grants;
- (9) the family planning grants; and
- (10) the lead abatement grants."

Page 58, line 9, delete "\$80,795,000" and insert "\$98,895,000"

Page 58, line 21, delete "\$84,909,575" and insert "\$103,809,575"

Senator Ortman questioned whether the Marty amendment to the amendment was germane.

The President ruled that the amendment to the amendment was not germane.

Senator Ortman moved to amend the first Marty amendment to H.F. No. 42 as follows:

Page 1, delete section 3

Page 2, delete section 4

Pursuant to Rule 7.4, Senator Marty questioned whether the Ortman amendment to the amendment was in order. The President ruled the amendment to the amendment was in order.

Senator Marty appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 36 and nays 29, as follows:

Those who voted in the affirmative were:

Benson	Gazelka	Jungbauer	Nelson	Senjem
Brown	Gerlach	Koch	Newman	Thompson
Carlson	Gimse	Kruse	Nienow	Vandever
Chamberlain	Hall	Lillie	Ortman	Wolf
Dahms	Hann	Limmer	Ortman	
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	
Fischbach	Ingebrigtsen	Miller	Rosen	

Those who voted in the negative were:

Bakk	Harrington	Lourey	Rest	Skoe
Berglin	Higgins	Marty	Robling	Sparks
Bonoff	Kelash	Metzen	Saxhaug	Stumpf
Cohen	Kubly	Pappas	Scheid	Torres Ray
Dibble	Langseth	Pogemiller	Sheran	Wiger
Goodwin	Latz	Reinert	Sieben	

So the decision of the President was sustained.

The question was taken on the adoption of the Ortman amendment to the first Marty amendment. The motion prevailed. So the amendment to the amendment was adopted.

Senator Marty moved to amend the first Marty amendment to H.F. No. 42 as follows:

Page 3, after line 8, insert:

"Page 58, line 9, delete "\$80,795,000" and insert "\$98,895,000"

Page 58, line 21, delete "\$84,909,575" and insert "\$103,809,575"

Pursuant to Rule 7.4, Senator Ortman questioned whether the Marty amendment to the amendment was in order. The President ruled the amendment was not in order.

The question recurred on the adoption of the first Marty amendment, as amended.

Pursuant to Rule 7.5, Senator Ortman questioned whether the first Marty amendment, as amended, was in order. The President ruled the amendment as amended, was not in order.

Senator Marty appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 36 and nays 28, as follows:

Those who voted in the affirmative were:

Benson	Gazelka	Jungbauer	Nelson	Rosen
Brown	Gerlach	Koch	Newman	Senjem
Carlson	Gimse	Kruse	Nienow	Thompson
Chamberlain	Hall	Lillie	Olson	Wolf
Dahms	Hann	Limmer	Ortman	
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	
Fischbach	Ingebrigtsen	Miller	Robling	

Those who voted in the negative were:

Bakk	Harrington	Lourey	Rest	Sparks
Berglin	Higgins	Marty	Saxhaug	Stumpf
Bonoff	Kelash	Metzen	Scheid	Torres Ray
Cohen	Kubly	Pappas	Sheran	Wiger
Dibble	Langseth	Pogemiller	Sieben	
Goodwin	Latz	Reinert	Skoe	

So the decision of the President was sustained.

Senator Bakk moved to amend the Ingebrigtsen amendment to H.F. No. 42, adopted by the Senate April 4, 2011, as follows:

Page 1, line 16, delete "and"

Page 1, line 17, delete the period and insert "; and"

Page 1, after line 17, insert:

"(4) recognition in the amount of the payments of the tax capacity foregone by the local government due to the loss of the future development potential of the land."

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

Senator Marty moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 2, after line 12, insert:

"Sec. 2. Minnesota Statutes 2010, section 289A.08, subdivision 3, is amended to read:

Subd. 3. **Corporations.** (a) A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return, ~~except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return.~~

(b) Members of a unitary business that are required to file a combined report on one return must designate a member of the unitary business to be responsible for tax matters, including the filing of returns, the payment of taxes, additions to tax, penalties, interest, or any other payment, and for the receipt of refunds of taxes or interest paid in excess of taxes lawfully due. The designated member must be a member of the unitary business that is filing the single combined report and either:

(1) a corporation that is subject to the taxes imposed by chapter 290; or

(2) a corporation that is not subject to the taxes imposed by chapter 290:

(i) Such corporation consents by filing the return as a designated member under this clause to remit taxes, penalties, interest, or additions to tax due from the members of the unitary business subject to tax, and receive refunds or other payments on behalf of other members of the unitary business. The member designated under this clause is a "taxpayer" for the purposes of this chapter and chapter 270C, and is liable for any liability imposed on the unitary business under this chapter and chapter 290.

(ii) If the state does not otherwise have the jurisdiction to tax the member designated under this clause, consenting to be the designated member does not create the jurisdiction to impose tax on the designated member, other than as described in item (i).

(iii) The member designated under this clause must apply for a business tax account identification number.

(c) The commissioner shall adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report. All members of an affiliated group that are required to file a combined report must file one return on behalf of the members of the group under rules adopted by the commissioner.

(d) If a corporation claims on a return that it has paid tax in excess of the amount of taxes lawfully due, that corporation must include on that return information necessary for payment of the tax in excess of the amount lawfully due by electronic means.

**EFFECTIVE DATE.** This section is effective for returns filed for taxable years beginning after December 31, 2010.

Sec. 3. Minnesota Statutes 2010, section 290.01, subdivision 5, is amended to read:

Subd. 5. **Domestic corporation.** The term "domestic" when applied to a corporation means a corporation:

(1) created or organized in the United States, or under the laws of the United States or of any state, the District of Columbia, or any political subdivision of any of the foregoing but not including the Commonwealth of Puerto Rico, or any possession of the United States;

(2) which qualifies as a DISC, as defined in section 992(a) of the Internal Revenue Code; ~~or~~

(3) which qualifies as a FSC, as defined in section 922 of the Internal Revenue Code; ~~or~~

(4) which is incorporated in a tax haven;

(5) which is engaged in activity in a tax haven sufficient for the tax haven to impose a net income tax under United States constitutional standards and section 290.015, and which reports that 20 percent or more of its income is attributable to business in the tax haven; or

(6) which has the average of its property, payroll, and sales factors, as defined under section 290.191, within the 50 states of the United States and the District of Columbia of 20 percent or more.

**EFFECTIVE DATE.** This section is effective for returns filed for taxable years beginning after December 31, 2010.

Sec. 4. Minnesota Statutes 2010, section 290.01, is amended by adding a subdivision to read:

Subd. 5c. **Tax haven.** (a) "Tax haven" means the following foreign jurisdictions, unless the listing of the jurisdiction does not apply under paragraph (b):

- (1) Andorra;
- (2) Anguilla;
- (3) Antigua and Barbuda;
- (4) Aruba;
- (5) Bahamas;
- (6) Bahrain;
- (7) Belize;
- (8) British Virgin Islands;
- (9) Cayman Islands;
- (10) Cook Islands;
- (11) Costa Rica;
- (12) Dominica;
- (13) Gibraltar;
- (14) Grenada;
- (15) Guernsey-Sark-Alderney;
- (16) Jersey;
- (17) Jordan;
- (18) Lebanon;
- (19) Liberia;
- (20) Liechtenstein;
- (21) Maldives;
- (22) Marshall Islands;
- (23) Monaco;
- (24) Montserrat;
- (25) Nauru;
- (26) Netherlands Antilles;

- (27) Niue;
- (28) Panama;
- (29) St. Kitts and Nevis;
- (30) St. Lucia;
- (31) St. Vincent and Grenadines;
- (32) Tonga;
- (33) Turks and Caicos; and
- (34) Vanuatu.

(b) A foreign jurisdiction's listing under paragraph (a) does not apply to the first taxable year after the United States enters into a tax treaty or other agreement with the foreign jurisdiction that provides for prompt, obligatory, and automatic exchange of information with the United States government relevant to enforcing the provisions of federal tax laws and the treaty or other agreement was in effect for the taxable year.

**EFFECTIVE DATE.** This section is effective for returns filed for taxable years beginning after December 31, 2010."

Page 5, after line 26, insert:

"Sec. 6. Minnesota Statutes 2010, 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 and 965 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) for taxable years beginning before January 1, 2011, the amount of any deemed dividend from a foreign operating corporation determined pursuant to section 290.17, subdivision 4, paragraph (g). The deemed dividend shall be reduced by the amount of the addition to income required by clauses (20), (21), (22), and (23);

(12) 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;

(13) the amount of net income excluded under section 114 of the Internal Revenue Code;

(14) 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 Division C, title III, section 303(b) of Public Law 110-343;

(15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A) and (k)(4)(A) 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)(1)(A) and (k)(4)(A) 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)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) 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)(1)(A) and (k)(4)(A) is allowed;

(16) 80 percent of the amount by which the deduction allowed by section 179 of the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal Revenue Code of 1986, as amended through December 31, 2003;

(17) to the extent deducted in computing federal taxable income, the amount of the deduction allowable under section 199 of the Internal Revenue Code;

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

(19) the amount of expenses disallowed under section 290.10, subdivision 2;

(20) for taxable years beginning before January 1, 2011, an amount equal to the interest and intangible expenses, losses, and costs paid, accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit of a corporation that is a member of the taxpayer's unitary business group that qualifies as a foreign operating corporation. For purposes of this clause, intangible expenses and costs include:

(i) expenses, losses, and costs for, or related to, the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property;

(ii) losses incurred, directly or indirectly, from factoring transactions or discounting transactions;

(iii) royalty, patent, technical, and copyright fees;

(iv) licensing fees; and

(v) other similar expenses and costs.

For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This clause does not apply to any item of interest or intangible expenses or costs paid, accrued, or incurred, directly or indirectly, to a foreign operating corporation with respect to such item of income to the extent that the income to the foreign operating corporation is income from sources without the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;

(21) for taxable years beginning before January 1, 2011, except as already included in the taxpayer's taxable income pursuant to clause (20), any interest income and income generated from intangible property received or accrued by a foreign operating corporation that is a member of the taxpayer's unitary group. For purposes of this clause, income generated from intangible property includes:

(i) income related to the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, or any other disposition of intangible property;

(ii) income from factoring transactions or discounting transactions;

(iii) royalty, patent, technical, and copyright fees;

(iv) licensing fees; and

(v) other similar income.

For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

This clause does not apply to any item of interest or intangible income received or accrued by a foreign operating corporation with respect to such item of income to the extent that the income is income from sources without the United States as defined in subtitle A, chapter 1, subchapter N,

part 1, of the Internal Revenue Code;

(22) for taxable years beginning before January 1, 2011, the dividends attributable to the income of a foreign operating corporation that is a member of the taxpayer's unitary group in an amount that is equal to the dividends paid deduction of a real estate investment trust under section 561(a) of the Internal Revenue Code for amounts paid or accrued by the real estate investment trust to the foreign operating corporation;

(23) for taxable years beginning before January 1, 2011, the income of a foreign operating corporation that is a member of the taxpayer's unitary group in an amount that is equal to gains derived from the sale of real or personal property located in the United States;

(24) the additional amount allowed as a deduction for donation of computer technology and equipment under section 170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; and

(25) discharge of indebtedness income resulting from reacquisition of business indebtedness and deferred under section 108(i) of the Internal Revenue Code.

**EFFECTIVE DATE.** This section is effective for returns filed for taxable years beginning after December 31, 2010.

Sec. 7. Minnesota Statutes 2010, 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 work opportunity 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 (9), 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) for taxable years beginning before January 1, 2011, 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, unless the income resulting from such payments or accruals is income from sources within the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;

(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 disability 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;

(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) 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;

(16) 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 Division C, title III, section 303(b) of Public Law 110-343;

(17) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (15), 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 (15). The resulting delayed depreciation cannot be less than zero;

(18) 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 amount of the addition; and

(19) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19c, clause (25).

**EFFECTIVE DATE.** This section is effective for returns filed for taxable years beginning after December 31, 2010.

Page 10, after line 16, insert:

"Sec. 11. Minnesota Statutes 2010, section 290.17, subdivision 4, is amended to read:

Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly within this state or partly within and partly without this state is part of a unitary business, the entire income of the unitary business is subject to apportionment pursuant to section 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary business is considered to be derived from any particular source and none may be allocated to a particular place except as provided by the applicable apportionment formula. The provisions of this subdivision do not apply to business income subject to subdivision 5, income of an insurance company, or income of an investment company determined under section 290.36.

(b) The term "unitary business" means business activities or operations which result in a flow of value between them. The term may be applied within a single legal entity or between multiple entities

and without regard to whether each entity is a sole proprietorship, a corporation, a partnership or a trust.

(c) Unity is presumed whenever there is unity of ownership, operation, and use, evidenced by centralized management or executive force, centralized purchasing, advertising, accounting, or other controlled interaction, but the absence of these centralized activities will not necessarily evidence a nonunitary business. Unity is also presumed when business activities or operations are of mutual benefit, dependent upon or contributory to one another, either individually or as a group.

(d) Where a business operation conducted in Minnesota is owned by a business entity that carries on business activity outside the state different in kind from that conducted within this state, and the other business is conducted entirely outside the state, it is presumed that the two business operations are unitary in nature, interrelated, connected, and interdependent unless it can be shown to the contrary.

(e) Unity of ownership is not deemed to exist when a corporation is involved unless that corporation is a member of a group of two or more business entities and more than 50 percent of the voting stock of each member of the group is directly or indirectly owned by a common owner or by common owners, either corporate or noncorporate, or by one or more of the member corporations of the group. For this purpose, the term "voting stock" shall include membership interests of mutual insurance holding companies formed under section 66A.40.

(f) The net income and apportionment factors under section 290.191 or 290.20 of foreign corporations and other foreign entities which are part of a unitary business shall not be included in the net income or the apportionment factors of the unitary business. A foreign corporation or other foreign entity which is required to file a return under this chapter shall file on a separate return basis. The net income and apportionment factors under section 290.191 or 290.20 of foreign operating corporations shall not be included in the net income or the apportionment factors of the unitary business except as provided in paragraph (g). The legislature intends that the provisions of this paragraph are not severable from the provisions of section 290.01, subdivision 5, clauses (4) to (6), and if any of those provisions are found to be unconstitutional, the provisions of this paragraph are void for the respective taxable years.

~~(g) The adjusted net income of a foreign operating corporation shall be deemed to be paid as a dividend on the last day of its taxable year to each shareholder thereof, in proportion to each shareholder's ownership, with which such corporation is engaged in a unitary business. Such deemed dividend shall be treated as a dividend under section 290.21, subdivision 4.~~

Dividends actually paid by a foreign operating corporation to a corporate shareholder which is a member of the same unitary business as the foreign operating corporation shall be eliminated from the net income of the unitary business in preparing a combined report for the unitary business. The adjusted net income of a foreign operating corporation shall be its net income adjusted as follows:

(1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto Rico, or a United States possession or political subdivision of any of the foregoing shall be a deduction; and

~~(2) the subtraction from federal taxable income for payments received from foreign corporations or foreign operating corporations under section 290.01, subdivision 19d, clause (10), shall not be allowed.~~

~~If a foreign operating corporation incurs a net loss, neither income nor deduction from that corporation shall be included in determining the net income of the unitary business.~~

~~(h)~~(g) For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of domestic corporations or other domestic entities ~~other than foreign operating corporations~~ that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that foreign corporations or other foreign entities might be included in the unitary business.

~~(i)~~(h) Deductions for expenses, interest, or taxes otherwise allowable under this chapter that are connected with or allocable against dividends, ~~deemed dividends described in paragraph (g), or royalties, fees, or other like income described in section 290.01, subdivision 19d, clause (10),~~ shall not be disallowed.

~~(j)~~(i) Each corporation or other entity, except a sole proprietorship, that is part of a unitary business must file combined reports as the commissioner determines. On the reports, all intercompany transactions between entities included pursuant to paragraph ~~(h)~~(g) must be eliminated and the entire net income of the unitary business determined in accordance with this subdivision is apportioned among the entities by using each entity's Minnesota factors for apportionment purposes in the numerators of the apportionment formula and the total factors for apportionment purposes of all entities included pursuant to paragraph ~~(h)~~(g) in the denominators of the apportionment formula.

~~(k)~~(j) If a corporation has been divested from a unitary business and is included in a combined report for a fractional part of the common accounting period of the combined report:

(1) its income includable in the combined report is its income incurred for that part of the year determined by proration or separate accounting; and

(2) its sales, property, and payroll included in the apportionment formula must be prorated or accounted for separately.

**EFFECTIVE DATE.** This section is effective for returns filed for taxable years beginning after December 31, 2010.

Page 15, after line 24, insert:

"Sec. 21. **REPEALER.**

Minnesota Statutes 2010, sections 290.01, subdivision 6b; and 290.0921, subdivision 7, are repealed.

**EFFECTIVE DATE.** This section is effective for returns filed for taxable years beginning after December 31, 2010.

Page 52, delete sections 18 and 19

Page 61, delete section 30

Page 92, line 32, delete "REDUCTION" and insert "ADJUSTMENTS"

Page 93, line 3, after the period, insert "By June 30, 2012, the commissioner of management and budget shall transfer \$57,700,000 to the cash flow account, and by June 30, 2013, shall transfer \$52,500,000 to the cash flow account."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 41, as follows:

Those who voted in the affirmative were:

Bakk	Harrington	Lourey	Reinert	Sparks
Berglin	Higgins	Marty	Saxhaug	Stumpf
Cohen	Kelash	Metzen	Sheran	Torres Ray
Dibble	Kubly	Pappas	Sieben	Wiger
Goodwin	Latz	Pogemiller	Skoe	

Those who voted in the negative were:

Benson	Gazelka	Koch	Newman	Scheid
Bonoff	Gerlach	Kruse	Nienow	Senjem
Brown	Gimse	Langseth	Olson	Thompson
Carlson	Hall	Lillie	Ortman	Vandever
Chamberlain	Hann	Limmer	Parry	Wolf
Dahms	Hoffman	Magnus	Pederson	
Daley	Howe	Michel	Rest	
DeKruif	Ingebrigtsen	Miller	Robling	
Fischbach	Jungbauer	Nelson	Rosen	

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

Senator Lourey moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 37, after line 18, insert:

"Sec. 26. **CITY OF CLOQUET; TAXES AUTHORIZED.**

Subdivision 1. Sales and use tax. Notwithstanding Minnesota Statutes, section 297A.99, subdivision 1, 477A.016, or any other provision of law, ordinance, or city charter, if approved by the voters pursuant to Minnesota Statutes, section 297A.99, or at a special election held for this purpose, the city of Cloquet may impose by ordinance a sales and use tax of up to one-half of one percent for the purpose specified in subdivision 3. Except as provided in this section, the provisions of Minnesota Statutes, section 297A.99, govern the imposition, administration, collection, and enforcement of the tax authorized under this subdivision.

Subd. 2. Excise tax authorized. Notwithstanding Minnesota Statutes, section 297A.99, subdivision 1, 477A.016, or any other provision of law, ordinance, or city charter, the city of Cloquet may impose by ordinance, for the purposes specified in subdivision 3, an excise tax of up to \$20 per motor vehicle, as defined by ordinance, purchased or acquired from any person engaged within the city in the business of selling motor vehicles at retail.

Subd. 3. **Use of revenues.** Revenues received from taxes authorized by subdivisions 1 and 2 must be used by the city to pay the cost of collecting the taxes and to pay for the following projects:

(1) construction and completion of park improvement projects, including, but not limited to: St. Louis River riverfront improvements; Veteran's Park construction and improvements; improvements to the Hilltop Park soccer complex and Braun Park baseball complex; capital equipment and building and grounds improvements at the Pine Valley Park/Pine Valley Hockey Arena/Cloquet Area Recreation Center; and development of pedestrian trails within the city;

(2) extension of utilities and the construction of all improvements associated with the development of property adjacent to Highway 33 and Interstate Highway 35, including payment of all debt service on bonds issued for these; and

(3) engineering and construction of infrastructure improvements, including, but not limited to, storm sewer, sanitary sewer, and water in areas identified as part of the city's comprehensive land use plan.

Authorized expenses include, but are not limited to, acquiring property and paying construction expenses related to these improvements, and paying debt service on bonds or other obligations issued to finance acquisition and construction of these improvements.

Subd. 4. **Bonding authority.** (a) The city may issue bonds under Minnesota Statutes, chapter 475, to pay capital and administrative expenses for the improvements described in subdivision 3 in an amount that does not exceed \$16,500,000. An election to approve the bonds under Minnesota Statutes, section 475.58, is not required.

(b) The issuance of bonds under this subdivision is not subject to Minnesota Statutes, sections 275.60 and 275.61.

(c) The debt represented by the bonds is not included in computing any debt limitation applicable to the city, and any levy of taxes under Minnesota Statutes, section 475.61, to pay principal of and interest on the bonds is not subject to any levy limitation.

Subd. 5. **Termination of taxes.** The taxes imposed under subdivisions 1 and 2 expire at the earlier of (1) 30 years, or (2) when the city council determines that the amount of revenues received from the taxes to finance the improvements described in subdivision 3 first equals or exceeds \$16,500,000, plus the additional amount needed to pay the costs related to issuance of bonds under subdivision 4, including interest on the bonds. Any funds remaining after completion of the project and retirement or redemption of the bonds may be placed in the general fund of the city. The taxes imposed under subdivisions 1 and 2 may expire at an earlier time if the city so determines by ordinance.

**EFFECTIVE DATE.** This section is effective the day after the governing body of the city of Cloquet and its chief clerical officer timely comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 29 and nays 36, as follows:

Those who voted in the affirmative were:

Bakk	Goodwin	Latz	Reinert	Skoe
Berglin	Harrington	Lourey	Rest	Sparks
Bonoff	Higgins	Marty	Saxhaug	Stumpf
Cohen	Kelash	Metzen	Scheid	Torres Ray
Dahms	Kubly	Pappas	Sheran	Wiger
Dibble	Langseth	Pogemiller	Sieben	

Those who voted in the negative were:

Benson	Gerlach	Koch	Newman	Senjem
Brown	Gimse	Kruse	Nienow	Thompson
Carlson	Hall	Lillie	Olson	Vandever
Chamberlain	Hann	Limmer	Ortman	Wolf
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	
Fischbach	Ingebrigtsen	Miller	Robling	
Gazelka	Jungbauer	Nelson	Rosen	

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

Senator Lourey moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 37, after line 18, insert:

**"Sec. 26. CITY OF MOOSE LAKE; SALES AND USE TAX.**

**Subdivision 1. Sales and use tax authorization.** Notwithstanding Minnesota Statutes, section 297A.99, subdivisions 1 and 2, or 477A.016, or any other law, ordinance, or city charter, as approved by the voters at the next general election, the city of Moose Lake may impose, by ordinance, a sales and use tax up to one-half of one percent for the purposes specified in subdivision 2. The provisions of Minnesota Statutes, section 297A.99, except subdivisions 1 and 2, govern the imposition, administration, collection, and enforcement of the tax authorized under this subdivision.

**Subd. 2. Use of sales and use tax revenues.** The revenues derived from the tax authorized under subdivision 1 must be used by the city of Moose Lake to pay the costs of collecting and administering the tax and to finance the costs of: (1) improvements to the city's park system of benefit to regional residents and of benefit to regional tourism, including the Earl Ellen's Park-Riverside Arena project, and the Historic Trail Depot Project; (2) street and related infrastructure improvements; and (3) municipal library improvements. Authorized costs include construction and engineering costs and associated bond costs.

**Subd. 3. Bonds.** (a) If the imposition of a sales and use tax is approved by the voters, the city of Moose Lake may issue bonds under Minnesota Statutes, chapter 475, to finance all or a portion of the costs of the facilities authorized in subdivision 2, and may issue bonds to refund bonds previously issued. The aggregate principal amount of bonds issued under this subdivision may not exceed \$3,000,000, plus an amount to be applied to the payment of the costs of issuing the bonds. The bonds may be paid from or secured by any funds available to the city of Moose Lake, including the tax authorized under subdivision 1. The issuance of bonds under this subdivision is not subject to

Minnesota Statutes, sections 275.60 and 275.61.

(b) The bonds are not included in computing any debt limitation applicable to the city of Moose Lake, and any levy of taxes under Minnesota Statutes, section 475.61, to pay principal and interest on the bonds is not subject to any levy limitation. A separate election to approve the bonds under Minnesota Statutes, section 475.58, is not required.

Subd. 4. **Termination of taxes.** The tax imposed under subdivision 1 expires at the earlier of: (1) 20 years after the tax is first imposed; or (2) when the city council determines that \$3,000,000 has been received from the tax to pay for the capital and administrative costs of the facilities under subdivision 2, plus an amount sufficient to pay the costs related to issuance of the bonds under subdivision 3, including interest on the bonds. Any funds remaining after payment of all such costs and retirement or redemption of the bonds shall be placed in the general fund of the city. The tax imposed under subdivision 1 may expire at an earlier time if the city so determines by ordinance.

**EFFECTIVE DATE.** This section is effective the day after compliance by the governing body of the city of Moose Lake with Minnesota Statutes, section 645.021, subdivision 3."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 28 and nays 36, as follows:

Those who voted in the affirmative were:

Bakk	Goodwin	Lourey	Rest	Sparks
Berglin	Higgins	Marty	Saxhaug	Stumpf
Bonoff	Kelash	Metzen	Scheid	Torres Ray
Cohen	Kubly	Pappas	Sheran	Wiger
Dahms	Langseth	Pogemiller	Sieben	
Dibble	Latz	Reinert	Skoe	

Those who voted in the negative were:

Benson	Gerlach	Koch	Newman	Senjem
Brown	Gimse	Kruse	Nienow	Thompson
Carlson	Hall	Lillie	Olson	Vanderveer
Chamberlain	Hann	Limmer	Ortman	Wolf
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	
Fischbach	Ingebrigtsen	Miller	Robling	
Gazelka	Jungbauer	Nelson	Rosen	

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

Senator Sieben moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 5, delete section 3

Page 92, after line 27, insert:

"Sec. 4. **EDUCATION FORMULA ALLOWANCE INCREASE.**

Notwithstanding Minnesota Statutes, section 126C.10, subdivision 2, for fiscal years 2012 and 2013 only, the formula allowance under Minnesota Statutes, section 126C.10, subdivision 2, shall be increased by \$6.55 in each year. Notwithstanding Minnesota Statutes, section 126C.10, subdivision 2, for fiscal years 2014 and later, the formula allowance under Minnesota Statutes, section 126C.10, subdivision 2, shall be increased by \$5.50 each year.

**EFFECTIVE DATE.** This section is effective for revenue for fiscal year 2012 and later."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

### RECESS

Senator Koch moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

The question was taken on the adoption of the Sieben amendment.

The roll was called, and there were yeas 23 and nays 41, as follows:

Those who voted in the affirmative were:

Bakk	Goodwin	Langseth	Reinert	Skoe
Berglin	Harrington	Latz	Rest	Torres Ray
Bonoff	Higgins	Lourey	Saxhaug	Wiger
Cohen	Kelash	Marty	Sheran	
Dibble	Kubly	Pappas	Sieben	

Those who voted in the negative were:

Benson	Gerlach	Kruse	Nienow	Senjem
Brown	Gimse	Lillie	Olson	Sparks
Carlson	Hall	Limmer	Ortman	Thompson
Chamberlain	Hann	Magnus	Parry	Vanderveer
Dahms	Hoffman	Metzen	Pederson	Wolf
Daley	Howe	Michel	Pogemiller	
DeKruif	Ingebrigtsen	Miller	Robling	
Fischbach	Jungbauer	Nelson	Rosen	
Gazelka	Koch	Newman	Scheid	

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

Senator Marty moved to amend H.F. No. 42, as amended pursuant to Rule 45, adopted by the Senate March 30, 2011, as follows:

(The text of the amended House File is identical to S.F. No. 27.)

Page 5, after line 26, insert:

"Sec. 3. Minnesota Statutes 2010, 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~~ \$33,770, 5.35 percent;
- (2) On all over ~~\$25,680~~ \$33,770, but not over ~~\$102,030~~ \$134,170, 7.05 percent;
- (3) On all over ~~\$102,030~~ \$134,170, but not over \$500,000, 7.85 percent.;
- (4) On all over \$500,000, 7.89 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~~ \$23,100, 5.35 percent;
- (2) On all over ~~\$17,570~~ \$23,100, but not over ~~\$57,710~~ \$75,890, 7.05 percent;
- (3) On all over ~~\$57,710~~ \$75,890, but not over \$282,500, 7.85 percent.;
- (4) On all over \$282,500, 7.89 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~~ \$28,440, 5.35 percent;
- (2) On all over ~~\$21,630~~ \$28,440, but not over ~~\$86,910~~ \$114,290, 7.05 percent;
- (3) On all over ~~\$86,910~~ \$114,290, but not over \$425,000, 7.85 percent.;
- (4) On all over \$425,000, 7.89 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), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), and the subtractions under section 290.01, subdivision

19b, clauses (8), (9), (13), (14), (15), and (17), 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), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (8), (9), (13), (14), (15), and (17).

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2010.

Sec. 4. Minnesota Statutes 2010, section 290.06, subdivision 2d, is amended to read:

Subd. 2d. **Inflation adjustment of brackets.** (a) For taxable years beginning after December 31, ~~2000~~ 2011, the minimum and maximum dollar amounts for each rate bracket for which a tax is imposed in subdivision 2c shall be adjusted for inflation by the percentage determined under paragraph (b). For the purpose of making the adjustment as provided in this subdivision all of the rate brackets provided in subdivision 2c shall be the rate brackets as they existed for taxable years beginning after December 31, ~~1999~~ 2010, and before January 1, ~~2001~~ 2012. The rate applicable to any rate bracket must not be changed. The dollar amounts setting forth the tax shall be adjusted to reflect the changes in the rate brackets. The rate brackets as adjusted must be rounded to the nearest \$10 amount. If the rate bracket ends in \$5, it must be rounded up to the nearest \$10 amount.

(b) The commissioner shall adjust the rate brackets and by the percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in section 1(f)(3)(B) the word "~~1999~~" "2010" shall be substituted for the word "1992." For ~~2001~~ 2012, the commissioner shall then determine the percent change from the 12 months ending on August 31, ~~1999~~ 2010, to the 12 months ending on August 31, ~~2000~~ 2011, and in each subsequent year, from the 12 months ending on August 31, ~~1999~~ 2010, to the 12 months ending on August 31 of the year preceding the taxable year. The determination of the commissioner pursuant to this subdivision shall not be considered a "rule" and shall not be subject to the Administrative Procedure Act contained in chapter 14.

No later than December 15 of each year, the commissioner shall announce the specific percentage that will be used to adjust the tax rate brackets.

**EFFECTIVE DATE.** This section is effective for taxable years beginning after December 31, 2011."

Page 15, after line 15, insert:

**"Sec. 16. VOIDING PROVISIONS RELATED TO MEDICAL ASSISTANCE OPTIONAL SERVICES IN S.F. NO. 760.**

If the provisions in 2011 S.F. No. 760 related to medical assistance optional services, that amend Minnesota Statutes, section 256B.0625, subdivisions 3g, 3h, 8, 8a, 8b, and 12, and repeal Minnesota Statutes, sections 256B.0625, subdivision 8e; and 256B.0653, subdivision 5, are enacted, those amendments and repealers to the laws listed in this section are void, notwithstanding the order of enactment of that act and this act."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Pursuant to Rule 7.6, Senator Senjem questioned whether the Marty amendment was in order. The President ruled the amendment was not in order.

Senator Marty appealed the decision of the President.

The question was taken on "Shall the decision of the President be the judgment of the Senate?"

The roll was called, and there were yeas 37 and nays 26, as follows:

Those who voted in the affirmative were:

Benson	Gazelka	Jungbauer	Nelson	Rosen
Brown	Gerlach	Koch	Newman	Senjem
Carlson	Gimse	Kruse	Nienow	Thompson
Chamberlain	Hall	Lillie	Olson	Vanderveer
Dahms	Hann	Limmer	Ortman	Wolf
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	
Fischbach	Ingebrigtsen	Miller	Robling	

Those who voted in the negative were:

Bakk	Harrington	Lourey	Saxhaug	Torres Ray
Berglin	Higgins	Marty	Scheid	Wiger
Bonoff	Kelash	Metzen	Sheran	
Cohen	Kubly	Pappas	Sieben	
Dibble	Langseth	Pogemiller	Skoe	
Goodwin	Latz	Rest	Sparks	

So the decision of the President was sustained.

H.F. No. 42 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 37 and nays 26, as follows:

Those who voted in the affirmative were:

Benson	Gazelka	Jungbauer	Nelson	Rosen
Brown	Gerlach	Koch	Newman	Senjem
Carlson	Gimse	Kruse	Nienow	Thompson
Chamberlain	Hall	Lillie	Olson	Vanderveer
Dahms	Hann	Limmer	Ortman	Wolf
Daley	Hoffman	Magnus	Parry	
DeKruif	Howe	Michel	Pederson	
Fischbach	Ingebrigtsen	Miller	Robling	

Those who voted in the negative were:

Bakk	Harrington	Lourey	Saxhaug	Torres Ray
Berglin	Higgins	Marty	Scheid	Wiger
Bonoff	Kelash	Metzen	Sheran	
Cohen	Kubly	Pappas	Sieben	
Dibble	Langseth	Pogemiller	Skoe	
Goodwin	Latz	Rest	Sparks	

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

**RECESS**

Senator Koch moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

**APPOINTMENTS**

Senator Koch from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 12: Senators Miller, Gazelka, Nienow, Brown and Skoe.

Senator Koch moved that the foregoing appointments be approved. The motion prevailed.

**MEMBERS EXCUSED**

Senator Tomassoni was excused from the Session of today. Senator Pederson was excused from the Session of today from 9:30 to 10:30 a.m. Senator Jungbauer was excused from the Session of today from 9:30 to 11:40 a.m. Senator Benson was excused from the Session of today from 11:30 to 11:45 a.m. Senator Harrington was excused from the Session of today from 1:35 to 2:00 p.m. Senator Stump was excused from the Session of today at 2:10 p.m. Senator Reinert was excused from the Session of today at 2:30 p.m.

**ADJOURNMENT**

Senator Koch moved that the Senate do now adjourn until 11:00 a.m., Thursday, April 7, 2011. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate

