Short Subjects

Minnesota House of Representatives, House Research

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Matt Burress **Updated: January 2012**

Minnesota Aeronautics Programs and Funding

Minnesota's aeronautics system consists mainly of local, publicly owned airports throughout the state. Funding comes from state taxes on aviation fuel, aircraft registration, and airline property, along with federal grants. The Minnesota Department of Transportation (MnDOT) provides technical assistance and administers grants to local airports for construction and maintenance of airport facilities. MnDOT also performs other aviation-related activities, including registering aircraft and licensing airports.

Minnesota's aeronautics system

Minnesota's state-funded aeronautics system consists of 135 airports throughout the state, eight of which provide scheduled commercial flights. The Metropolitan Airports Commission operates the Minneapolis/St. Paul Airport along with six reliever airports located throughout the Twin Cities metropolitan area. In Greater Minnesota, airports are typically owned by a city, although owners include city/county partnerships, airport authorities, and townships.

Revenue from dedicated taxes

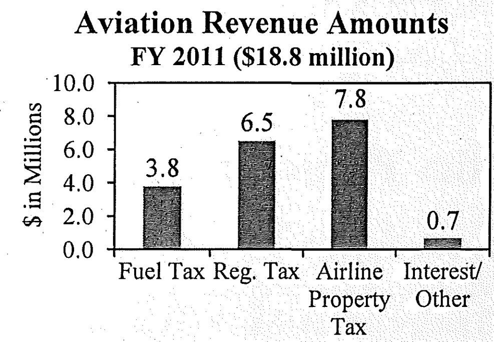
Minnesota has three main sources of state aeronautics funding, each of which is a tax on an aviation-related activity. The revenues, combined with interest and other sources, totaled $18.8 million in fiscal year 2011.

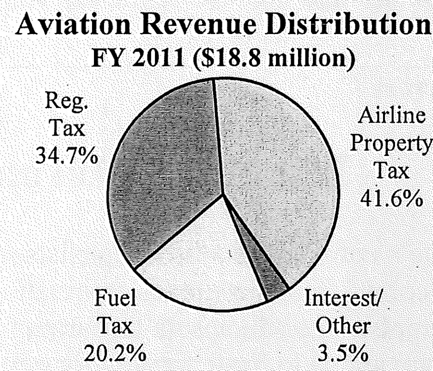
Aviation fuel tax. The aviation fuel tax applies to fuel used in aircraft. The tax rate declines as more fuel is purchased. Minn. Stat. § 296A.17. The following rates apply respectively within each range of gallons of fuel purchased.

Amount of Fuel (gallons)	Tax
1 – 50,000	5¢
50,001 – 150,000	2¢
150,001 – 200,000	1¢
200,001 and over	1/2¢

Aircraft registration tax. An annual registration tax on aircraft is imposed on noncommercial aircraft based in Minnesota or used in the state for more than 60 days a year. The tax is set at a rate of 1 percent of the aircraft manufacturer's original list price, multiplied by a depreciation factor after the initial year of aircraft life. The depreciation factor is 90 percent of the list price in the second year of life and is further reduced by 15 percentage points per year in subsequent years. (For instance, the tax in the third year equals 1 percent of the original list price times 75 percent.) The minimum tax is the greater of (1) 1 percent of the list price times 25 percent, or (2) $50. Minn. Stat. § 360.531.

Airline flight property tax. The airline flight property tax is paid on aircraft equipment owned by commercial airlines. Airlines' tax capacity is multiplied by an adjustable tax rate that is based on revenue needs for the state airports fund (calculated by appropriations from the fund less revenue from the other two taxes). Minn. Stat. § 270.075.





State airports fund

The state airports fund is the primary state funding source for aeronautics. By law, revenues from the taxes on aviation fuel, aircraft registration, and airline flight property are dedicated to the fund. Money in the fund is appropriated biennially to MnDOT as part of the transportation budget.

Fund balance transfers

Facing budgetary challenges in 2003, the legislature transferred $15 million from the state airports fund to the general fund with a requirement that the funds be transferred back. Laws 2003, 1st spec. sess., ch. 18, art. 1, § 2. The required return transfer took place in fiscal year 2008, but in that same year the legislature mandated another $15 million transfer to the general fund. Laws 2008, ch. 363, art. 11, § 3. A 2009 law requires that the second transfer be restored to the state airports fund (following other priorities set in statute) once the state has a sufficient budget reserve. Minn. Stat. § 16A.152, subd. 2.

Federal funding

In addition to appropriations from the state airports fund, Minnesota has historically received roughly $60 million to $80 million per year in federal airport improvement program (AIP) funds. MnDOT coordinates grant applications and distributes AIP funds. There are 97 airports eligible for the aid as part of the National Plan of Integrated Airport Systems (NPIAS). Grants can be used for a variety of capital projects, but operational costs such as salaries are not eligible.

Aeronautics expenditures

MnDOT's Office of Aeronautics performs various aviation functions. Fiscal year 2011 expenditures from state funds, totaling $19.8 million, are for:

- The **airport construction grant program** (about $10.1 million), which funds capital improvements to airport facilities, equipment, and runways;
- The **airport maintenance and operation grant program** (about $3.9 million), which provides formula-based grants to airports for day-to-day operations such as snow removal, mowing, and general maintenance;
- Maintaining **electronic navigation aids** and automated weather systems (about $0.8 million); and
- **MnDOT staff and operations** (about $5 million), which includes registering aircraft, inspecting and licensing airports and commercial aviation, performing aviation planning, providing technical assistance, conducting seminars, promoting scheduled air service in Greater Minnesota, and providing air transportation for state government.

House Research | Short Subjects

Colbey Sullivan and Janelle Taylor January 2012

Invasive Species

What is an invasive species?

An invasive species is an exotic or nonnative species whose introduction and establishment causes, or may cause, economic or environmental harm or harm to human health. Minn. Stat. § 18G.02, subd. 15. Invasives can be mammals, fish, insects, plants, viruses, pathogens, or other organisms.

How are invasives classified?

For regulatory purposes, state agencies classify invasives as terrestrial or aquatic. Terrestrial invasive species inhabit land; aquatic plants and animals live in the water. Invasive species are further classified by state agencies depending on various factors such as prevalence in the environment and risk to native species and the state's economy. For example, the Minnesota Department of Agriculture (MDA), in consultation with the Department of Natural Resources (DNR) and other government, academic, and industry partners, classifies invasive plant pests as regulated or nonregulated. MDA focuses its efforts on the species that pose the largest anticipated threat to the state's economy and environment.

The DNR classifies nonnative species into four categories for purposes of regulation: (1) prohibited (which cannot be possessed, imported, purchased, sold, propagated, transported, or introduced, except under certain exceptions); (2) regulated (which cannot be introduced, except under certain exceptions); (3) unlisted; and (4) unregulated.

What are some examples?

Terrestrial invasive species include garlic mustard, buckthorn, emerald ash borer, and gypsy moths. Aquatic invasive species include zebra mussels, Asian carp, and Eurasian watermilfoil.

Which agencies regulate invasives?

The MDA and the DNR both regulate invasive species and the human activities that may cause their introduction or spread. The following table summarizes the jurisdiction of each agency:

Agency	Jurisdiction	Current Example Species	Authorized Activities
MDA	To prevent or slow the establishment of terrestrial invasives that damage crops, trees, or other plants (Minn. Stat. §18G.01)	Emerald ash borer, soybean rust, gypsy moth, potato cyst nematode	Broad regulatory authority, including the power to treat or order treatment of public or private lands, issue penalties and restrict the intentional or unintentional human movement of invasives and articles that may harbor them
DNR	To prevent and curb the spread of invasive species of	Zebra mussel, Eurasian watermilfoil, Asian	Authority to designate and regulate invasive species and infested waters, including

	aquatic plants and wild animals (Minn. Stat. § 84D.02, subd. 1)	carp	inspections and enforcement of applicable laws including the issuance of penalties

When does regulatory authority shift from one agency to another?

For invasives that impact crops, trees, or other plants, MDA is responsible for leading initial efforts to exclude or eradicate the species. Once a forest invasive species (e.g., Dutch elm disease or oak wilt) is permanently established in the state, DNR assumes responsibility for leading any ongoing management efforts, particularly on state lands. The agencies determine when conditions warrant a transfer of authority on a species-by-species basis.

What are some examples of the activities the agencies perform?

MDA personnel install and collect invasive species traps; sample fields; inspect imported commodities; treat thousands of forested acres to suppress gypsy moth; investigate reports of invasive species infestation; research and release stingless wasps and other biological agents to control invasive species; inspect nursery plant growers and retailers and firewood retailers; inspect seed for any noxious weed seeds; provide technical assistance to local units of government and others to limit the spread of existing invasive plants; provide information to industry and the general public; inspect imported fruits and vegetables upon request; maintain an Arrest-the-Pest hotline; and implement and enforce quarantines to restrict the movement of invasives and regulated articles such as firewood that may harbor them. MDA also conducts surveys that document the absence of specific pests, which ensures Minnesota plant commodities have access to international markets.

DNR personnel enforce laws and regulations designed to prevent the spread of invasive species; inspect and decontaminate watercrafts entering and leaving public water accesses, primarily at waters that are already designated as infested waters; provide permits, grants, and technical assistance for the management of aquatic plants; manage or control new introductions of invasive species where feasible; work on detecting and monitoring populations of invasive species; and provide educational information to policymakers and the public on invasive species.

Where do funds come from?

The primary source of funding for the DNR's activities is a $5 surcharge on the registration of boats and other watercraft (approximately $1,350,000 annually), a $2 fee on nonresident fishing licenses (approximately $400,000 annually), and the state's general fund. MDA activities are funded primarily by federal grants (variable) and state general fund appropriations (approximately $967,000 annually). (Appropriations are for the following: gypsy moth, $320,000; biological control, $100,000; noxious weeds, $100,000; invasive detection, survey, and lab, $447,000.) Nursery and seed inspections are funded entirely by fees assessed on nursery plant growers and retailers and seed labelers.

For more information: For invasive species information and assistance, contact the agencies directly. For legislative matters, contact Colbey Sullivan (agriculture) at 651-296-5047 or Janelle Taylor (natural resources) at 651-296-5039.

Nina Manzi

Updated: January 2012

The Minnesota and Federal Dependent Care Tax Credits: An Overview

What are the credits?

The Minnesota and federal dependent care credits partially offset the cost of child care for certain workers. The maximum Minnesota credit is $720 for one child and $1,440 for two or more children. The maximum federal credit is $1,050 for one child and $2,100 for two or more children.

Are the credits refundable?

The Minnesota credit is fully refundable. If an individual qualifies for a credit that is greater than his or her tax liability, the excess is paid as a refund. The federal credit is not refundable and may only be used to offset federal income tax liability.

Who is eligible for the credits?

Anyone who incurs expenses related to the care of a dependent and related household expenses may be eligible to claim the credits. The claimant must:

- maintain a household that includes the dependent;
- pay for care for a dependent under age 13, or a disabled spouse or adult dependent; and
- pay for care in order to work or look for work.

What are qualifying expenses?

Qualifying expenses are amounts paid for the care of a dependent under age 13, or a disabled spouse or adult dependent, but do not include amounts paid to the claimant's spouse or another dependent.

Qualifying expenses may not exceed the claimant's earned income (for married couples filing joint returns, expenses may not exceed the earned income of the lesser earning spouse). Maximum allowable qualifying expenses are reduced by amounts paid through dependent care pre-tax accounts.

How are the credits calculated?

The *federal credit* equals 35 percent of up to $3,000 of qualifying expenses for one child ($6,000 of qualifying expenses for two or more children). The maximum federal credit is $1,050 for one child and $2,100 for two or more children. The federal credit begins to phase down when income exceeds $15,000, with the credit percentage decreasing as income increases. Claimants with incomes over $43,000 qualify for the minimum federal credit equal to 20 percent of qualifying expenses, or up to $600 for one child and $1,200 for two or more children. For example, a claimant with $50,000 of income and $1,000 of expenses will qualify for a credit of $200 (20 percent of $1,000).

The maximum credit percentage, qualifying expenses, and phaseout threshold for the federal credit are scheduled to decrease to 30 percent, $2,400 for one child ($4,800 for two or more children), and $10,000 after tax year 2012 unless extended by Congress.

The *state credit* equals the lesser of the federal credit, or $720 for one child ($1,440 for two or more children). The state credit is calculated by reference to the federal credit for which the claimant is eligible, not the amount actually used to offset federal liability.

The state credit is subject to an income phaseout. (By contrast, the federal credit rate phases down to a minimum percentage but is never totally phased out.) In tax year 2012, the state phaseout begins when income exceeds $24,300, and the state credit is fully phased out when income exceeds $37,950. The income threshold for the phaseout is adjusted each year for inflation.

How do filers claim the credits?

Filers claim the credits when they file their federal and state income tax returns, by completing a separate schedule—Form 2441 for the federal credit and schedule M1CD for the state credit.

How many Minnesotans claim the credits?

In tax year 2009, 141,500 Minnesotans claimed the federal dependent care credit and 35,556 claimed the state credit. These claims represent 5.6 percent of all federal returns filed by Minnesotans and 1.4 percent of all state returns filed.

Because the federal credit is nonrefundable and can only be used to offset tax liability, most of the federal credits are claimed by middle- and upper-income filers who have income over $43,000 and qualify for the minimum credit amount.

Because the state credit is refundable and is only available to filers with incomes below $36,980 (2009 amount, which is annually adjusted for inflation), most of the state credits are claimed by low-income filers.

How much is paid out in credits?

In tax year 2009, Minnesotans claimed $63.5 million of federal dependent care credits. The average federal dependent care credit was $449.

In tax year 2009, Minnesotans claimed $13.9 million of state dependent care credits. The average state dependent care credit was $390.

How does Minnesota compare with other states?

Nationwide, 4.4 percent of all income tax returns claimed the federal dependent care credit, compared to 5.6 percent in Minnesota. South Dakota had the highest percentage of returns claiming the federal credit at 6.4 percent, and West Virginia had the lowest at 2.3 percent.

The average federal dependent care credit in 2009 was $530 nationwide and $449 in Minnesota. The District of Columbia had the highest average credit at $608, and Montana had the lowest at $431. Minnesota's average credit amount may be lower than the national averages because state residents have above average incomes, or because Minnesotans are more likely to receive child care assistance or use pre-tax dependent care accounts, reducing the amount of qualifying expenses.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research information brief *The Minnesota and Federal Dependent Care Tax Credits*, December 2008.

HOUSE RESEARCH | Short Subjects

Joel Michael

Updated: January 2012

Mining Taxes

What taxes does the iron mining industry pay?

Mines and facilities used in the production of taconite are exempt from the property tax. In lieu of the property tax, the iron mining industry pays a **production tax** based on the tons of taconite produced. The industry is also exempt from the corporate franchise tax and instead pays an **occupation tax**.

What is the total tax paid by mining companies?

As reported by Department of Revenue, *Mining Tax Guide* (November 2011), the mining industry paid $103.2 million in Minnesota taxes in 2011. The breakdown of the taxes is shown in the table. In addition, state general fund aid of $6.7 million was distributed with the production tax revenues, resulting in total taxes and aid of $109.9 million.

Tax	amount (millions)	% of total
Production	$72.4	70.2%
Occupation	12.6	12.2%
Sales & use	17.1	16.6%
Other	1.0	1.0%
Total	$103.2	

How does the occupation tax differ from the corporate tax?

The occupation tax is similar in structure to the corporate franchise tax; the tax applies to a synthetic measure of profits from only the corporation's mining operations. In addition, the rate (2.45 percent) is lower than the regular corporate rate (9.8 percent) and sales are weighted at 75 percent under the occupation tax, while the sales are weighted more heavily (90 percent) under the corporate tax, and ultimately (in tax year 2014), apportionment will be based only on sales.

How is the production tax calculated?

The following are some of the key features of the production tax:

- The tax is computed using a **tax rate**, expressed as a dollar amount per taxable ton of taconite production ($2.38 for the 2010 tax, distributed in 2011). The tax rate is set in state law, not by local levy decisions, and is indexed for inflation. For 2011 production, the rate was $2.412 per ton.
- The **tax base** is taxable tons, computed using a three-year average to keep the tax base stable. For example, tons produced in calendar years 2008, 2009, and 2010 are used to compute taxable tons for the 2010 tax, distributed in 2011 (35 million tons).
- The state calculates the tax amounts and notifies each mining company how much to pay.
- **Payments** are due in two equal installments by February 24 and August 24.
- The state notifies the counties of the distribution to each city, town, and school district, and the county then pays each affected local government.
- A 22-cent per ton state general fund payment supplements distributions of production tax revenues. For the 2011 distribution, this amount was $6.7 million. This increased the total distribution by about 9.2 percent.

Who receives the production tax revenues?

Because it is in lieu of the property tax, the taconite production tax is paid to local governments and is a major revenue source for counties, cities, towns, and school districts located in the "taconite relief area." The taconite relief area includes all or a portion of Cook, Lake, St. Louis, Itasca, Aitkin, Crow Wing, and Koochiching counties. Part of the revenue is also paid to the Iron Range Resources (IRR), a state agency that conducts a variety of operations on the Iron Range.

How are the taxes distributed?

The formula for distributing production tax revenues is specified in statute and is generally defined on a cents-per-taxable-ton (CPT) basis. The 2011 tax was distributed as follows:

Distribution	Amounts	Cents per ton distributed
Cities and townships	$10,040,153	33.0
School districts	17,094,176	56.2
Counties	13,304,905	43.7
Property tax relief and misc.	11,846,794	38.9
Iron Range Resources Includes $6.4 million distribution to the taconite Environmental Protection Fund and $2.8 million for the producer grant and loan fund	17,007,197	55.9
Taconite Economic Development Fund (investment credit)	9,673,605	31.8
Other: Range Association of Municipalities and Schools; Hockey Hall of Fame[(a)]	171,170	0.5
Total	**$79,138,000**[(b)]	**$2.60**[(c)]

(a) Production year 2010 is the last distribution to Hockey Hall of Fame.
(b) Beginning in 2000, revenue from the general fund was contributed. For 2011, the state aid amount was $6,696,292.
(c) Includes the state aid of 22 CPT.

How has the amount changed over the past years?

Production year	Distribution year	Amount (in millions) Levied on companies	State aid*	Total
2000	2001	$79.8	--	$79.8
2001	2002	62.3	13.0	75.3
2002	2003	64.4	8.0	72.4
2003	2004	65.8	7.6	73.4
2004	2005	79.2	8.2	87.4
2005	2006	78.6	8.3	86.9
2006	2007	84.5	8.6	93.1
2007	2008	85.6	8.5	94.2
2008	2009	89.6	8.5	98.1
2009	2010	74.3	6.9	81.2
2010	2011	72.4	6.7	79.1

*Amount is based on CPT. For production year 2001, it was 33 CPT; thereafter, it is 22 CPT. Total may not equal sum of parts as a result of rounding.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Janelle Taylor Updated: January 2012

Minnesota's Nongame Wildlife Checkoff

What is the nongame wildlife checkoff?

Minnesota's nongame wildlife checkoff allows individuals to make contributions on their individual income tax or property tax refund return to the state's nongame wildlife fund. Corporate taxpayers may also contribute on their corporate franchise tax returns. Taxpayers who wish to contribute fill in the amount of their contribution on their income tax or property tax refund form. The amount of the contribution is then either added to their tax due or subtracted from their refund. The checkoff was enacted and first appeared on tax forms in 1980.

How much do taxpayers contribute to the nongame wildlife checkoff?

In 2010, over 62,000 individuals used the nongame wildlife checkoff to contribute just over $1 million to the nongame wildlife fund on their individual income tax or property tax refund forms. The average contribution was about $17. About 1.9 percent of all filers made contributions—2.0 percent of income tax filers and 1.3 percent of property tax refund filers. Since 1998, taxpayers have contributed about $1 million per year through the checkoff, but the share of filers making contributions has decreased.

Nongame Wildlife Checkoff Contributions, 1998 to 2010

Year	% contributing	$ contributed	Average contribution
1998	2.9%	$972,996	$11.41
1999	2.0	1,003,721	12.01
2000	2.9	1,028,790	12.16
2001	3.0	1,134,319	13.23
2002	3.0	1,160,518	13.07
2003	3.0	1,154,574	13.11
2004	2.8	1,171,942	13.75
2005	2.6	1,098,310	14.12
2006	2.1	1,030,219	15.31
2007	2.1	1,075,785	15.34
2008	2.1	1,093,113	15.46
2009	2.1	1,086,545	15.72
2010	1.9	1,061,164	17.09
Source: Minnesota Department of Revenue			

What are contributions to the checkoff used for?

Contributions to the nongame wildlife checkoff go into the nongame wildlife fund and are appropriated to the Department of Natural Resources for its nongame wildlife program. Although donations from the nongame wildlife checkoff provide the majority of the funding for the nongame wildlife program, the program also receives funding from the general fund, the game and fish fund, and other sources.

The nongame wildlife program focuses on nongame wildlife species that have been identified as being rare, declining, or vulnerable in the state; these species are known as "species of greatest conservation need." The program supports six regional wildlife specialists who work toward three major goals designed to protect these species:

- Stabilizing and increasing the populations of the species
- Improving knowledge of the species
- Enhancing people's appreciation and enjoyment of the species

What are some recent projects funded through the nongame wildlife checkoff?

The nongame wildlife program has supported a number of projects in recent years, including the Project WILD program, which is an environmental and conservation education program designed to train K-12 and other youth and environmental educators on how to develop awareness of and foster responsible actions towards wildlife and related natural resources. Other projects have included surveys of various species including loons, bald eagles, frogs, and dragonflies, and the acquisition of lands for various wildlife management areas and aquatic management areas across the state to provide habitat for many wildlife species.

How many other states have a nongame wildlife checkoff?

Thirty-six of the 42 states (and the District of Columbia) that have an individual income tax also have a nongame wildlife checkoff. Most states have more than one checkoff; Oregon has the most, with 27. Only three states offer only the nongame wildlife checkoff—Indiana, Minnesota, and North Carolina.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Janelle Taylor at 651-296-5039.

Nina Manzi and Steve Hinze **Updated: January 2012**

Renter's Property Tax Refund Program

What is the renter's property tax refund program?

The renter's property tax refund program (sometimes called the "renters' credit") is a state-paid refund that provides tax relief to renters whose rent and "implicit property taxes" are high relative to their incomes. "Rent constituting property taxes" is assumed to equal 17 percent of rent paid. If rent constituting property tax exceeds a threshold percentage of income, the refund equals a percentage of the tax over the threshold, up to a maximum amount. As income increases:

- the threshold percentage increases,
- the share of tax over the threshold that the taxpayer must pay increases, and
- the maximum refund decreases.

The program uses household income, a broad measure that includes most types of income. Deductions are allowed for dependents and for claimants who are over age 65 or disabled.

What are the maximums?

For refund claims filed in 2012, based on rent paid in 2011 and 2011 household income, the maximum refund is $1,550. Renters whose income exceeds $54,619 are not eligible for refunds.

How are claims filed?

Refund claims are filed using Minnesota Department of Revenue (DOR) Schedule M1PR. Schedule M1PR is filed separately from the individual income tax form. Claims filed before August 15, 2012, will be paid beginning in August 2012. The deadline for filing claims based on rent paid in 2011 is August 15, 2013; taxpayers filing claims after that date will not receive a refund. Forms are available online at DOR's website, under "Forms and Instructions."

What is the average refund and total amount paid?

Statewide Renter Property Tax Refunds, Filed in 2010
(based on 2009 incomes and rent paid in 2009, taxes assumed to equal 15% of rent paid)

	Number of returns	Total amount	Average per return
Under 65 years old	198,313	$94.3 million	$476
Senior/disabled	83,139	$43.2 million	$520
Total: all renters	281,452	$137.6 million	$489

How has the percent of rent considered property taxes changed in recent years?

For refunds based on rent paid from 1998 to 2008, the percentage of rent constituting property taxes equaled 19 percent. Under Gov. Tim Pawlenty's June 2009 unallotment, subsequently enacted into law, the percentage of rent constituting property taxes was reduced from 19 percent to 15 percent for refunds based on rent paid in 2009 only. For refunds based on rent paid in 2010, the percentage returned to 19 percent. Legislation enacted in the 2011 reduced the rate to 17 percent for refunds based on rent paid in 2011 and following years.

How do refunds vary depending on income and property taxes?

The following table shows the refund amount for two example families (married couples without dependents). Although the threshold percentage, copayment rates, and maximum refund amounts are the same statewide, the average rent is higher in the metro area than in greater Minnesota. The metro area family paid monthly rent in 2011 of $761, the fair market rent for a one-bedroom apartment in the metro area. The family in greater Minnesota paid monthly rent in 2011 of $496, the fair market rent for a one-bedroom apartment in many greater Minnesota counties. Taxpayers who are over age 65, disabled, or have dependents are allowed a subtraction from income in determining the refund.

Married couple, both under age 65, no dependents
Example refunds for claims to be filed in 2012,
based on rent paid in 2011 and 2011 household income

		Metro area		**Greater Minnesota**	
		Taxpayer #1	**Taxpayer #2**	**Taxpayer #1**	**Taxpayer #2**
1	Gross income	$15,000	$30,000	$15,000	$30,000
2	Deduction for dependents	0	0	0	0
3	Household income (1 – 2 = 3)	$15,000	$30,000	$15,000	$30,000
4	Rent constituting property tax	$1,552	$1,552	$1,012	$1,012
5	Statutory threshold percentage	1.4%	2.2%	1.4%	2.2%
6	Threshold % x income (3 x 5 = 6)	$210	$660	$210	$660
7	Property tax over threshold (4 – 6 = 7)	$1,342	$892	$802	$352
8	Copay percentage	15%	30%	15%	30%
9	Taxpayer copay amount (7 x 8 = 9)	$201	$268	$120	$106
10	Remaining tax over threshold (7 – 9 = 10)	$1,141	$625	$682	$246
11	Maximum refund allowed	$1,550	$1,550	$1,550	$1,550
12	Net property tax refund	$1,141	$625	$682	$246

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.taxes.state.mn.us.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Steve Hinze

Updated: January 2012

Targeting Property Tax Refund

What is targeting?

The "additional" or "special" property tax refund, generally referred to as "targeting," directs property tax relief to homeowners who have large property tax increases from one year to the next.

Who qualifies?

A homeowner qualifies if the property tax on the home has increased by more than 12 percent over the previous year's tax and if the increase is over $100. In determining eligibility, the previous year's tax amount is the net amount paid by the homeowner after deduction of any targeting refund received in that year.

The homeowner must have owned and lived in the same home for both years. If any improvements were made to the home, that portion of the tax increase resulting from the improvements must be subtracted when determining the refund.

How does targeting work?

The refund equals 60 percent of the increase over the greater of (1) 12 percent of the previous year's tax after deduction of targeting or (2) $100. The maximum refund is $1,000. The following example shows how the refund is calculated.

Payable 2011 Property Tax after Targeting Payable 2012 Property Tax	$1,400 2,000
2012 tax increase (over 2011) Taxpayer pays first 12% of increase compared to previous year's tax, which must be at least $100 (12% x 1,400)	$600 168
Remaining increase eligible for relief ($600 - $168 = $432)	$432
State pays 60% of excess over 12% increase up to a $1,000 maximum (60% x $432 = $259)	$259
Amount of 2012 increase paid by taxpayer ($600 - $259)	$341

The taxpayer's $600 increase (i.e., 42.9 percent) is reduced to an out-of-pocket property tax increase of $341 (i.e., 24.4 percent) as a result of the $259 refund.

The taxpayer pays the full $2,000 amount of the 2012 property tax to the county, the first half in May and the second half in October. The taxpayer applies to the state for a targeting refund on form M-1PR. The targeting refund is paid at the same time the regular homeowner property tax refund ("circuit breaker") is paid in late September.

Does targeting have any other restrictions?

No, unlike the regular property tax refund, the targeting refund is not tied to the taxpayer's household income. Under the regular homeowner property tax refund, the taxpayer's household income may not exceed a specified maximum and the amount of household income affects the amount of the refund.

However, the targeting refund does not use income as a factor, nor is there any limitation on the taxpayer's household income. Therefore, many higher income taxpayers who do not qualify for the regular property tax refund due to income restrictions are eligible for the targeting refund.

What are statewide amounts?

The amounts paid out for the targeting program decreased substantially from $7.6 million in 2007 to about $2.3 million in 2010, with much of the decrease occurring in the metro area.

The table below shows the statewide amount, with a breakdown for the metro and the 80 nonmetro counties, for the past four years.

Targeting Refunds, Filed 2007 – 2010 (dollars in thousands)

	Filed 2007	Filed 2008	Filed 2009	Filed 2010
Total Metro	$4,940	$4,330	$3,750	$1,024
Total Nonmetro	$2,655	$3,046	$2,338	$1,310
State	$7,595	$7,376	$6,088	$2,334

Some taxpayers (e.g., those who typically don't qualify for the regular property tax refund) may not be aware of the targeting program, resulting in lower total refunds statewide than if all eligible taxpayers had filed.

How many homeowners claim the refund?

In 2010, just over 15,000 homeowners claimed refunds based on their property tax increase from payable 2009 to 2010. The average refund amount was $155.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue (DOR) Schedule M1PR, the property tax refund form. There is a separate schedule on the back of the M1PR ("Schedule 1 – Special Refund") for the targeting program. The taxpayer files for this refund after receiving his or her property tax statement in February or March. Claims filed before August 15, 2012, will be paid beginning in late September 2012. The deadline for filing claims based on taxes payable in 2012 is August 15, 2013; taxpayers filing claims after that date will not receive a refund. Forms are available online at DOR's website, under "Forms and Instructions" (www.taxes.state.mn.us).

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.taxes.state.mn.us. Also see the House Research Short Subject *Homeowner's Property Tax Refund Program*, December 2010, and the Information Brief *Targeting*, December 2010.

Joel Michael and Nina Manzi

Updated: January 2012

Minnesota Angel Investment Credit

What is the angel investment credit?

The Minnesota Small Business Investment Credit (commonly referred to as the angel investment credit) provides qualified investors in certified small businesses with a refundable income tax credit equal to 25 percent of their investments up to a maximum of $125,000 ($250,000 for married joint filers). The angel investment credit was enacted by the 2010 Legislature to encourage investment in emerging Minnesota small businesses. It took effect for tax year 2010 and is scheduled to expire for investments made after tax year 2014.

Three key sets of requirements apply under the credit:

- Rules that govern which investors qualify to make investments
- Rules specifying the types of businesses that qualify to receive investments
- Limits on which investments qualify

What investors qualify for the credit?

The angel credit allows two different types of investors to qualify for the credit:

- **Individual investors** qualify either by being accredited investors under Securities and Exchange Commission (SEC) Regulation D or by certifying that they will only invest in an offering that is exempt from registration under state law. Accredited investors generally must have net worths of at least $1 million (excluding the value of their homes) or annual income of at least $200,000 ($300,000 for married couples).
- **Qualified funds** are pass-through tax entities, such as LLCs or S corporations that invest in qualifying small businesses and have three or more investors who each meet the requirements for individual investors. These funds pass through the credit to their individual owners, who claim it on their own tax returns.

Investors must apply to and be certified by the Department of Employment and Economic Development (DEED) before making the investment for which they are claiming the credit. However, individuals who are not accredited investors but who qualify because the offering is a small corporation exempt from registration may apply up to 30 days after making the investment. Investors (either individuals or funds) or members of their immediate families may not derive more than 50 percent of their gross annual incomes from the small business.

What small businesses qualify under the credit?

A qualifying small business (i.e., one in which an investment qualifies for the credit) must:

- Have its headquarters and 51 percent of its employees and payroll in Minnesota;
- Be engaged in a specified field of business that involves some type of proprietary technology or product;
- Have fewer than 25 employees;
- Pay its employees wages equal to at least 175 percent of the federal poverty

guideline for a family of four on a full-time equivalent basis (executives, officers, and owners are excluded from this requirement);
- Have not been in operation for more than ten years;
- Have not received more than $2 million in private equity investment; and
- Be certified by DEED as meeting these requirements.

What types of investments qualify for the credit?

To qualify for the credit, an investment must:
- Receive DEED credit certification from the annual credit cap;
- Be made in cash (other types of property or providing services to the business do not qualify);
- Satisfy minimums of either $10,000 (individual investor) or $30,000 (fund); and
- Receive in return an equity-type interest (e.g., common stock, partnership interest, preferred stock, or debt with a mandatory conversion to equity).

What is the maximum credit for a business?

The law prohibits DEED for certifying more than $1 million in credit allocations to any one business. Thus, a business that attracts $4 million of qualifying investments could receive the maximum credit. No lifetime maximum credit applies to investors beyond the annual limits of $125,000 ($250,000 for married joint filers).

How much will the credit reduce state tax revenues?

The law imposes an annual dollar limit or cap on the total amount of credits. The Department of Revenue has estimated that credits will be claimed up to the full amount of the limits. Some of these credits may be paid as refunds (rather than reducing tax liability), since the credit is refundable. The total limit over the life of the credit is $58.9 million:
- $11 million for tax year 2010
- $12 million per year for tax years 2011 through 2014, except the 2013 amount is reduced by $100,000 to fund a program evaluation

DEED administers the limits by certifying dollar amounts of credits to applicant investors on a first-come, first-served basis.

Has the demand for credits exceeded the limits?

Credit applications for tax year 2010 were about $4 million less than the limit. Under the law, the $4 million in unused credits carried over to tax year 2011, increasing the limit to $16 million. Applications for tax year 2011 used up the full $16 million by November, requiring DEED to reject some applicants. If this pattern persists in tax year 2012, applications will far exceed the $12 million limit.

Do clawback provisions apply?

The law provides for revocation and repayment of the credit if the small business does not maintain at least 51 percent of its employees and payroll in Minnesota for five years starting the year after the investment was made. The required repayment declines by 20 percentage points per year (100 percent in year one, 80 percent in year two, etc.). The business, not the investors, must make the repayment.

What reporting requirements apply?

Investors, funds, and small businesses must annually report to DEED on their compliance with the law. DEED must annually report to the legislature. In addition, the law provides for an independent program evaluation to be completed by January 2014.

For more information: See the DEED website: http://www.positivelyminnesota.com/Business/Financing_a_Business/DEED_Business_Finance_Programs/Angel_Tax_Credit.aspx.

HOUSE RESEARCH | Short Subjects

Nina Manzi

Updated: January 2012

Minnesota's Individual Income Tax

How much are income tax revenues?

Minnesota's income tax revenues are projected to equal $7.9 billion in fiscal year 2012, about 43 percent of state tax collections and 39 percent of all state revenues.

What is the tax base used to calculate Minnesota's income tax?

Minnesota's income tax applies to a base of Minnesota taxable income (MTI). The starting point for calculating MTI is federal taxable income (FTI), which is the income measure used in determining federal income tax liability. In calculating MTI, taxpayers are required to add certain types of income to FTI and allowed to subtract other kinds of income. Some of the subtractions are required under federal law. For more detail on these adjustments, see the House Research publication *Minnesota Taxable Income,* October 2011.

What are the income tax rates and brackets?

Minnesota's income tax is a graduated tax, with three rates: 5.35 percent, 7.05 percent, and 7.85 percent. The rates are applied to income brackets that vary by filing status. Married couples filing joint returns are allowed the most generous (widest) brackets, followed by head of household filers (single parents maintaining a household), unmarried single filers, and married separate filers.

The table shows the income tax brackets in effect for each rate in tax year 2012 (brackets for married taxpayers, filing separately, are half the width of the married joint brackets):

	Married Joint	**Single**	**Head of Household**
5.35%	First $34,590	First $23,670	First $29,130
7.05%	$34,591 to $137,430	$23,671 to $77,730	$29,131 to $117,060
7.85%	All over $137,430	All over $77,730	All over $117,060

A married couple filing a joint return owes income tax equal to 5.35 percent of their first $34,590 of taxable income, 7.05 percent of income between $34,590 and $137,430, and 7.85 percent of taxable income over $137,430. The income tax brackets are adjusted each year for inflation.

What income tax credits does Minnesota allow?

Minnesota allows taxpayers to claim several credits against tax liability. Credits that may be used only to reduce liability, called nonrefundable credits, include the following:

- Credit for taxes paid to other states ($106.0 million in tax year 2009)
- Marriage credit ($65.5 million in fiscal year 2012)
- Credit for past military service ($1 million in fiscal year 2012)
- Long-term care insurance credit ($7.9 million in fiscal year 2012)

In addition, Minnesota allows nine refundable credits, which are paid as refunds to taxpayers even if the credit amount is greater than their income tax liability:

- Working family (earned income) credit ($201.1 million in fiscal year 2012)
- Dependent care credit ($14.0 million in fiscal year 2012)
- K-12 education credit ($13.2 million in fiscal year 2012)
- Military combat zone credit ($1.8 million in fiscal year 2012)
- Job opportunity building zone (JOBZ) credit ($0.8 million in fiscal year 2012)
- Bovine tuberculosis testing credit ($0.1 million in fiscal year 2012)
- Enterprise zone credit (less than $50,000 in fiscal year 2012)
- Angel investment credit ($12.0 million in fiscal year 2012)
- Historic structure rehabilitation credit ($10.0 million in fiscal year 2012)

Credit amounts are from the Minnesota Department of Revenue's *Tax Expenditure Budget, Fiscal Years 2010-2013,* Department of Revenue estimates, and income tax return processing data.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn. Also see the House Research publications, *Minnesota Taxable Income*, October 2011; *The Minnesota Income Tax Marriage Credit*, December 2008; *The Minnesota and Federal Dependent Care Tax Credits*, January 2012; *The Federal Earned Income Credit and the Minnesota Working Family Credit,* August 2010; *Income Tax Deductions and Credits for Public and Nonpublic Education in Minnesota*, September 2011; and *Income Tax Terms: Deductions and Credits*, August 2011.

Nina Manzi **Updated: January 2012**

The Federal Earned Income Tax Credit and Minnesota Working Family Credit: An Overview

What are the credits?

The federal earned income tax credit (EITC) and Minnesota working family credit (WFC) equal a percentage of the earnings of low-income individuals. The credits are refundable; if the credit exceeds a filer's tax liability, the rest is paid as a refund. Since these credits increase their recipients' earnings, they act as wage supplements and are thought to provide a work incentive.

Who is eligible for the credits?

Anyone with wages or self-employment income may be eligible to claim the EITC and the WFC. In tax year 2012, individuals with more than $3,200 in interest income, dividends, rental and royalty income, and capital gain income do not qualify.

How are the credits calculated?

The credits equal a percentage of earned income, up to a maximum credit amount, and are phased out when the claimant's total income exceeds a threshold. The maximum credit amounts and income levels at which the credits are phased out vary depending on the number of children in the household and whether the claimants are married. Both the maximum credit and the phaseout threshold are adjusted annually for inflation. In tax year 2012, the maximum credits, phaseout threshold, and income level at which the credits are no longer allowed are as follows:

	Maximum credit		**Phaseout threshold**		**Income at which credit fully phased out**	
	EITC	WFC	EITC	WFC	EITC	WFC
Unmarried claimants						
No children	$472	$118	$7,720	$7,720	$13,890	$13,900
1 child	$3,148	$943	$16,980	$20,170	$36,682	$36,621
2 children	$5,200	$1,818	$16,980	$23,930	$41,671	$41,580
3 or more children	$5,850	$1,818	$16,980	$23,930	$41,671	$41,580
Married claimants						
No children	$472	$118	$12,890	$7,720	$19,060	$13,900
1 child	$3,148	$943	$22,150	$20,170	$41,852	$36,621
2 children	$5,200	$1,818	$22,150	$23,930	$46,841	$41,580
3 or more children	$5,850	$1,818	$22,150	$23,930	$49,841	$41,580

How do filers claim the credits?

Filers claim the credits when they file their federal and state income tax returns, by completing a schedule or worksheet.

How many Minnesotans claim the credits?

In tax year 2009, 347,149 Minnesota returns claimed the EITC and 325,673 claimed the WFC. These claims represent 13.7 percent of all federal returns filed by Minnesotans and 12.7 percent of all state returns filed by Minnesota residents.

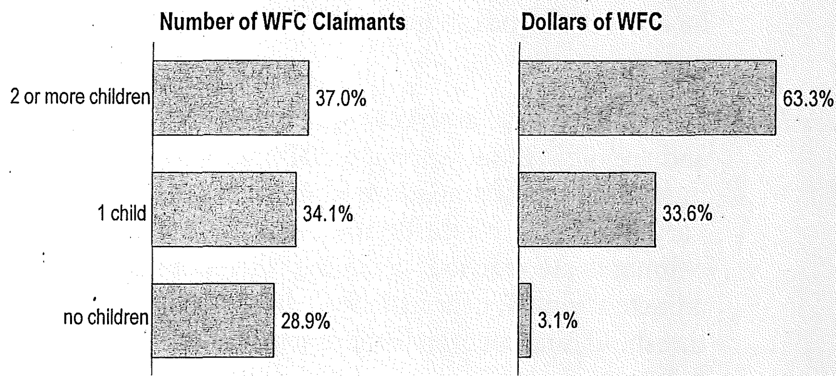
How much is paid out in credits?

In tax year 2009, Minnesotans claimed $662 million in EITC, of which $84 million offset tax liability, and the remaining $578 million was paid as a refund. The average EITC claimed by Minnesotans was $1,907.

Minnesotans claimed an additional $194 million in WFC, of which $36 million offset tax liability, and the remaining $158 million was paid as a refund. The average WFC was $595.

How are the credits distributed among different types of families?

Seventy-one percent of all working family credits went to families with one or more children. These families received about 97 percent of the total amount of credits paid in 2009. Individuals without children filed 28.9 percent of returns claiming credits, but received only 3.1 percent of the total amount of credits. Claimants with children received most of the total amount of credits because these families qualify for a higher maximum credit than do claimants without children. The distribution of earned income tax credits is similar.



How are the credits distributed geographically?

While over 47 percent of the returns claiming credits came from the Twin Cities metropolitan area, these seven counties generated about 52 percent of all returns filed. Put another way, in 2009 nonmetro filers were more likely to claim the credit than were metro area filers.

How does Minnesota compare with other states?

Nationwide, 19.2 percent of all income tax returns claimed the EITC, compared to 13.7 percent in Minnesota. The average EITC nationwide in 2009 was $2,195; it was $1,907 in Minnesota. Minnesota's number of recipients and credit amounts are lower than the national averages because state residents have above-average incomes.

Twenty-two other states and the District of Columbia provide a state version of the EITC. In most cases the state credit equals a percentage of the federal EITC.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research information brief *The Federal Earned Income Tax Credit and the Minnesota Working Family Credit*, August 2010.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

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HOUSE RESEARCH | Short Subjects

Nina Manzi and Joel Michael Updated: January 2012

Capital Gains Taxation: Federal and State

What is capital gains income?

When a taxpayer sells a capital asset, such as stock holdings, a home, or longer-lived business assets, the difference between the amount realized on the sale and the taxpayer's basis is either a capital gain or a loss. The taxpayer's "basis" is usually what the taxpayer paid for and invested in the asset, less any depreciation deductions claimed for business assets. Special rules apply to assets received as a gift or through inheritance.

What are short-term and long-term gains and losses?

The gain or loss on an asset held for more than one year is considered "long term." If the taxpayer disposes of an asset after holding it for a year or less, the gain or loss is "short term."

How does the federal government tax capital gains income?

The maximum federal income tax rate for most net long-term capital gains income is 15 percent in tax year 2012. There is no tax on capital gains income in 2012 for taxpayers in the 10 percent or 15 percent bracket for ordinary income—in tax year 2012, the 0 percent rate applies for married joint filers with taxable income under $70,700. The amount of net capital gains income that qualifies for the maximum 15 percent or 0 percent rate is the long-term capital gain after subtracting both long-term capital losses and net short-term capital losses (i.e., in excess of short-term capital gains). Short-term capital gains do not qualify for the preferential federal rates but are taxed as ordinary income.

Are there higher rates for certain kinds of income?

Three exceptions to the maximum 15 percent and 0 percent federal rates apply:

- **Qualified small business stock.** Between 50 percent and 100 percent of the gain on sale of qualified small business stock is excluded from taxable income, depending on when the stock was acquired; any remaining gain is subject to a maximum rate of 28 percent
- **Collectibles.** The net capital gain from selling collectibles (such as coins or art) is subject to a maximum 28 percent rate
- **Section 1250 real property.** The part of any net capital gain on property for which the taxpayer claimed "additional depreciation" (Section 1250 real property) is taxed at a maximum 25 percent rate

Is there special tax treatment for gains realized through the sale of the taxpayer's home?

Yes. Taxpayers who meet "use" and "ownership" tests may exclude up to $250,000 of gain on the sale of the home ($500,000 for married joint taxpayers). Under the "use" test, the taxpayer must have used the home as his or her principal residence for two of the five years preceding the sale. Under the "ownership" test, the taxpayer must have owned the home for at least two years. There is no limit to the number of times a taxpayer may claim this exclusion. Beginning in January 2009, the exclusion is apportioned based on the amount of time in which the home was used as the principal residence, from January 2009 to the time of sale.

Can capital losses reduce ordinary income?

Yes, up to $3,000 per year of capital losses can be deducted from ordinary income. Losses over $3,000 are carried forward to future tax years. Losses on personal use items, such as a home or car, are not deductible.

How does Minnesota tax capital gains income?

Minnesota includes all net capital gains income in taxable income and subjects it to the same tax rates as apply to other income: 5.35, 7.05, and 7.85 percent. Minnesota recognizes the federal exclusions on the sale of the taxpayer's home and all or part of the gain on qualified small business stock.

How do other states that impose an individual income tax treat capital gains income in tax year 2011?

- Eight states (**Arkansas, Hawaii, Montana, New Mexico, North Dakota, South Carolina, Vermont,** and **Wisconsin**) exclude a portion of long-term capital gains income, provide a lower rate, or allow a credit
- 32 states, including Minnesota, do not provide general preferential treatment for capital gains income; many provide limited special treatment for capital gains income
  - 16 states and the **District of Columbia** have preferential treatment of long-term gains on a certain investments, such as in new business, property located in state, or low-income housing. Nearly all limit the preferential treatment to in-state investments.
  - Seven states exclude gains on some or all federal, state and local bonds
  - Three states allow exclusion of all or part of certain capital gains income under a more general exclusion for retirement income

What are the income levels and filing types of people who have capital gains income?

In tax year 2009, about 17 percent of all returns filed by Minnesota residents reported some capital gain or loss. Married taxpayers filing joint returns received 80 percent of capital gain income. Filers with incomes over $100,000 received over 85 percent of capital gain income, and capital gain income made up over 6 percent of total income for those returns reporting capital gains.

Federal adjusted gross income	$ of capital gains reported (millions)	% of all gains reported	% of income consisting of gains	Average gains per return
			returns with capital gains only	
Less than $50,000	$223	7.9%	4.1%	$971
$50,000 to $99,999	$187	6.6%	2.1%	$2,043
$100,000 to $500,000	$768	27.1%	4.2%	$8,805
Over $500,000	$1,656	58.4%	13.2%	$168,247
All incomes	$2,834	100.0%	6.3%	$6,775

What are the ages of taxpayers who have capital gains income?

Almost 35 percent of taxpayers aged 65 and older reported some capital gains income in tax year 2009. The table shows the percent of gains by age of taxpayer.

Taxpayer age	$ of capital gains reported (millions)	% of all gains reported	% of income consisting of gains	Average gains per return
			returns with capital gains	
Less than 25	$3	0.1%	1.1%	$100
25 to 39	$131	4.6%	2.6%	$2,523
40 to 64	$1,825	64.4%	6.1%	$8,946
65 or older	$875	30.9%	8.8%	$6,461
All ages	$2,834	100.0%	6.3%	$6,775

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn.

Nina Manzi

Updated: January 2012

Homeowner's Property Tax Refund Program

What is the property tax refund program?

The homeowner's property tax refund program (sometimes called the "circuit breaker" or the PTR) is a state-paid refund that provides tax relief to homeowners whose property taxes are high relative to their incomes. If property tax exceeds a threshold percentage of income, the refund equals a percentage of the tax over the threshold, up to a maximum amount. As income increases:

- the threshold percentage increases,
- the share of tax over the threshold that the taxpayer must pay increases, and
- the maximum refund decreases.

The program uses household income, a broad measure that includes most types of income. Deductions are allowed for dependents and for claimants who are over age 65 or disabled.

What are recent changes to the program?

The 2008 and 2011 tax laws both expanded the homeowner's property tax refund program. The 2008 changes, effective for refunds based on taxes payable in 2009, lowered the maximum threshold percentage for determining eligibility from 4.0 percent of income to 3.5 percent of income and increased the maximum refund allowed by about $500. The 2011 changes, effective for refunds based on taxes payable in 2012, increased the maximum refund for homeowners with incomes under about $37,000, and decreased the copayment percentage for most homeowners.

What are the maximums?

For refund claims filed in 2012, based on property taxes payable in 2012 and 2011 household income, the maximum refund is $2,460. Homeowners whose income exceeds $100,779 are not eligible for a refund.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue (DOR) Schedule M1PR. Schedule M1PR is filed separately from the individual income tax form. Claims filed before August 15, 2012, will be paid beginning in late September 2012. The deadline for filing claims based on taxes payable in 2012 is August 15, 2013; taxpayers filing claims after that date will not receive a refund. Forms are available online at DOR's website, under "Forms and Instructions" (www.taxes.state.mn.us).

What is the average refund and total amount paid?

Statewide Homeowner Property Tax Refunds Filed in 2010
(based on 2009 incomes and payable 2010 taxes, most recent data available)

	Number of returns	Total refund amount	Average per return
Under 65 years old	217,339	$163,773,129	$754
Senior/disabled	143,425	$110,218,202	$768
Total: all homeowners	360,764	$273,991,331	$759

How do refunds vary depending upon the filer's income and property tax?

The following table shows the refund calculations for four example families with different incomes—two families in the metro area and two in greater Minnesota. Although the property tax refund threshold, copayment rates, and maximum refund amounts are the same statewide, the average residential homestead property tax in the metro area is higher than in greater Minnesota. The metro area families have payable 2011 property taxes of $3,325, a typical amount for the metro. The families in greater Minnesota have payable 2011 property taxes of $1,600, a typical amount for greater Minnesota. Taxpayers who are over age 65, disabled, or have dependents are allowed a subtraction from income in determining the refund.

Married couple, both under age 65, two dependents
Example refunds for claims to be filed in 2012,
based on taxes payable in 2012 and 2011 income

		Metro area		Greater Minnesota	
		Taxpayer #1	**Taxpayer #2**	**Taxpayer #3**	**Taxpayer #4**
1	Typical estimated market value of home	$234,500	$234,500	$153,400	$153,400
2	Gross income	$35,000	$75,000	$35,000	$75,000
3	Deduction for dependents	$9,990	$9,990	$9,990	$9,990
4	Household income (2 – 3 = 4)	$25,010	$65,010	$25,010	$65,010
5	Property tax	$3,200	$3,200	$1,600	$1,600
6	Threshold income percentage	2.4%	3.2%	2.4%	3.2%
7	Threshold % x income (4 x 6 = 7)	$600	$2,080	$600	$2,080
8	Property tax over threshold (5 – 7 = 8)	$2,600	$1,120	$1,000	$0
9	Statutory copay percentage	30%	40%	30%	40%
10	Taxpayer copay amount (8 x 9 = 10)	$780	$448	$300	NA
11	Remaining tax over threshold (8 – 10 = 11)	$1,820	$672	$700	NA
12	Maximum refund allowed	$2,460	$1,440	$2,460	$1,440
13	Net property tax refund	$1,820	$672	$700	$0

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.taxes.state.mn.us.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Jim Cleary

Updated: January 2012

Minnesota Income Tax Credit for Past Military Service

What is the income tax credit for past military service?

The 2008 omnibus tax bill (Laws 2008, ch. 366) provided for a new income tax credit for past military service. The credit equals $750 for qualifying individuals. It is nonrefundable and is subject to an income limitation. The credit took effect in tax year 2009 and was first claimed on tax year 2009 returns filed in 2010.

Who qualifies for the credit for past military service?

To qualify for the credit, a veteran must:

- have served in the military (including the National Guard and reserves) for at least 20 years; or
- have a service-connected disability rated by the U.S. Department of Veterans Affairs as being 100 percent total and permanent.

Individuals currently serving in the military do not qualify for the credit.

What is a nonrefundable credit?

A nonrefundable credit may be used only to offset Minnesota income tax liability. A veteran must have at least $750 of income tax liability to receive the full credit amount. A qualified veteran with less than $750 of state income tax liability is eligible for a credit only up to the amount of tax. A qualified veteran with no state income tax liability is not eligible for a credit.

In tax year 2012, a single veteran with no dependents who claims the standard deduction would need to have $23,770 of federal adjusted gross income to receive the full $750 credit.

How does a nonrefundable credit compare with an income tax subtraction?

A nonrefundable credit has an effect on final liability similar to that of an income tax subtraction. A credit is a dollar-for-dollar reduction in tax liability, while a subtraction reduces taxable income, which results in lower tax liability. The benefit from a subtraction depends upon the taxpayer's tax bracket or rate. Because of the income limits, veterans who qualify for the credit will be in the bottom or lowest tax bracket with a rate of 5.35 percent. The $750 nonrefundable military service credit is equivalent to a $14,020 income tax subtraction ($14,020 times 5.35 percent, the state income tax rate for the first bracket of taxable income, equals $750).

Only individuals with tax liability will benefit from either a nonrefundable credit or a subtraction, and the amount of the benefit is limited to their tax liability.

How is the military service credit income limited?

The military service credit is phased out for individuals with federal adjusted gross income (FAGI) of $30,000 or more. The credit is reduced by 10 percent of FAGI in excess of $30,000, so that individuals with FAGI over $37,500 are not eligible for any portion of the credit.

FAGI is calculated on the federal tax forms (Form 1040, 1040A, or 1040EZ). It includes most kinds of income, such as:

- wages, salaries, and tips;
- taxable interest;
- dividends and capital gains or losses;
- business income or loss, including income from partnerships and S corporations;
- taxable IRA, pension, and annuity distributions;
- farm income or loss;
- unemployment compensation; and
- taxable Social Security benefits (the amount of Social Security benefits that are taxable depends on the individual's income level; at most, 85 percent of benefits are included in federal adjusted gross income).

Some of the major items excluded from FAGI are:

- deductible retirement plan contributions;
- nontaxable employee fringe benefits;
- student loan interest payments;
- one-half of self-employment tax;
- health insurance premiums (for self-employed taxpayers only);
- tax-exempt bond interest; and
- veterans disability payments.

What are some examples of individuals who will and will not receive the new military service credit?

Qualifying veterans with less than $30,000 in taxable military retirement income and no other income other than Social Security would qualify for part or all of the credit, depending on the individual's tax liability. Since Social Security benefits are not included in FAGI for low-income filers, receipt of Social Security will not subject an individual to the income-based phaseout.

Qualifying veterans who are 100 percent totally and permanently disabled may or may not receive the credit, depending on their amount of taxable income (military disability compensation itself is nontaxable). With no taxable income or with more than $37,500 of adjusted gross income, such disabled veterans do not receive the credit. Conversely, with any amount of taxable income greater than zero and less than $37,500, the disabled veteran would receive a credit.

How many individuals claimed the credit in 2009, and how much did they claim?

In tax year 2009, 1,507 returns claimed about $970,000 in credits, for an average credit of $646. In tax year 2010, 1,616 returns claimed about $1.065 million in credits, for an average of $659. Usage of the credit in the first two years it was in effect has been stable and was substantially lower than the estimate prepared when the credit was enacted in 2008, which projected that about 14,000 veterans would claim $10.3 million in credits.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204 or Jim Cleary at 651-296-5053.

HOUSE RESEARCH | **Short Subjects**

Nina Manzi & Randall Chun

Updated: February 2012

Long-term Care Insurance Income Tax Credit

What is the credit?

The Minnesota long-term care insurance credit offsets the cost of long-term care insurance premiums by providing a credit against state income tax liability. The maximum Minnesota credit is equal to the lesser of $100 or 25 percent of the amount paid for each beneficiary. The maximum total credit is $200 annually on a joint return or $100 for individual filers.

This credit was enacted in 1997 and took effect in tax year 1999.

What is the rationale for this tax credit?

The Minnesota long-term care tax credit provides an incentive for Minnesotans to purchase long-term care insurance coverage. If more Minnesota residents purchase long-term care insurance, there may be a decrease in the cost to the state of providing for the long-term care of residents who are unable to afford long-term care services.

Is the credit refundable?

The Minnesota credit is a nonrefundable credit and may be used only to offset tax liability. If an individual qualifies for a credit that is greater than her or his tax liability, the excess will *not* be paid as a refund.

Who is eligible for the credit?

A Minnesota taxpayer who purchases insurance to provide long-term care coverage, such as nursing home or home care coverage, for him or herself or spouse is eligible for the credit. To qualify for the credit, the long-term care policy must:

- qualify for the federal itemized deduction for medical expenses, disregarding the 7.5 percent income test; and
- have a lifetime long-term care benefit limit of $100,000 or more.

How is the credit calculated?

The Minnesota credit equals 25 percent of qualifying long-term care insurance premiums for one beneficiary, up to a maximum of $100 for individuals and up to $200 for married couples filing jointly who both have coverage. A taxpayer may claim only one policy for each qualified beneficiary. It is *not* necessary that the taxpayers filing jointly have separate policies or premiums. The amount of premiums used to calculate the credit must be reduced by any premiums claimed as a medical expense deduction on the taxpayer's federal return.

How many Minnesotans claim the credit?

For tax year 2009, 57,476 Minnesota returns claimed the credit. These claims represent about 2 percent of all state returns filed by Minnesotans.

Filers claim the credit on their Minnesota income tax return using Schedule M1LTI.

How much is paid out in credits?

In tax year 2009, Minnesotans claimed $8.04 million of long-term care insurance credits. The average long-term care tax credit was $140 in tax year 2009. The average credit exceeds the maximum credit of $100 per qualified beneficiary because married couples filing joint returns may claim the maximum credit for both spouses (up to a total of $200).

How does Minnesota compare with other states?

The following table includes all states that offered a long-term care insurance tax credit in 2009, but not those states that offer a long-term care insurance tax deduction. Data on the number of claimants and cost by state is for 2009.

In addition to the states listed, Louisiana has enacted but not funded a 10 percent credit, Maine provides a credit to employers who provide coverage to employees, and New Mexico allows a refundable credit of $2,800 for individuals age 65 or older with over $28,000 in medical expenses, including long-term care premiums.

	Maximum credit	**Credit rate***	**Number of returns claiming the credit**	**Cost to the state for the credit**
Colorado[1]	$150	25%	19,000 (est.)	$3.6 million (est.)
Maryland[2]	Varies by age: $320-$500	100%	5,081	$2.75 million
Minnesota	$100	25%	57,476	$8.04 million
Mississippi	$500	25%	1,800 (est.)	$1 million (est.)
Montana[3]	$5,000	Varies by income: 20% to 30%	41	$45,059
New York	None	20%	96,000	$51.7 million
North Carolina[4]	$350	15%	13,000 (est.)	$4.7 million
North Dakota[5]	$250	100%	425	$0.1 million (est.)
Oregon	$500	15%	33,114	$7.6 million
Virginia[6]	None	15%	3,939	$1.1 million

* The credit rate is the percentage of premiums allowed as a credit.
1 Colorado's credit is income-limited; the maximum for joint filers is $150 per spouse.
2 Maryland's credit can be claimed only once per person.
3 Montana's tax credit is a credit for expenses related to care of elderly family members. Long-term care insurance premiums are a qualifying expense. Data for Montana includes credits for all qualifying expenses, including long-term care insurance premiums.
4 North Carolina's credit is income-limited.
5 North Dakota's credit is limited to long-term care plans that meet consumer protection criteria and provide inflation protection.
6 Virginia's credit applies only to the first 12 months of premiums paid.

For more information: Contact legislative analysts Nina Manzi at 651-296-5204, Joel Michael at 651-296-5057, or Randall Chun at 651-296-8639.

HOUSE RESEARCH | Short Subjects

Nina Manzi Updated: February 2012

Sunset of 2001 Federal Tax Law Provisions and Effects on Minnesota Income Tax Revenues

In 2001, Congress passed a federal tax act (the Economic Growth and Tax Relief Reconciliation Act of 2001, or EGTRRA) that included several tax provisions that sunset in 2010. In 2010, Congress extended these provisions for two years, to 2012, in the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, or TRUIRJCA.

Why do provisions of the 2001 federal tax law expire after 2012?

EGTRRA was passed under the congressional budget reconciliation process. The reconciliation process allows any senator to require a three-fifths majority vote for revenue reductions that extend beyond a ten-year time period. To avoid this possibility, EGTRRA's sponsors chose to sunset its revenue reductions after ten years. Thus, the law included a "sunset" under which all changes expired after tax year 2010. TRUIRJCA extended the EGTRRA sunset by two years, through tax year 2012. Since 2001 Congress has made some of the EGTRRA provisions permanent, most notably the modifications made to pension and IRA provisions.

How does the federal sunset affect Minnesota's income tax calculation and revenues?

Federal sunset provisions can affect Minnesota's income tax in several ways.

- Since Minnesota's income tax calculation starts with federal taxable income, the expiration of federal deductions or exemptions results in larger federal taxable income, larger Minnesota taxable income, and higher Minnesota income tax revenues.
- EGTRRA included marriage penalty relief in the federal earned income tax credit, providing for the credit to phase out at higher income levels for married filers than for single parents.
- EGTRRA increased the maximum qualifying expenses and rates for the federal dependent care credit. Minnesota continued to tie the phaseout of the state credit to the federal credit amounts, resulting in higher state credits for some claimants subject to the income phaseout.

Which expiring federal provisions affect federal taxable income and what is the impact on Minnesota income tax revenues?

Minnesota did not conform to the TRUIRJCA extension of the three provisions that affect the most taxpayers and would have had the largest state revenue impact: marriage penalty relief in the standard deduction, and the elimination of both the limit on itemized deductions and the phaseout of personal and dependent exemptions. Because Minnesota did not conform to extension of these three items, Minnesota income tax revenues will not be affected when the provisions sunset after tax year 2012. Instead, affected Minnesota taxpayers are required to adjust their state taxable income in tax years 2011 and 2012 for these three items.

- *Marriage penalty relief in federal standard deduction.* Married filers who claim the standard deduction must add to taxable income the additional standard deduction amount allowed at the federal level. Over 500,000 Minnesota taxpayers will pay about $59 million more in taxes in 2011 and about $62 million more in 2012.

- *Limit on itemized deductions.* Higher income taxpayers will have up to 80 percent of their itemized deductions disallowed. Over 100,000 Minnesota taxpayers will pay about $42 million more in taxes in 2011 and about $44 million more in 2012.
- *Phaseout of personal and dependent exemptions.* Higher income taxpayers will have up to 100 percent of their personal and dependent exemptions phased out. Over 60,000 Minnesota taxpayers will pay about $29 million more in taxes in 2011 and about $30 million more in 2012.

How will taxpayers be affected by the sunset of marriage penalty relief in the working family tax credit?

Under current law, the income level at which the Minnesota working family tax credit begins to phase out will be $5,080 higher for married couples filing joint returns in tax year 2011 than it will be for other filers. This additional amount matches provisions enacted in TRUIRJCA and provides some relief for marriage penalties on two-earner households. Although the TRUIRJCA extension of this provision applied to both 2011 and 2012, Minnesota has only enacted a parallel increase for tax year 2011. In 2012, the working family credit phaseout threshold for married filers will revert to the level in effect for other filers. An estimated 51,000 married couples will qualify for smaller working family credits; and the state will pay nearly $16 million less in credits.

How will taxpayers be affected by the sunset of changes to the federal dependent care credit?

Under current law, taxpayers with income in the phaseout range for the state credit qualify for the lesser of the state credit subject to state phaseout parameters, or the federal credit allowed for their income level. In 2013, federal qualifying expenses and credit rates will decrease to pre-EGTRRA levels. An estimated 22,000 Minnesota taxpayers will qualify for smaller state credits, and the state will pay about $2.0 million less in credits.

Will sunsets of other federal provisions affect Minnesota tax revenue?

TRUIRJCA also extended reduced federal tax rates on capital gains income. The reduced rates are scheduled to sunset after tax year 2012. In 2013 the maximum federal rate on capital gains income will increase from 15 percent to 20 percent for most filers, and from 0 percent to 10 percent for lower-income filers.

Past experience with capital gains rate changes indicates that taxpayers may accelerate sales of assets into the year with the lower rate and out of later years in which they expect a higher rate to be in effect. If taxpayers follow this pattern, it will lead to the shifting of taxable income into tax year 2012 from tax year 2013 and following years. However, some taxpayers may expect Congress to further extend the rates to 2013 and beyond.

Since Minnesota's income tax calculation starts with federal taxable income, any shift in the realization of gains will affect state as well as federal revenues. Because of recent experience with the extension of lower rates to tax years 2011 and 2012, the state economic forecast for November 2011 does not project any change in individual income tax revenues as a result of accelerated realization of gains; MMB will review this issue in preparing the February 2012 forecast.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204.

HOUSE RESEARCH | Short Subjects

Matt Burress **Updated: April 2012**

County State-Aid Highway System

CSAH system

The county state-aid highway system is a network of key highways under the jurisdiction of Minnesota's counties. It covers roughly 30,600 miles of roadway throughout all 87 counties, comprising over two-thirds of all county highway miles. Counties receive money from the state's county state-aid highway (CSAH) fund for the construction, improvement, and maintenance of those highways included in the state-aid system.

Sources of revenue

State aid is provided through the CSAH fund, which is established by the Minnesota Constitution. Revenue mainly comes from taxes on motor fuels, motor vehicle registration, motor vehicle sales, and vehicle leases. Total available revenue is $496.5 million in calendar year 2012. (This briefing does not discuss a CSAH fund "set-aside" that goes into town road, town bridge, and flexible highway accounts, some of which may also be provided to counties.)

Limitations on aid

Among the requirements accompanying the aid, counties must typically expend 60 percent of their allocation on construction projects and 40 percent on maintenance efforts. Minn. Rules part 8820.1400. Counties are also required to expend a share of their aid on stretches of county state-aid highways located within small cities having populations under 5,000. Minn. Stat. § 162.08, subd. 1. In general, the expenditure must be proportional, based on the construction needs for county state-aid highway segments located in a county's small cities compared to the total construction needs in that county's state-aid highway system.

Distribution of funds

Money in the CSAH fund is allocated on a calendar-year basis, with the amount determined through a combination of actual tax receipts and estimated receipts for the remainder of the fiscal year.

A portion is set aside in deductions for county highway-related purposes, consisting of: (1) MnDOT administrative costs, (2) a disaster account, (3) a research account, and (4) a state park roads account. The calendar year 2012 deductions are $16.1 million, or about 3.2 percent of total funding.

Direct aid in calendar year 2012 is $469.5 million. It is divided into two categories reflecting distinct revenue streams: the **apportionment sum** and the **excess sum**. Aid within each category is distributed through a separate statutory formula. Minn. Stat. § 162.07.

Apportionment sum revenue and distribution formula

The apportionment sum revenue consists of available CSAH fund dollars for direct aid that are not identified as part of the excess sum (described below). The funds are distributed to counties following a statutory formula, so that:

- 10 percent of the apportionment sum is divided equally among all counties;
- 10 percent is proportional based on motor vehicle registration in each county (compared to the total for all counties);

- 30 percent is proportional based on a county's lane-miles in the system; and
- 50 percent is proportional based on county construction needs to bring the system up to county engineering standards. Minn. Stat. § 162.07, subd. 1b.

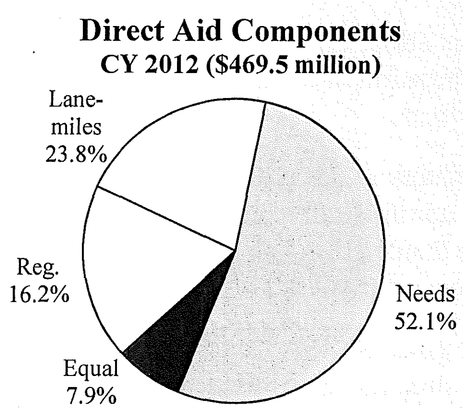
Excess sum revenue Excess sum revenue consists of the total from three sources:

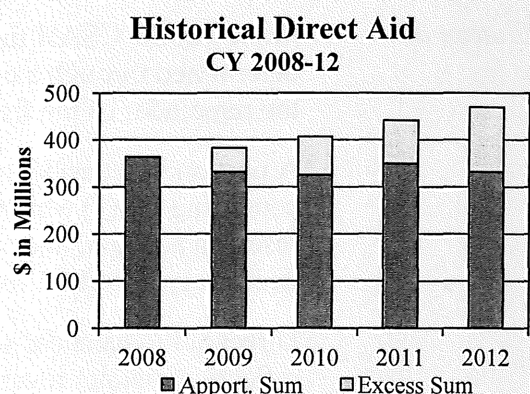
- Revenue from motor fuels tax above the amount collected at a rate of 20 cents per gallon (which comprises additional revenue from a motor fuels tax increase established in 2008 transportation finance legislation)
- Revenue from the registration tax above the inflation-adjusted amount collected in fiscal year 2008 (which is designed to identify increased revenue resulting from registration tax changes also made 2008)
- Revenue from the motor vehicle sales tax above the percentage allocated to the CSAH fund in fiscal year 2007 (which is designed to reflect additional motor vehicle sales tax revenue that phased in for transportation purposes over fiscal years 2008-12). Minn. Stat. § 162.07, subd. 1a.

Excess sum distribution formula The formula distributes (1) 40 percent of the excess sum in proportion to each county's share of the total number of motor vehicles registered, and (2) 60 percent in proportion to each county's share of construction needs. Minn. Stat. § 162.07.

Analysis of formulas The excess sum was established as a second aid allocation formula in 2008 as part of legislation that increased funding for transportation purposes. Laws 2008, ch. 152. It was designed to address equity concerns in the statewide distribution of CSAH fund aid.

For 2012, the excess sum is $137.5 million or around 29 percent of the formula-based direct aid allocated to counties (that is, excluding deductions). The portion of direct aid distributed via the excess sum formula has been increasing since it was introduced, due to the manner in which most revenue increases to the CSAH fund are counted as part of the excess sum.





Motor vehicle lease sales tax Also under a 2008 change, a portion of revenue from the sales tax on motor vehicle leases is allocated to counties in the Twin Cities metropolitan area excluding Hennepin and Ramsey. The distribution is proportional based on the population of each county. Minn. Stat. § 297A.815. Funds in calendar year 2012 totaled $10.9 million, which included a $5.2 million catch-up due to unexpected revenues.

Colbey Sullivan **Updated: May 2012**

Corporate Farm Law

What is Minnesota's corporate farm law?

In general, the law bars corporations, limited liability companies, pension or investment funds, trusts, and limited partnerships from farming, owning, or leasing farmland in Minnesota. Minn. Stat. § 500.24.

What is the history of the law?

The legislature created the corporate farm law in 1973. Subsequent legislatures have amended it roughly 30 times. However, restrictions on corporate ownership of land in Minnesota predate the codification of Minnesota Statutes in 1939.

What is the purpose of the law?

To "encourage and protect the family farm as a basic economic unit, to insure it as the most socially desirable mode of agricultural production, and to enhance and promote the stability and well-being of rural society in Minnesota and the nuclear family." Minn. Stat. § 500.24, subd. 1.

What constitutes "farming" under the law?

Farming includes the production of agricultural products, livestock or livestock products, milk or milk products, and fruit or other horticultural products. The law does not apply to food processing, refining, or packaging operations; the provision of spraying or harvesting services by a processor or distributor of farm products; the production of timber or forest products; the production of poultry or poultry products; or raising livestock for delivery to a corporation for slaughter or processing.

What are some allowable farm business structures?

In addition to family farms and multiple family-based business structures (e.g., family farm trust), the law either implicitly or explicitly allows farming and/or farmland ownership/leasing by:

- sole proprietors;
- general and limited liability partnerships;
- authorized versions of otherwise-prohibited business structures (e.g., authorized farm corporations);
- nonprofits; and
- utility corporations and electric generation or transmission co-ops.

Are there any additional exceptions?

Restricted business entities may own and/or operate farmland under the following exemptions:

- land purchased and converted for nonfarm development;
- "grandfathered" land owned or leased before certain dates;
- land used for growing seed, wild rice, nursery plants, or sod;
- certain small parcels of land;
- land used for aquatic, religious, breeding stock, or research farms; and
- gifted or repossessed land if disposed of within a specified period of time.

In addition, entities that do not meet any of the above criteria may apply to the commissioner of agriculture for a special exemption.

Do other states have similar laws?

Iowa, Kansas, Missouri, Nebraska, North Dakota, Oklahoma, South Dakota, and Wisconsin also have corporate farm laws.

Are these laws constitutional?

A common requirement of corporate farm laws is that the owner or at least one family member resides on or actively farms the land. In December 2006, a federal appeals court struck down Nebraska's corporate farm law, ruling that it violated the dormant commerce clause of the U.S. Constitution. The laws in Iowa and South Dakota were similarly ruled unconstitutional in 2003. The courts found all three to be discriminatory, benefiting in-state economic interests at the expense of those residing out of state.

No one has challenged Minnesota's corporate farm law, likely due in part to exemptions added by the legislature since 1973.

For more information: The Minnesota Department of Agriculture (MDA) administers the corporate farm law. Questions about the application of the law to a specific entity, property, or situation should be directed to the MDA at 651-201-6000 or 1-800-967-2474. For legislative issues, contact legislative analyst Colbey Sullivan at 651-296-5047. Also see the House Research publications *Corporate Farm Law 1851-1991* (November 1991) and *Alien Farmers in Minnesota 1851-2004* (December 2004) for more on the history of laws restricting who may farm and own farmland in Minnesota.

Colbey Sullivan

Updated: May 2012

Rural Finance Authority

What is the Rural Finance Authority?

The Rural Finance Authority (RFA) is the state's main agricultural lending arm. The legislature established the RFA during the farm credit crisis of the 1980s to help eligible farmers restructure mounting debt.

What does the RFA do?

The RFA is directed to "develop the state's agricultural resources by extending credit…on terms and conditions not otherwise available from other credit sources." Minn. Stat. § 41B.01. Although the RFA has authority to issue loans directly, it typically partners with private agricultural lenders to provide favorable financing opportunities for eligible farmers.

How does the RFA extend credit?

The RFA has official agreements with more than 400 private lenders. The lenders actually issue and administer the loans. The RFA purchases a portion of the loan from the lender and charges the farmer a lower rate of interest on its portion of the debt. As a result, the farmer pays a blended interest rate that is lower than the market rate charged by the private lender alone. (The blended interest rate is the weighted average of the interest rates charged by the RFA and the lender.) By lowering the farmer's interest costs, this arrangement makes debt financing more affordable.

Who runs the RFA?

Although the RFA is a separate public body with its own powers and duties, it is administered by the Minnesota Department of Agriculture. The RFA is a small organization with four employees. The board consists of the commissioners of agriculture (chair), management and budget (vice chair), employment and economic development, and commerce, as well as the state auditor. The governor appoints an additional six public board members who must be approved by the Senate. Public board members may not reside in the seven-county Twin Cities metropolitan area.

What loan programs are available?

The RFA currently manages 11 different loan programs. Each program has its own specific purpose, borrower criteria, and other details. These programs, along with years of inception and funding sources, are as follows:

- Basic Beginning Farmer (1987, general obligation (G.O.) bonds)
- Seller-sponsored (1989, G.O. bonds)
- Agricultural Development Bond ("Aggie Bond") (1991, federal private activity bonds)
- Agricultural Improvement (1992, G.O. bonds)
- Restructure II (1993, G.O. bonds)
- Livestock Expansion (1994, G.O. bonds)
- Value-added Stock (1994, general fund (G.F.) appropriation)
- Disaster Recovery (1998, G.F. appropriation)

- Methane Digester (2002, G.F. appropriation)
- Livestock Equipment (2005, G.F. appropriation)
- Pilot Agricultural Microloan Program (2012, G.F. appropriation)

Which farmers are eligible?

In general, a borrower must be the principal operator of a farm who is also (1) a Minnesota resident, (2) a member of a family-owned and -operated farm corporation, or (3) a member of a family-owned and -operated farm partnership. Beyond these general requirements, many programs have their own eligibility rules. To focus support on smaller beginning farmers, several programs limit eligibility to those whose net worth falls below an inflation-adjusted threshold.

How does the RFA use bonds to fund certain loan programs?

The Minnesota Constitution allows the legislature to borrow money and use the proceeds "to develop the state's agricultural resources by extending credit on real estate security." Minn. Const. art. XI, § 5(h). In essence, the state takes out a loan and lends the borrowed funds to eligible farmers. These bonds are considered 100 percent "user-financed" because the RFA is required by law to charge farmers a rate of interest sufficient to meet the debt service obligations on the G.O. bonds. Because the state typically boasts a strong credit rating and G.O. bond interest is generally exempt from federal and state income taxes, the rate the state pays on G.O. bonds—and by extension the rate the RFA charges farmers—tends to be relatively low.

Do these G.O. bonds require a three-fifths vote of the House and Senate?

A three-fifths supermajority is not necessary; only a simple majority is required. The Constitution treats these bonds differently than bonds issued to fund conventional capital investment projects. Minn. Const. art. XI, § 5(a) and (h).

Why are some programs funded with cash instead?

The Constitution requires that farm loans financed by G.O. bonds must be secured by a lien on real estate. In other words, RFA loans financed by G.O. bond proceeds must be secured by a mortgage on the borrower's farmland. Loans not tied to the borrower's farmland must be funded by another source. While the RFA has authority to raise funds by issuing its own taxable revenue bonds, the legislature has funded certain RFA programs with general fund appropriations. This gives the legislature and RFA greater flexibility in defining loan security requirements and setting interest rates. For instance, the RFA charges no interest on its methane digester loans—a program funded entirely by general fund appropriations. General fund programs utilize revolving loans, whereby the RFA may use loan repayments from one farmer to issue a loan to a different farmer.

Do other states have similar entities?

Thirty-eight other states have agricultural finance programs similar to the RFA.

For more information: To learn more about the loan programs or to apply for financing visit www.mda.state.mn.us or call the RFA directly at 651-201-6004 or 1-800-967-2474. For legislative matters, contact legislative analyst Colbey Sullivan at 651-296-5047. For more on general obligation bonds, see the House Research publication *State General Obligation Bonding*, November 2010.

HOUSE RESEARCH | Short Subjects

Danyell Punelli **Revised: May 2012**

Minnesota Family Investment Program

The Minnesota Family Investment Program (MFIP) is a jointly funded, federal-state program that provides income assistance to eligible low-income families. MFIP is the state's response to the 1996 federal welfare reform law, which replaced the Aid to Families with Dependent Children (AFDC) program with Temporary Assistance for Needy Families (TANF), a block grant program to states.

Who is eligible for MFIP?

A family must have income and assets below the program's limits. The income limit increases with family size. Families do not exit MFIP until their income reaches 115 percent of the federal poverty guidelines (FPG). The 2012 FPG for a family of three is $19,090 (115 percent of FPG for a family of three equals $21,954). Assets are limited to $2,000 for MFIP applicants and $5,000 for ongoing recipients, excluding certain items. In addition, families must meet the following eligibility requirements:

- have a minor child in the home (or be pregnant)
- be residents of Minnesota
- be U.S. citizens, qualified noncitizens, or noncitizens otherwise lawfully residing in the United States
- assign rights to child support
- have received fewer than 60 months assistance
- satisfy any other eligibility requirements of the program

Families are subject to a *lifetime limit of 60 months of assistance*. Some families may be eligible for assistance extensions past the 60-month limit if they meet specific criteria for one of the following extension categories: ill or incapacitated, hard-to-employ, and employed participants.

How much are monthly benefits?

The MFIP grant is based on a transitional standard that increases with family size. For example, a family of three's monthly benefit in 2012 is currently $1,058; a family of four's benefit is $1,289. For families without earnings, the monthly grant equals the transitional standard. For families with earnings, the monthly grant equals the "family wage level" (110 percent of the transitional standard minus the family's net earned income). The MFIP grant is composed of a cash portion and a food portion, both of which are issued by counties in electronic debit card form.

What are the work requirements?

MFIP caregivers (i.e., persons who live with and provide care and support to minor children) are required to spend a specified number of hours every week engaged in work or work activities. Examples of acceptable activities include job search activities, unsubsidized employment, and on-the-job training.

Employment plans must be tailored to recognize the special circumstances of

MFIP participants who meet certain criteria, such as being over age 60, being ill or incapacitated, caring for a disabled child, or being the victim of family violence.

Postsecondary education is not routinely available to MFIP caregivers. Job counselors may approve postsecondary education only when the education program meets specific MFIP criteria.

Special requirements exist for *caregivers under age 20*. In most cases, education is the first priority for teen MFIP participants.

How do sanctions work?

MFIP participants who do not meet the program requirements may be sanctioned through reduction of their monthly grant. Sanctions last until one month after a participant comes into compliance. An MFIP case must be closed after the seventh occurrence of noncompliance.

What are MFIP's funding streams and expenditures?

MFIP is funded with a combination of federal funds and state appropriations. Minnesota received approximately $268 million annually in TANF block grant funding in federal fiscal years 1998 to 2012 (this amount is subject to federal reauthorization). In addition, federal law includes a maintenance of effort (MOE) provision that requires a state to spend 75 percent to 80 percent of the amount it spent in 1994 under its old AFDC and related programs to assist needy families. In fiscal year 2012, the state's required MOE amount was $179.7 million per year.

According to the Department of Human Services, for state fiscal year 2011, total expenditures were $110.1 million for the cash portion and $167.7 million for the food portion of the MFIP grants. In terms of funding, $72.0 million was financed with federal TANF funds, $167.7 million was from federal Supplemental Nutrition Assistance Program funds, and $101.1 million was from state appropriations.

How many families receive MFIP?

In fiscal year 2012, in an average month an estimated 42,079 families and a total of 113,605 participants were receiving MFIP assistance.

For more information: See the House Research publication *Minnesota Family Assistance*, December 2009, and the following Short Subjects: *Minnesota Family Investment Program Time Limit Exemptions and Extensions,* July 2004, and *MFIP Cases Reaching the 60-Month Time Limit,* July 2009.

Danyell Punelli Revised: May 2012

General Assistance

General Assistance (GA) is a state program that provides cash assistance to individuals or childless couples who are not eligible for federally funded assistance programs, but who are unable to provide for themselves (Minn. Stat. § 256D.01).

Eligibility

An applicant qualifies for GA if he or she meets the eligibility requirements and has income and assets below the limits established by the state legislature and the Department of Human Services (DHS). Assistance is available as long as the individual continues to meet eligibility requirements; there is no set time limit.

In addition to having financial need, a GA applicant must also meet the following conditions:

- Be a resident of Minnesota
- Be ineligible for aid from any cash assistance program that uses federal funds (i.e., Minnesota Family Investment Program or Supplemental Security Income)
- Be a citizen of the United States
- Be unable to work because the person:
  1. Has a professionally certified illness, injury, or incapacity expected to continue for more than 45 days and that prevents the person from getting or keeping a job
  2. Has been diagnosed as having a developmental disability or mental illness
  3. Is unable to seek or retain employment due to advanced age
  4. Is needed in the home to care for a person whose age or medical condition requires continuous care
  5. Is placed in a licensed or certified facility for care or treatment under a plan approved by the local human services agency
  6. Resides in a shelter for battered women
  7. Has an application pending for or is appealing a termination of Social Security disability payments, so long as the person has a professionally certified illness or disability
  8. Is assessed as not employable
  9. Is under age 18 in specified circumstances and with consent of the local agency
  10. Is eligible for displaced homemaker services and is enrolled as a full-time student
  11. Has had an alcohol or drug addiction that is a material factor that contributes to the person's disability
  12. Is involved with protective or court-ordered services that prevent working at least four hours per day

13. Is over age 18 and whose primary language is not English and is attending high school at least part-time
14. Has a condition that qualifies as a specific learning disability

GA is not provided to:

- Fugitive felons and parole and probation violators; or
- Persons who have fraudulently misrepresented residency to obtain assistance in two or more states; these people are not eligible to receive GA for ten years.

Benefits

GA recipients receive a monthly cash assistance payment, called a grant. The amount of a recipient's grant is determined by subtracting the recipient's net income from the applicable monthly GA assistance standard.

Monthly GA Standards for Single Persons and Childless Couples

Eligible Units	**Monthly Standard**
One adult	$203
Emancipated minor	203
One adult, living with parent(s) who have no minor children	203
Minor not living with parent, stepparent, or legal custodian (with approved social services plan)	250
Married couple with no children	260
One adult, living in a medical facility or in group residential housing	92

Unlike MFIP, the GA program does not include an employment and training component. GA recipients are not required to participate in any employment and training services as a condition of receiving benefits.

Funding and Expenditures

The state pays for the costs of GA benefits. In state fiscal year 2012, the state estimated paying $49,721,888 in benefits to GA recipients.

Recipient Profile

Most GA recipients are single persons. Childless couples may also be eligible for GA. In state fiscal year 2012, the average monthly number of GA cases was projected to be 21,906.

For more information: Contact legislative analyst Danyell Punelli at 651-296-5058. Also see the House Research publication *Minnesota Family Assistance*, December 2009.

Danyell Punelli

Revised: May 2012

Electronic Benefits Transfer (EBT)

What is electronic benefits transfer?

Since October 1998, cash and Food Support benefits have been issued by Minnesota counties to all recipients in an electronic debit card format known as EBT, or electronic benefits transfer. An EBT card looks and works like any other bank debit card. Benefits are issued directly to families receiving Minnesota Family Investment Program (MFIP) and Food Support benefits. As part of the 1996 federal welfare reform, all states were required to move to EBT systems by October 1, 2001.

How do the assistance programs work?

MFIP benefits are based on family size, with the MFIP grant composed of a cash portion and a food portion. Counties issue both the cash and the food portion of an MFIP family's grant in EBT form. MFIP families receive the food portion of assistance as a part of the MFIP grant, instead of receiving a separate benefit payment through the federal Supplemental Nutrition Assistance Program (SNAP). The MFIP food portion uses the same EBT mechanism to deliver the MFIP food benefits as the stand-alone Food Support program does. However, the two kinds of MFIP benefits (cash and food) are electronically segregated on the family's EBT card. This ensures that the family can only use the food portion of their MFIP benefit to purchase food items that are approved under SNAP, from a retailer that has been approved under that program.

Food Support assists households composed of eligible single individuals and families. Generally speaking, the basic Food Support household consists of individuals living together who purchase and prepare meals in common. A household qualifies for the Food Support program if it satisfies certain eligibility requirements or if its income and assets are below the program's established limits.

The Food Support program benefits and MFIP food portion are adjusted as needed to reflect cost-of-living adjustments to the federal SNAP. The MFIP cash portion is not automatically adjusted.

Are there restrictions on what EBT can be used to purchase?

Food Support may only be used to purchase federally approved food and food products, excluding alcohol, tobacco, and pet food, in approved stores. Approved stores include grocery stores and convenience stores that sell a variety of foods and have been authorized to accept Minnesota EBT cards. Individuals over 60 (and their spouses), blind and disabled persons, and homeless individuals can also use Food Support to purchase meals in authorized restaurants. In addition, Food Support can be used to purchase hot foods or hot food products through nonprofit meal delivery services, at communal dining facilities, and at institutions serving meals to drug addicts, alcoholics, and battered women and children.

There are no such restrictions on the cash portion of the MFIP benefit; the family accesses these benefits through point-of-sale terminals or automatic teller machines (ATMs). (There are certain locations at which no person may obtain cash benefits through the use of an EBT card, including liquor stores and tobacco stores.)

However, EBT cardholders may not use the EBT card to purchase tobacco products or alcoholic beverages. A recipient found to be guilty of using an EBT card to purchase prohibited items is disqualified from receiving assistance for one year for the first offense, two years for the second offense, and permanently for the third offense.

Additionally, effective March 1, 2013, EBT cardholders are limited to using the cash portion on the EBT card in Minnesota and the four surrounding states.

How often do benefits get issued?

Each month, a family's EBT account is credited with their cash and Food Support benefits. During the month, the family uses the EBT card to purchase items or withdraw cash. The family swipes their EBT card through a point-of-sale terminal or ATM, and the purchases or withdrawn cash are deducted from their account balance. Cash may only be withdrawn from the cash portion of the MFIP benefit.

In federal fiscal year 2012, a family of three with no earnings would receive an MFIP cash benefit of $532 and food benefit of $526 per month. In January 2012, the average monthly Food Support amount issued per household was $392.05.

For more information: Contact legislative analyst Danyell Punelli at 651-296-5058. Also see the House Research publication *Minnesota Family Assistance*, December 2009.

Danyell Punelli

Updated: May 2012

Child Care Assistance

What is child care assistance?

Child care assistance programs subsidize the child care expenses of eligible low-income families. The Minnesota Department of Human Services administers two child care assistance programs: Minnesota Family Investment Program (MFIP) child care assistance and Basic Sliding Fee (BSF) child care assistance. MFIP child care subsidizes the child care costs of families receiving cash assistance through MFIP and provides child care assistance for eligible families for the first 12 months after the family leaves MFIP cash assistance (transition year child care). BSF child care provides a child care subsidy to low-income working families who are not receiving cash assistance from MFIP.

What are the eligibility requirements for child care assistance?

To be eligible for child care assistance, both parents (or one parent in single-parent households) must participate in an authorized work, education, or training activity, cooperate with child support enforcement, and meet income eligibility guidelines. The maximum income limit to be eligible for child care assistance is 47 percent of state median income at program entry and 67 percent or less of state median income at program exit. (For fiscal year 2012, 47 percent of state median income was $33,992, and 67 percent of state median income was $48,457 for a family of three.)

Children up to age 12 are eligible for child care assistance (up to age 14 for disabled children). During fiscal year 2010, there were an average of 1.78 children per family receiving MFIP child care assistance and 1.77 children per family receiving BSF child care assistance.

County agencies or their contractors must determine eligibility within 30 days of receiving a request for child care assistance. Direct reimbursement is the only method of receiving child care assistance.

What is the average annual subsidy a family receives?

In fiscal year 2012, the estimated average annual subsidy for a family receiving MFIP child care assistance was $11,539, and the estimated average annual subsidy for a family receiving BSF child care assistance was $9,625.

Every year, the Commissioner of Human Services conducts a survey of rates charged by child care providers to determine the 75th percentile maximum rates for similar care in a county, multicounty region, or category that the commissioner deems to be similar. However, maximum provider reimbursement rates have been frozen since 2003, with only a couple of increases since that time. The 2011 Legislature decreased provider reimbursement rates by 2.5 percent, effective October 31, 2011.

Are families required to pay for some child care expenses?

There is a family co-payment requirement based on family size and income. The maximum family co-payment is about 14 percent of gross monthly income. Families with incomes below 75 percent of the federal poverty level are exempt from making co-payments ($14,318 and below for a family of three in 2012).

How is child care assistance funded?

The child care assistance programs receive funding from a variety of sources, including the federal Child Care Development Fund (CCDF), federal Temporary Assistance for Needy Families (TANF) funds, the state general fund, and county funds.

Total estimated fiscal year 2012 annual direct service payments are $109.3 million for MFIP and transition year child care and $94.4 million for BSF child care assistance.

How many families receive child care assistance?

During fiscal year 2012, an estimated average of 9,471 families received MFIP child care assistance and 9,807 families received BSF child care assistance per month.

Not all families who apply for child care assistance receive it. MFIP child care is a forecasted, fully funded program, while BSF child care receives a capped allocation. As of March 31, 2012, there were 7,941 families on the waiting list for BSF child care assistance.

What are some potential legislative issues?

During previous legislative sessions, there were several proposals to consolidate the child care assistance programs into one program to reduce administrative and program complexity. However, none of these proposals have been passed by the legislature. There may be future attempts to consolidate the child care assistance programs.

In recent years, there have been several attempts to increase maximum provider rates due to the rate freeze that has been in effect since 2003. Maximum reimbursement rates continue to be below the previous level of the 75th percentile for similar care in a country or region. There has also been interest in establishing a statewide quality improvement and rating system and a common set of quality standards for child care and other early childhood programs. These issues continue to be discussed.

For more information: See the House Research publication *Funding to Support Child Care Assistance*, December 2011.

HOUSE RESEARCH | Short Subjects

Rebecca Pirius

Updated: June 2012

State Jury Service

The Minnesota Constitution guarantees citizens the right to a jury trial in all criminal prosecutions and in all cases at law. This right extends to criminal actions in which an offender may be sentenced to imprisonment. It also extends to civil actions in which legal relief (such as money damages) rather than equitable relief (such as performing a specific act) is sought. A jury trial is not guaranteed in situations in which the only penalty is a fine (i.e., traffic tickets). A person may waive his or her right to a jury trial. The right to a jury trial depends upon an impartial jury system.

How many people serve on a jury?

In felony cases, a jury is composed of 12 members. For all other criminal and civil cases, a jury must have at least six members.

How are people selected for jury service?

All people selected for jury service must be drawn at random from the broadest feasible cross section of the population of the area served by the court. All "qualified citizens" can be considered for jury service and must serve when summoned. No one may be excluded from jury service on the basis of race, color, creed, religion, sex, national origin, marital status, disability, age, occupation, economic status, status with regard to public assistance, or a physical or sensory disability. Voter registration and drivers' license lists are used as jury source lists.

Who is a "qualified citizen"?

To be qualified to serve as a juror, the prospective juror must be:

- a United States citizen;
- at least 18 years of age;
- a resident of the county;
- able to communicate in English;
- physically and mentally capable of serving;
- a person who is not under a sentence for a felony conviction;
- a person who has not served as a state or federal grand or petit juror in the past four years; and
- a person who is not a judge serving in the judicial branch.

When may a person be excused from jury service?

People who are 70 years old or older are automatically excused from jury service upon request. A member, officer, or employee of the legislature is excused from jury service while the legislature is in session. If authorized by a jury commissioner, people may be excused if their ability to receive and evaluate information is so impaired that they cannot perform juror duties or if their service would be a continuing hardship.

May a person defer jury service to a later date?

Each county may establish conditions for deferral of jury service. The deferral shall be for a reasonable time, after which the prospective juror must be available for service. Examples of deferral conditions include: temporary health problems, vacation plans, employment conflicts, prescheduled medical appointments, and time needed to arrange for child care. Candidates for elected office may also request deferral during a campaign. To verify deferral conditions, consult the court or jury administration office in your county of residence.

What happens if a prospective juror fails to appear when summoned to jury service?

If a person fails to appear when summoned, the person shall be ordered by the court to appear and show cause for failure to comply with the summons. Absent a showing of good cause, the person is guilty of a misdemeanor and may be held in contempt. Failure to complete a jury qualification questionnaire results in the same sanctions. It is also a misdemeanor to willfully misrepresent a material fact on a jury qualification questionnaire for purposes of securing or avoiding jury service.

Are jurors compensated for time spent on jury duty?

Jurors are compensated for round-trip travel between their residence and the place of court. They are also compensated for their required attendance. Jurors may request child care and parking expenses. The Minnesota Supreme Court determines these compensation rates.

Are employers required to give employees time off for jury service?

Employers cannot fire or otherwise coerce an employee because the employee receives a jury summons, attends court as a prospective juror, or serves as a juror. A violation of this provision subjects an employer to criminal contempt, as well as to a fine of up to $700 and/or six months' imprisonment. A discharged employee may also bring a civil action against the former employer for the recovery of lost wages and for an order requiring reinstatement. The employee has 30 days to bring a civil action. The court must award reasonable attorney's fees to a prevailing employee. Employers are not required to pay an employee while on jury leave.

How long is the term of jury service?

The time that a person is called upon to perform or be available for jury service varies by county. In counties with a population of 100,000 or more, a term of service must not exceed two weeks or the completion of one trial, whichever is longer. In counties with a population of less than 100,000, the maximum term of service ranges from two to four months; however, no person is required to continue to serve after the person has reported to the courthouse for ten days or after the completion of a trial, whichever is longer.

What is the difference between a petit jury and a grand jury?

A petit (trial) jury is a body of six to 12 people chosen and sworn in a court to try and determine by verdict any question or issue of fact in a civil or criminal action.

A grand jury does not try a case; rather, it determines whether probable cause exists to believe an offense was committed by a person and that person should be brought to trial. The grand jury—consisting of 16 to 23 people—is sworn in to inquire as to public offenses and report them by indictment. An indictment is an accusation in writing charging a person with an offense (versus the prosecutor filing a complaint). The grand jury may find an indictment only upon the concurrence of 12 or more jurors. Offenses that may be punished by life imprisonment must be prosecuted by indictment.

What is voir dire ("vwhar deer")?

Voir dire refers to the jury selection process; its purpose is to afford the parties a trial by a qualified and impartial jury. The parties may examine prospective jurors to discover grounds to challenge (and dismiss) a prospective juror, including challenges for cause and peremptory challenges. Examples of challenges for cause include bias, prejudice, or having a blood or other relation to or with the defendant, victim, or an attorney in the case. A party may also use a limited number of peremptory challenge to dismiss a prospective juror. A peremptory challenge does not require a reason but it cannot be on the basis of race or gender.

For more information: Contact legislative analyst Rebecca Pirius at rebecca.pirius@house.mn.

Danyell Punelli

Updated: May 2012

Corporate Foster Care Moratorium

Corporate foster care is foster care in which the primary license holder does not reside in the residence, and the foster care home is operated by a corporation with shift staff delivering services to clients. The 2009 Legislature established a partial moratorium on new licenses for corporate foster care. The 2011 and 2012 Legislatures made changes to the moratorium that are briefly described in this short subject.

What is the corporate foster care moratorium?

Beginning July 1, 2009, the commissioner of human services was prohibited from assigning initial licenses for corporate foster care. Exceptions to the moratorium include:

- foster care settings that are required to be registered under the housing with services establishment statute;
- foster care licenses replacing foster care licenses in existence on May 15, 2009, and determined to be needed by the commissioner;
- new foster care licenses determined to be needed by the commissioner for the closure of a nursing facility, intermediate care facility for persons with developmental disabilities, regional treatment center, or restructuring of state-operated services that limits the capacity of state-operated facilities;
- new foster care licenses determined to be needed by the commissioner for persons requiring hospital level care; and
- new foster care licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services.

Who is affected by the changes to the corporate foster care moratorium?

The 2011 Legislature modified the corporate foster care moratorium by directing local agency case managers, at the time of reassessment, to assess recipients of the Medicaid Community Alternatives for Disabled Individuals (CADI) and Brain Injury (BI) waivers currently residing in corporate foster care to determine if they may be appropriately served in a community-living setting (see definition below).

If a community-living setting is determined appropriate for the recipient, the case manager must offer the recipient the option to receive alternative housing and service options. The recipient has the choice to stay in corporate foster care or transfer to a community-living setting. (See Minn. Stat. § 256B.49, subd. 15.)

The 2012 Legislature modified the corporate care moratorium by:

- delaying the closure of beds from beginning July 1, 2012, to July 1, 2013;
- requiring an annual resource need-determination process to determine where reduced corporate foster care capacity will be implemented;
- giving the commissioner the authority to delicense up to 128 beds by June 30, 2014, using the needs-determination process;
- exempting certain providers who would otherwise be subject to the

decreased licensed capacity; and

- creating a new process for voluntary adult foster care planned closures. (See Minn. Stat. § 256B.493.)

When must the reassessments be completed? Lead agency case managers must complete these reassessments by July 1, 2013. Generally, a reassessment of an individual's strengths, support systems, and need for services is conducted at least every 12 months and at other times when there has been a significant change in the individual's functioning.

How are "community-living settings" defined? "Community-living settings" are defined as single-family homes or apartments where the service recipient or his or her family owns or rents, and maintains control over, the individual unit. Community-living settings must meet the following criteria:

- individuals must not be required to receive services through the housing provider
- individuals must not be required to have a disability or specific diagnosis to live in the setting
- individuals may choose whether to share their household and with whom
- individuals must have lockable access and egress (See Minn. Stat. § 256B.49, subd. 23.)

What other requirements must local agencies meet? Counties are required to immediately inform the Department of Human Services (DHS) when a corporate foster care recipient receiving services through the CADI or BI waivers chooses to move out of a corporate foster care home into a community-living setting. DHS must decrease the statewide licensed capacity if the savings required under the 2011 changes to the corporate foster care moratorium are not realized through the voluntary closure process. These decreases in licensed capacity are not subject to appeal. (See Minn. Stat. § 245A.03, subd. 7.)

What happens to the vacated beds? The new law prohibits vacated corporate foster care home beds from being filled with other recipients of Medicaid waiver services or group residential housing unless the savings required under the 2011 changes to the corporate foster care moratorium are realized through the voluntary closure process. If a corporate foster care home becomes no longer viable due to the transfer of CADI and BI recipients to community-living settings, the county agency and DHS must facilitate a consolidation of settings or closure of the facility. (See Minn. Stat. § 256B.49, subd. 15.)

What is the impact of this change? DHS has the authority to delicense up to 128 corporate foster care beds as a result of this change in the law.

Does this save the state money? This change results in an estimated cost increase of $1.808 million in fiscal years 2012 and 2013, and $660,000 in fiscal years 2014 and 2015.

For more information: Contact legislative analyst Danyell Punelli at 651-296-5058.

HOUSE RESEARCH | Short Subjects

Mark Shepard and Lynn Aves

Updated: June 2012

The Minnesota Sunset Act

The 2011 Legislature enacted the Minnesota Sunset Act, which establishes a schedule for periodic review and expiration of many state agencies (Minnesota Statutes, chapter 3D). The Sunset Act created a Sunset Advisory Commission, which reviews and makes recommendations on agencies subject to sunset.

Some agencies expire automatically unless reauthorized by law

State executive branch agencies are reviewed according to a schedule prescribed in law. Many agencies, including most state boards, councils, and commissions, expire automatically at the scheduled date unless a new law continues the agency. However, cabinet-level agencies specified in law are reviewed according to the schedule but do not expire automatically.

The Sunset Advisory Commission must review agencies

The Sunset Advisory Commission must review agencies at the scheduled times and make recommendations to the legislature. The commission's recommendations are advisory—the commission does not have authority to extend an agency that is scheduled for automatic expiration or to abolish an agency that is not scheduled to expire automatically.

The commission consists of four members each of the Senate and House of Representatives and four members appointed by the governor. No more than three legislative members may be from the majority caucus in their respective chambers. All members serve at the pleasure of the appointing authority. The commission must review all agencies, even the agencies that do not expire automatically. The law assigns a sunset date to each agency. The first group of agencies was sunset and was reviewed in 2012. Other agencies are scheduled for sunset and review in 2014, 2016, 2018, 2020, and 2022. Advisory groups associated with an agency expire at the same time as the agency.

The first group of agencies was reviewed in 2012

For agencies reviewed by the Sunset Advisory Commission in fall of 2011 and winter of 2012, the 2012 Legislature:

- abolished the Combative Sports Commission and transferred its duties to the Department of Labor and Industry;
- continued the Capitol Area Architectural and Planning Board, Amateur Sports Commission, all health-related licensing boards, and the Council on Disability and scheduled them for sunset in 2018;
- continued the Council on Asian Pacific Minnesotans, Council on Black Minnesotans, Council on Affairs of Chicano/Latino People, and Indian Affairs Council and scheduled them for sunset in 2014; and
- made various changes in laws governing operations of the reviewed agencies.

A second group of agencies is sunset in 2014

The Department of Health, Department of Human Services, Department of Human Rights, Department of Education, Board of Teaching, Office of Higher Education, Emergency Medical Services Regulatory Board, and the councils of color noted above are sunset in 2014. The first four departments and the Office of Higher Education will be reviewed but do not expire automatically. The other agencies will expire unless they are renewed.

The law establishes a process to be followed each review cycle

In each review cycle, the following must occur:

- Agencies subject to review must report statutorily specified information to the commission by September 1 of the odd-numbered year before January 1 of the year in which an agency is sunset; the commission must review the agency, according to criteria specified in law. These criteria include consideration of the agency's efficiency and effectiveness, if there are alternative means of performing agency functions, and if there is duplication and overlap with other agencies.
- Before February 1 of the year an agency is sunset, the commission must conduct public hearings and make recommendations to the legislature on possible continuation of the agency
- During the even-year legislative session, the legislature may enact a new law providing that an agency does not expire, or (with respect to those groups that automatically expire) may do nothing and thus let the agency expire

The law specifies what happens if an agency expires

The law provides that if an agency expires according to schedule on June 30 of an even-numbered year, the agency continues to exist with all its powers and authority until June 30 of the following year (the odd-number year). At that time, unless a law is enacted providing otherwise, the following occur:

- Statutory duties, property, and records of an abolished agency are transferred to the Commissioner of Administration, who is required to perform necessary administrative functions of the abolished agency
- Rules adopted by the abolished agency remain effective and must be enforced by the Commissioner of Administration
- The Commissioner of Administration may use statutory reorganization authority to transfer duties of an abolished agency to a different executive branch agency
- If an appropriation exists for functions or obligations transferred from the abolished agency, that appropriation is transferred to the Commissioner of Administration

For more information: Contact legislative analysts Mark Shepard at 651-296-5051 or Lynn Aves at 651-296-8079.

HOUSE RESEARCH | Short Subjects

Mark Shepard

Updated: June 2012

Rulemaking: Expedited Process and Exemptions

The legislature sometimes authorizes state agencies to adopt administrative rules without following the usual rulemaking procedures. This is done by allowing agencies to use an expedited process or by exempting certain rules from rulemaking.

Expedited rulemaking process

The legislature has created an expedited process for adopting rules. An agency may use this process *only* when specifically authorized by law. Under the expedited process, an agency publishes notice of its proposed rule in the State Register and mails notices to those who have requested notice. The agency must then allow at least 30 days for comment. At the end of the comment period, and after an administrative law judge approves the form and legality, the agency may adopt the rule. Unlike the customary rulemaking process, there is no opportunity for public hearing under the expedited process, unless the legislature specifically provides for this opportunity. Minn. Stat. § 14.389.

There is a separate expedited process for repealing obsolete rules. Minn. Stat. § 14.3895. This process may be used to repeal rules that an agency identifies in a required annual report on obsolete rules.

Specific exemptions

The legislature has enacted numerous laws providing that specific agency policies that come within the definition of a "rule" may be adopted without complying with the usual rulemaking procedures. But these laws often require an agency to follow certain minimal requirements even if the rules are exempt from the usual rulemaking procedures. These requirements are as follows:

- The Revisor of Statutes must approve the form of the rule
- The Office of Administrative Hearings must approve the rule's legality
- A copy of the rule must be published in the State Register

These so-called exempt rules are effective only for two years. Minn. Stat. § 14.386.

Sometimes the legislature provides that the two-year effective period and the minimal procedural requirements specified above do not apply to a set of rules.

"Good cause" exemptions

The legislature has provided limited circumstances under which an agency may omit rulemaking procedures. This can be done only if rulemaking procedures are unnecessary, impracticable, or contrary to the public interest, and if the rule:

(1) addresses a serious and immediate threat to public health, safety, or welfare;

(2) complies with a court order or federal law in a manner that does not allow for compliance with rulemaking procedures;

(3) incorporates changes in law when no interpretation of law is required; or

(4) makes changes that do no alter the meaning or effect of a rule.

An agency using the good cause exemption must give notice of its proposed rule, including an explanation of why use of the good cause exemption is justified. The Office of Administrative Hearings reviews the legality of the proposed rules, including the justification for use of the good cause exemption.

Occasionally, the legislature specifically authorizes an agency to adopt rules under the good cause exemption. This sometimes happens when the legislature requires an agency to change its rules in a specified manner and the agency has no discretion.

Rules adopted under clauses (1) and (2) are effective only for two years.

Minn. Stat. §14.388.

Agency statements that are not "rules"

The legislature has exempted some agency statements from the definition of "rule." The usual rulemaking process does not apply to these statements. Examples include provisions governing internal management of agencies, certain rules of the commissioner of corrections, and revenue notices and tax information bulletins issued by the commissioner of revenue.

For more information: Contact legislative analyst Mark Shepard at 651-296-5051. Also see the House Research publications *Rulemaking: Process for Adopting Rules,* June 2012, and *Rulemaking: Review of Adopted Rules*, June 2012.

Mark Shepard **Updated: June 2012**

Rulemaking: Process for Adopting Rules

State agencies must follow certain procedures when they adopt administrative rules. These procedures are contained in the Administrative Procedure Act (often known as the APA) in Minnesota Statutes, chapter 14. For a more detailed description of these procedures, see "Rulemaking in Minnesota: A Guide" on the Revisor of Statutes website (www.revisor.mn.gov).

An agency must follow required procedures when adopting a "rule"

A "rule" is an agency statement of general applicability and future effect, made to implement a law. In most cases an agency must follow APA rulemaking procedures when it issues a statement that comes within the definition of a "rule." Courts may invalidate agency attempts to set policy without following rulemaking procedures.

An agency must take certain actions before formally proposing rules

Rulemaking docket: An agency must maintain a rulemaking docket. This docket must contain information on rules that the agency is thinking about proposing and on rules that are in the middle of the rulemaking process. By January 15 each year, an agency must submit its rulemaking docket to chairs and ranking minority members of legislative committees with jurisdiction over the subject matter of the rules. Minn. Stat. § 14.366.

Solicitation of comments: An agency must solicit comments from the public on the subject matter of the possible rules at least 60 days before publishing a notice of proposed rules. Minn. Stat. § 14.101.

Statement of need and reasonableness: An agency must prepare a statement of the need for and reasonableness of the proposed rules. The statement must be available to the public. The statement must contain a summary of evidence and arguments that the agency intends to use to support the proposed rules. The statement must also:

(1) determine if there are less costly or less intrusive methods for achieving the purpose of the proposed rule;

(2) describe alternative methods for achieving the purposes of the proposed rule that were seriously considered and give reasons why these alternatives were rejected; and

(3) assess the probable costs of complying with the proposed rule and the costs or consequences of not adopting the proposed rule.

Minn. Stat. §§ 14.131 and 14.23.

An agency must give notice of proposed rules and provide opportunity for a public hearing

Notice: An agency must publish notice of proposed rules in the State Register. It must mail this notice to people who have requested to be notified and must make other reasonable efforts to notify people who may be significantly affected by the proposed rules. Minn. Stat. §§ 14.14, subd. 1a, and 14.22.

Public hearing: An agency must conduct a public hearing on proposed rules if 25 or more people submit a written request for a hearing. Most agency rules are adopted without a public hearing. Minn. Stat. § 14.25.

If no public hearing is required, the agency presents its own evidence into the record and accepts material from the public. If a public hearing is held, it is conducted by an independent administrative law judge (ALJ). At the hearing, the agency must make an affirmative presentation demonstrating the need for and reasonableness of the proposed rules. The public may testify and may question agency representatives. Minn. Stat. § 14.14.

An agency must determine the cost of the proposed rules on small businesses and cities

If the cost of complying with an agency's rule in the first year after the rule takes effect will exceed $25,000 for a business with less than 50 full-time employees or for a city with less than ten full-time employees, the business or city may file a statement with the agency claiming an exemption from the rule. Upon filing of a statement, the rule does not apply to that business or city until the rule is approved by a subsequent law. There are some exceptions to this provision. Minn. Stat. § 14.127.

An ALJ reviews the proposed rules

If the ALJ determines that the agency has not met all of the legal and procedural requirements, the rules are submitted to the chief ALJ. If the chief supports the ALJ, the agency may not adopt the rule until the defects are corrected. Once the ALJ or the chief ALJ approves the rules, the agency may submit them to the governor and take other procedural steps necessary for final adoption.

If the ALJ and the chief ALJ determine that the agency has not established the need for or reasonableness of the rules, the rules are submitted to the Legislative Coordinating Commission (LCC) and to the House and Senate governmental operations committees for comment. After seeking these comments, an agency may adopt the rules. Minn. Stat. §§ 14.15 and 14.26.

The governor may veto proposed rules

The governor may veto all or a severable portion of a proposed administrative rule at the end of the rulemaking process, before the rule takes effect. To veto a rule, the governor must submit notice of the veto to the State Register within 14 days of receiving a copy of the rule from the secretary of state. Minn. Stat. § 14.05, subd. 6.

For more information: Contact legislative analyst Mark Shepard at 651-296-5051. Also see the House Research publications *Rulemaking: Review of Adopted Rules*, June 2012, and *Rulemaking: Expedited Process and Exemptions*, June 2012.

Mark Shepard

Updated: June 2012

Rulemaking: Review of Adopted Rules

All three branches of state government have authority to review administrative rules. The legislature also has established processes under which a person can petition an agency for adoption, amendment, or repeal of a rule, or can petition to stop improper enforcement of a policy that an agency has not adopted as a rule.

Executive review

An agency that adopts a rule may amend or repeal the rule. An amendment or repeal is itself considered a "rule" and can be done only after following the usual rulemaking procedures. The governor may veto a proposed rule, but cannot veto or otherwise change an adopted rule, unless the agency follows the rulemaking process.

Legislative review

Amendment or repeal. The legislature can pass a bill repealing or amending a rule, or changing the permissible scope of the rule. If the legislature removes the statutory authority for rulemaking, rules adopted under that authority are automatically repealed. Minn. Stat. § 14.05, subd. 1.

Investigation and objection. The legislature has authorized the Legislative Coordinating Commission (LCC) to investigate complaints about rules. Upon written request of two or more LCC members, or any five legislators, the LCC must review a rule, either by holding LCC meetings or by establishing another group to review the rules. Minn. Stat. § 3.305, subd. 8.

The LCC or the House or Senate governmental operations committees may also formally object to rules. An objection shifts the burden of proof to the agency to show that the rule is valid if the rule is challenged in court. Minn. Stat. § 3.842, subd. 4a.

Delayed effect. The House and Senate standing committees with jurisdiction over the subject matter of a rule may vote to delay the effect of a proposed rule until the legislature adjourns the annual legislative session that begins after the vote of the committees. Minn. Stat. § 14.126.

Judicial review

An agency rule may be challenged in court. The court must declare a rule invalid if it finds the rule:

- is unconstitutional;
- exceeds the statutory authority; or
- was adopted without complying with statutory requirements.

Minn. Stat. § 14.45.

Local government petitions for amending or repealing a rule

A city, county, or sanitary district may petition an agency to amend or repeal a rule. A petition must show that since the rule was adopted, there is significant new evidence relating to the need for or reasonableness of the rule, or a less costly or intrusive method of achieving the purpose of the rule. If an agency does not take the action requested by a petition, an administrative law judge (ALJ) holds a hearing on the continued need for and reasonableness of the rule. If the agency does not demonstrate the continued need for and reasonableness of the rule, the rule does not have the force of law after 90 days. An agency can amend the rule so this does not happen. Minn. Stat. § 14.091.

Other petitions for changes in rules

Any person may petition an agency for adoption, amendment, or repeal of a rule. An agency receiving such a petition must respond within 60 days, giving reasons for its response. However, unlike a petition from a unit of local government, there is no hearing process or other remedy if the agency decides not to take the requested action. Minn. Stat. § 14.09.

Petitions alleging improper enforcement of a policy

Any person may petition an ALJ, alleging that an agency is improperly enforcing a policy without going through rulemaking. If the ALJ determines that the agency is improperly enforcing a policy as if it were a duly adopted rule, the ALJ must direct the agency to cease this enforcement. However, when an agency enforces a law or rule by applying the law or rule to specific facts on a case-by-case basis, this does not constitute improper rulemaking. Minn. Stat. § 14.381.

Temporary exemptions from rules

If the cost of complying with an agency's rule in the first year after the rule takes effect will exceed $25,000 for a business with less than 50 full-time employees or for a city with less than ten full-time employees, the business or city may file a statement with the agency claiming an exemption from the rule. Upon filing of a statement, the rule does not apply to that business or city until the rule is approved by a subsequent law. There are some exceptions. For example, a business or city cannot claim an exemption from a rule adopted because of a federal mandate. Minn. Stat. § 14.127.

For more information: Contact legislative analyst Mark Shepard at 651-296-5051. Also see the publications *Rulemaking: Process for Adopting Rules*, June 2012, and *Rulemaking: Expedited Process and Exemptions*, June 2012.

Mark Shepard

Updated: June 2012

State Agency Head Salaries

Salaries for executive agency heads are proposed by the appointing authority and approved by the legislature

The executive appointing authority proposes salaries for agency heads, within maximums established in law. Minn. Stat. § 15A.0815. The governor is the appointing authority for most agency heads. Some agency heads are appointed by other boards (e.g., public pension boards).

The maximum salary for most agency heads is 95 percent of the governor's salary. For several agency heads, the maximum is 85 percent of the governor's salary. Minn. Stat. § 15A.0815, subds. 2 and 3. The governor's salary is $120,303 (95 percent of this amount is $114,288; 85 percent is $102,258).

Salaries recommended by the appointing authority must be approved by the legislature. During the interim between legislative sessions, the Legislative Coordinating Commission (LCC) may give interim approval to salary increase proposals. The LCC has appointed a Subcommittee on Employee Relations (SER) to perform these and other duties. Salary proposals from the governor submitted to SER during the interim are approved if the group does not modify or reject them within 30 days. Salary proposals submitted by other appointing authorities during the interim take effect only if approved by SER. Salaries implemented during the interim by SER must be approved by the next legislature or they revert to the prior level. Salary proposals sent to the legislature during a legislative session must be approved by the full legislature before taking effect. Minn. Stat. §§ 3.855 and 15A.0815, subd. 5.

There is a different method for setting the salaries of the director of the lottery and the executive director of the State Board of Investment. The lottery director salary is set in statute at 95 percent of the governor's salary ($114,288). Minn. Stat. § 349A.02, subd. 1. The salary for the executive director of the State Board of Investment ($245,000) is set by the board, under a compensation plan approved by the SER and the full legislature. Minn. Stat. §§ 11A.04, cl. 14, and 43A.18, subd. 3b.

Agency head salaries

The following table lists the salaries for agency heads appointed by boards, cabinet agency heads, and noncabinet agency heads.

Agency Heads Appointed by Boards	Salaries
Minnesota State Retirement System	$114,288
Public Employees Retirement Association	114,288
Teachers Retirement Association	114,288

Cabinet Agencies	Salaries
Administration	$108,393
Agriculture	108,393
Commerce	108,393
Corrections	108,393
Education	108,393
Employment and Economic Development	108,393
Health	108,393
Office of Higher Education	108,393
Housing Finance Agency	108,393
Human Rights	108,393
Human Services	108,393
Iron Range Resources and Rehabilitation	95,641
Labor and Industry	108,393
Management and Budget	108,393
Mediation Services	95,641
Metropolitan Council, Chair	58,489
Natural Resources	108,393
Pollution Control Agency	108,393
Public Safety	108,393
Revenue	108,393
Transportation	108,393
Veterans Affairs	108,393
Noncabinet Agencies	
Gambling Control Board	$90,200
Metropolitan Airports Commission, Chair	20,833
Ombudsman for Mental Health and Retardation	88,455
Pari-mutuel Racing	88,455
Public Utilities Commission	88,455

Salaries for most agency heads were last increased in 2000.

For more information: Contact legislative analyst Mark Shepard at 651-296-5051.

HOUSE RESEARCH | Short Subjects

Joel Michael

Updated: June 2012

Alcoholic Beverage Taxes

Two special state taxes apply to alcoholic beverages: excise taxes and a gross receipts tax

Minnesota imposes two types of special taxes on alcoholic beverages:

- **Special excise taxes** are imposed on manufacturers or wholesalers of these products. These taxes are a fixed dollar amount per unit (per barrel or liter). The tax rates vary by beverage type. See the table below for tax rates.
- A **special gross receipts tax** of 2.5 percent applies to retailers making both on-sale (to be consumed in bars or restaurants) and off-sale (in liquor stores or by other sellers) sales.

Excise tax rates are set as a dollar amount per volume of the beverage

Manufacturers of beer and wholesalers of distilled spirits and wines pay the special excise taxes. If the beer manufacturer doesn't pay, the wholesaler or importer is liable for the tax. The table shows the rates for the most common beverage categories. Higher rates apply to wines with alcoholic contents that exceed 21 percent and 24 percent, but little or none of these products are sold. A special "bottle tax" of one cent per bottle also applies to each wine and liquor bottle that is 200 milliliters or larger.

Beverage Type	**Excise Tax per Gallon**	**Liter**
Beer < 3.2% alcohol	$.08	NA
Beer > 3.2% alcohol	.15	NA
Cider < 7% alcohol	.15	NA
Low-alcohol dairy cocktails	.08	$.02
Wine < 14% alcohol	.30	.08
Wine > 14% alcohol	.95	.25
Sparkling wine	1.82	.48
Distilled spirits	5.03	1.33

Because the excise taxes are fixed dollar amounts, they don't vary by the price of the product. Higher priced products pay the same tax as lower priced products. Moreover, revenues grow only as more liters or barrels of the products are sold; revenues don't increase with inflation (price increases). For revenues to keep pace with inflation, the legislature must adjust the tax rates periodically. It has done this only sporadically (most recently in 1987).

Few exemptions apply

The law exempts the following from the excise tax:

- Sacramental wine
- Products sold to food processors and pharmaceutical companies
- The first 25,000 barrels of beer produced by a brewery with annual production of less than 100,000 barrels (A barrel is 31 gallons.)

Revenues go to the general fund

Revenues from both the excise taxes and the gross receipts tax go to the general fund. Fiscal year 2011 revenues from the excise taxes were about $78 million and from the gross receipts tax, $70 million. Thus, the gross receipts tax raises about 47 percent of alcohol tax revenues. The table to the right shows the collections by beverage type for the excise tax and for the additional sales tax. The excise tax revenue from liquor reflects the higher rates imposed on these products, rather than their share of the market (measured by dollars spent). The sales tax imposes a much higher tax burden on wine and beer than the excise tax does.

Beverage Type	**FY2011 Revenues (000)**	**% of Total**
Beer < 3.2%	$302	0.2%
Beer > 3.2%	15,407	10.5%
Cider	50	0.0%
Wine < 14%	3,712	2.5%
Wine > 14%	535	0.4%
Sparkling Wine	828	0.6%
Distilled Spirits	56,271	38.2%
Excise tax total	77,105	52.3%
2.5% gross receipts tax	70,253	47.7%
Total	**$147,358**	
Source: MN Department of Revenue		

Minnesota tax compared with other states

Minnesota's wine and beer excise taxes are average or below average compared with most other states. Minnesota's tax on distilled spirits (liquor) is among the higher taxes for states with excise taxes. A number of states (including Iowa) have state liquor monopolies and a portion of the price markup is a *de facto* tax; it is difficult to compare the tax burden with these states. The table compares Minnesota's tax rates with its bordering states. However, only North Dakota imposes a gross receipts tax (at a 2 percent rate) similar to Minnesota's. Thus, the total Minnesota alcohol tax burden is higher than suggested by simply comparing excise tax burdens.

Excise Tax Rates (per gallon) Bordering States			
	Strong Beer	Table Wine	Liquor
IA	$.19	$1.75	NA
MN	**.15**	**.30**	**$5.03**
ND	.16	.50	2.50
SD	.27	.93	3.93
WI	.06	.25	3.25
Source: Federation of Tax Administrators			

Tax relative to alcohol content varies

The excise taxes are imposed on the volume of the beverage, not its alcoholic content. (The federal tax on distilled spirits, by contrast, is imposed explicitly on alcoholic content.) Since alcoholic content varies significantly within beverage type, it is difficult to generalize about the tax on alcohol content. But when looking at averages for beverage types, it is apparent that alcohol in beer and wine is lightly taxed compared with liquor. The excise tax per an ounce of alcohol in liquor is about nine cents, while it is between two and three cents for wine and beer.

Tax is regressive

The alcohol taxes are regressive; they constitute a higher share of income for lower income families and individuals, on average. The Department of Revenue's *Tax Incidence Study* indicates they are less regressive than the tobacco taxes but more regressive than the general sales tax.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

Joel Michael Updated: June 2012

Property Tax Abatements for Economic Development

What is economic development property tax abatement?

Minnesota law authorizes political subdivisions to grant property tax abatements for economic development (e.g., to encourage a business to locate or expand at a location or to redevelop an area). Minn. Stat. §§ 469.1813-469.1816. Abatements may be either permanent forgiveness or temporary deferral of property tax. Abatements can serve similar purposes to tax increment financing (TIF), a widely used development tool. The legislature enacted the abatement law in 1997 to provide an alternative to TIF and to supplement it.

These economic development tax abatements should be distinguished from property tax abatements that are granted by the county board primarily to correct errors (e.g., to reduce the assessor's market value or to change the classification of the property). Minn. Stat. § 375.192.

For what purposes may abatements be used?

The law allows abatements to be used for a broad range of projects and purposes, if the political subdivision finds that public benefits exceed the costs. Permitted uses of abatements include the following:

- General economic development, such as increasing the tax base or the number of jobs in the area
- Construction of public facilities or infrastructure (e.g., streets and roads)
- Redevelopment of blighted areas
- Providing access to services for residents (e.g., housing or retail would be common examples)
- Deferring or phasing in a large (over 50 percent) property tax increase
- Stabilizing the tax base resulting from the updated utility valuation administrative rules
- Providing relief for businesses with estimated market value of $250,000 or less who have disrupted access due to public transportation projects

Which local governments can grant abatements?

Counties, cities, towns, and school districts may grant abatements of the taxes they impose. The governing body grants an abatement by resolution. For towns, action at the town meeting is not required. Taxes imposed by special taxing districts (e.g., watersheds or regional agencies) cannot be abated. Similarly, the state general property tax (on commercial/industrial and seasonal-recreational properties) cannot be abated. In the Twin Cities metropolitan area and on the Iron Range, the fiscal disparities tax cannot be explicitly abated. However, a political subdivision may increase its abatement amount to reflect the amount of the tax imposed under fiscal disparities. The abatement does not directly enter into the fiscal disparities calculations.

How long does an abatement apply?

The political subdivision sets the length of the abatement, which cannot exceed 15 years. The term can be extended to 20 years if only two of the three political subdivisions (city/town, county, and school district) grant an abatement.

What is the limitation on abatements?

The total amount of property taxes abated may not exceed the larger of:

- 10 percent of the net tax capacity of the political subdivision, or
- $200,000.

How do the mechanics of abatement work?

The abatement resolution, approved by the political subdivision, specifies the duration and the amount of property taxes that will be abated. The political subdivision has considerable flexibility in setting the terms of the abatement; for example, it may set the abatement as a percentage of tax payable, a dollar amount, tax attributable to a portion of the parcel's market value, or something else. The local government adds the abatement to its property tax levy for the year. (The abatement levy is not subject to levy limits.) The owner pays property tax on a parcel and the political subdivision uses the payments as provided by the abatement resolution. For example, the abatement may be used to pay bonds or be given back to the property owner.

May abatements be used to pay bonds?

The abatement law authorizes the issuance of bonds to be paid back with the abatements. For example, bonds could be issued to construct public improvements or to pay for a site for a business. As the property owners pay the abated taxes, they are used to pay the bonds. These bonds can be general obligation bonds or revenue bonds. The abatement bond provisions parallel those in the TIF law: the abatement bonds are not subject to referendum approval and are excluded from debt limits.

How do abatements compare with TIF?

The legislature designed the abatement law as an alternative to and a supplement to TIF. The two programs can be used for similar purposes and both rely upon property tax funding. Both programs have very similar bonding powers. However, abatement and TIF differ in important respects. Some differences include:

- TIF can be used for longer durations (up to 25 years in some cases) than abatements (typically 15 years)
- TIF requires approval only by the municipality (usually the city) to capture all local property taxes, while abatement requires each entity's approval to capture its taxes and cannot capture special district taxes
- TIF use is subject to more legal restrictions than abatement. These include a blight test for redevelopment districts, but-for findings, and stricter limits on what increments may be spent on. Abatement is more flexible.

How widely has abatement been used?

The following amounts of abatement levies were reported for property taxes payable in 2011, as reported to the Departments of Revenue (cities and counties) and Education (schools).

	Number	Amount
Cities	62	$8,152,836
Counties	31	3,211,570
Schools	8	881,069
Total	101	$12,245,475

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn. Also see the House Research publication *Tax Increment Financing*, October 2011.

Patrick McCormack Updated: June 2012

Minnesota's Laws on Tastings and Samples of Alcohol

Minnesota Statutes make a distinction between events for the tasting of alcoholic beverages and the provision by vendors of free samples of wine, beer, and liquor.

Tastings

A holder of an on-sale intoxicating liquor license may hold wine, beer, or distilled liquor tastings as part of the normal operation of the bar or restaurant and would then charge a fee either for the event or for each glass consumed. Minnesota law also allows charitable, religious, or other nonprofit groups to conduct tastings, defined as an event "at which persons pay a fee or donation to participate, and are allowed to consume wine, distilled spirits, or intoxicating malt liquor by the glass without paying a separate charge for each glass" (Minn. Stat. § 340A.419, subd. 1).

Tastings are limited as follows:

- Nonprofits or charities may conduct tastings of beer, distilled spirits, and wine
- A temporary on-sale liquor license must be held by the charity or nonprofit, allowing a tasting for up to four hours per event
- No alcohol may be sold, or orders taken, for off-premises consumption
- A charity or nonprofit may conduct a tasting at its own premises, a donated premises, or at an establishment run by the holder of a permanent on-sale license
- A licensed wholesaler may sell or give wine or distilled spirits to the organization and may provide personnel to assist at the event
- Net proceeds must be used for the organization's primary nonprofit purpose, or if two nonprofits cooperate in conducting the event, for either organization's primary nonprofit purposes
- A special provision allows more extensive tastings at food and wine conventions, which may take place over three days

Minnesota Statutes, section 340A.419, also allows tastings to be conducted by an exclusive liquor store, on the premises of a holder of an on-sale liquor license. The law prohibits the liquor store from selling the alcohol at the event, but does allow forms indicating alcohol preferences to be filled out. Fees charged may only be used to defray costs, and cooperation with wine or distilled spirits wholesalers is allowed.

Free Samples

Minnesota Statutes, section 340A.510, allows a liquor store, bar, or municipal liquor store to either offer free samples directly or to allow a licensed manufacturer or wholesaler to provide samples on their premises. Sample sizes are limited to 100 milliliters for malt liquors, 50 milliliters for wine, 25 milliliters of liqueur or cordial, and 15 milliliters of distilled spirits. Samples must be of beverages that are otherwise for sale.

Samples may not be offered at retail establishments that do not hold an on-sale, off-sale, or municipal liquor license. Minnesota law is silent on whether brewery tours may offer samples, although there is no direct prohibition, and taxes are not collected on beer served on-site at the brewery (Minn. Stat. § 297G.07, subd. 1 (4)). In addition, breweries are allowed to open "taprooms," where beer brewed on the premises may be both sampled and served.

A number of off-sale licensees have begun to build both sampling (Minn. Stat. § 340A.510) and tastings) into their business model, creating sampling stations open for multiple hours and days and conducting classes on or off-site, with associated tastings. The law on tastings was clarified in 2012 to make tastings legal (Minn. Stat. § 340A.41, subd. 2). This progression has the potential to change the nature of an off-sale business.

A farm winery may give free samples of its products (Minn. Stat. § 340A.315) and may hold other licenses, including on-sale licenses in order to operate bars or restaurants. A 2008 law allows farm wineries to produce distilled spirits and to give 15-milliliter samples of each variety produced.

Culinary Classes

A limited on-sale liquor license may be issued to establishments that conduct culinary classes, and under this license, participants may be served up to six ounces of wine or 12 ounces of intoxicating malt liquor, for consumption on the premises. As an alternative, a culinary establishment may hold a regular on-sale license and serve beverages under general on-sale laws. Culinary establishments may only hold a regular on-sale license if they are also a restaurant, hotel, etc. In addition, liquor stores are allowed to conduct classes and serve alcohol at these classes.

Lynn Aves

Updated: June 2012

Human Services Programs: The Relationship Between Federal, State, and Local Governments

Minnesota has a system of human services programs that provides health care, economic assistance, and social services to eligible families. In general, the state's human services programs are state-administered and county-run. This means that county human services agencies process applications, determine the eligibility of applicants, and perform other administrative duties, under the supervision of the Minnesota Department of Human Services (DHS). DHS also is responsible for sending out cash assistance payments to program enrollees and for reimbursing health care providers and managed care plans for services provided to program enrollees. In the case of programs established in federal law, DHS is also responsible for overall state compliance with applicable federal requirements.

This publication provides a brief discussion of the role of federal, state, and local governments in the administration of the state's human services programs.

What is the federal government's role in the state's human services programs?

Congress enacts laws that set broad standards and requirements for certain human services programs. For example, federal law requires the Medical Assistance (MA) program to cover certain population groups and certain health care services. (MA is Minnesota's version of the federal-state Medicaid program.)

The federal government also appropriates money to the state for the administration of certain human services programs. In order to qualify for federal funding, Congress often requires the state to enact various kinds of legislation. For example, in fiscal year 2011 the federal government contributed 73 percent of the state's total child support enforcement funding. To qualify for this federal funding, the Minnesota Legislature has enacted certain requirements relating to child support enforcement. Typically, these federal requirements are quite general in nature, leaving the details up to the state legislature.

What is state government's role in administering human services programs?

The state legislature sets human services policy in Minnesota. In many cases, state policy is greatly influenced by the federal law requirements that are prerequisites to receiving federal funding. Although state law must include certain federal requirements, the state legislature may enact provisions that go beyond the minimum federal requirements. For example, the MA program covers population groups and health care services that federal Medicaid law designates as optional for states, rather than required.

DHS is the primary executive branch agency responsible for overseeing the state's human services programs. DHS supervises human services program administration, promulgates rules, and develops program manuals and bulletins governing the administration of the programs. DHS also provides training, program evaluation, and technical support to counties and maintains centralized computer systems relating to the programs.

What is the local government's role in administering human services programs?

Counties do much of the hands-on work in administering the state's human services programs. For example, county staff accept applications and determine eligibility for a wide range of income assistance and health care programs. County staff also work with parents to help establish and enforce child support obligations.

For certain human services programs, counties also contribute to program funding through local property tax revenue. For example, in fiscal year 2011 counties provided 18 percent of the state's total child support enforcement funding.

For more information: Visit the health and human services area of our website, www.house.mn/hrd/hrd.htm.

Lynn Aves & Emily Cleveland **Updated: June 2012**

State Regulation of Health-Related Occupations

Who regulates health-related occupations in Minnesota?

At least 47 health-related occupations are regulated by the state. Health-related occupations regulated by the state are overseen by either the Minnesota Department of Health (MDH) or by a health-related licensing board. As of June 2012, there were 16 health-related licensing boards and two divisions in MDH that oversee health-related occupations. Some licensing boards regulate a single occupation, while others regulate a range of related occupations. For example, the Minnesota Board of Optometry only regulates optometrists, while the Minnesota Board of Medical Practice regulates acupuncturists, athletic trainers, naturopaths, osteopaths, physician assistants, physicians, respiratory care practitioners, and traditional midwives. MDH regulates various allied health professionals, such as speech-language pathologists and audiologists; various environmental health professionals, such as lead workers; and unlicensed complementary and alternative health care providers.

How are health-related occupations regulated?

Health-related occupations may be regulated in one of several ways. Where necessary and appropriate, state law allows two or more of these methods of regulation to be utilized at the same time. The title a provider uses cannot always be relied upon to determine how the provider is regulated. For instance, a registered nurse is actually licensed, not registered. What follows are some methods of occupational regulation.

- *Licensure* is the most stringent form of regulation. Under licensure, a person cannot practice in an occupation unless the person has satisfied predetermined qualifications for practicing and has been recognized by the state as having met those qualifications. Minn. Stat. § 214.001, subd. 3, para. (d). This is also known as "scope of practice protection." A person may demonstrate that the required qualifications have been met by passing a licensing examination, graduating from an accredited educational institution with a relevant degree, or working in the field while under supervision. Example: dentists.
- With *registration*, only registered persons who have met predetermined qualifications for practicing are allowed to use a designated title ("title protection") and are listed on an official roster. Minn. Stat. § 214.001, subd. 3, para. (c). Under a registration system, it is possible for a person to practice in an occupation without being registered, as long as the person does not use any protected titles. Occupations that are licensed generally also prohibit nonlicensed persons from using protected titles. Example: audiologists.
- To obtain *certification*, a person must satisfy the qualification requirements specified in statute or rule. It may be possible for a person

to practice in an occupation without being certified, but other laws may allow only a certified professional to be on-site at a specific program, perform certain functions, or supervise other personnel. Example: food managers.

- Some occupations are not licensed, registered, or certified, but providers are required to conform to a *client bill of rights* and *not engage in prohibited conduct.* A regulatory body has authority to investigate complaints against these providers and take and enforce disciplinary actions against providers for engaging in prohibited conduct or violating the client bill of rights. The regulatory body may revoke or suspend the provider's right to practice. Example: unlicensed complementary and alternative health care practitioners.
- *Criminal and civil penalties* exist to punish or prevent illegal acts by providers. Laws imposing criminal or civil penalties are enforced by consumers or prosecutors.

How does the legislature decide if a health-related occupation should be regulated?

No occupation may be regulated by the state unless its regulation is required for the safety and well-being of Minnesotans. Minn. Stat. § 214.001, subd. 2. This standard applies to both health-related occupations and nonhealth-related occupations. When the legislature determines whether an occupation should be regulated, it must consider the following factors:

1. Whether the unregulated practice of the occupation may harm the health, safety, and welfare of Minnesotans in a recognizable way
2. Whether practicing the occupation requires special skills or training, and whether the public would benefit from being assured of the person's ability to practice the occupation
3. Whether Minnesotans may be protected more effectively by means other than occupational regulation
4. Whether the overall cost-effectiveness and economic impact of regulation would be positive for the state

What information must the legislature receive regarding proposals to regulate a new occupation or expand regulation of an already-regulated occupation?

If a bill is introduced in the legislature to regulate a new occupation or to expand regulation of an already-regulated occupation, supporters of the proposal must submit to the legislature evidence supporting the new or expanded regulation. Minn. Stat. § 214.002, subd. 1. The information must be submitted in written form and must be provided to the chairs of the House and Senate committees with jurisdiction over the occupation at issue. The subjects that must be covered in the report are specified in statute. Minn. Stat. § 214.002, subd. 2. Some of them include specifying the harm to the public caused by the unregulated practice of the occupation or continued practice at its current level of regulation; explaining why the proposed level of regulation is being proposed; and discussing how the proposed regulation would impact the supply of providers and the cost of the provider's services.

Emily Cleveland Updated: June 2012

The Minnesota Newborn Screening Programs

The Minnesota Newborn Screening Programs are public health programs through which all infants born in the state are screened for a variety of disorders, including hearing loss. The Newborn Screening Program, which uses genetic information to screen for more than 50 disorders, is governed by Minnesota Statutes, sections 144.125 and 144.128. The Early Hearing Detection and Intervention program, though which infants are tested for hearing loss, is governed by Minnesota Statutes, section 144.966.

Infants are screened for more than 50 genetic disorders

Under the Newborn Screening Program, hospitals and others in charge of caring for newborn infants are required to administer to every infant a test for heritable and congenital disorders. The Commissioner of Health determines the list of disorders for which infants are tested. Currently, the Department of Health (MDH) screens for more than 50 heritable and congenital disorders, including the following types:

- amino acid disorders
- fatty acid oxidation disorders
- organic acid disorders
- endocrine disorders
- others including sickle cell disease and cystic fibrosis

Under this program, MDH has several duties to perform, including the following:

- making certain information and forms related to storage of blood samples and test results are available to health care providers and parents
- notifying newborns' physicians of the results of the screen
- making referrals for the necessary treatment of diagnosed cases of heritable and congenital disorders when treatment is indicated
- maintaining a registry of the cases of disorders detected for the purpose of follow-up services

The program was expanded to include screening for hearing loss

In 2007, legislation was enacted that requires all hospitals to establish an Early Hearing Detection and Intervention (EHDI) program. Through their EHDI program, hospitals must:

- inform parents of the nature of the screening procedure, applicable costs, potential risks and effects of hearing loss, and the benefits of early detection and intervention;
- train and monitor individuals responsible for performing hearing screening tests as recommended by MDH;
- test newborns prior to discharge or when medically feasible;
- inform the infant's parents, primary care physician, and MDH of the results of the hearing screening test; and
- collect performance data specified by MDH.

Beginning in 2009, MDH was directed to contract to provide support and assistance to families throughout the state with children who are deaf or have hearing loss. (Minn. Stat. § 144.966, subd. 3a)

Parental consent to newborn screening is presumed unless parents object in writing

Generally, consent for newborn screening is presumed unless the parent objects to the screening in writing by specifying that they want their child to opt out of the screening. If a parent elects not to have the newborn screening performed, then the infant will not be screened under this program.

Prior to collecting a sample, persons with a duty to perform testing under the Newborn Screening Program must inform parents of the following:

- the benefits of newborn screening
- that the blood sample will be used and data will be collected to test for heritable and congenital disorders
- the standard retention periods for blood samples and test results
- the MDH website where more information may be found
- that parents have the right to decline to have newborn screening performed and that they may secure private testing

The state's handling of genetic information is governed by law

The 2006 Legislature passed a law that governs the treatment of genetic information held by state government. Minnesota Statues, section 13.386, subdivision 3, requires that, unless provided in law, genetic information about an individual may be collected by the government with the written, informed consent of the individual. The genetic information may be used only for the purposes and stored for the period of time to which the individual consented. Also, the genetic information may be disseminated only with the individual's written, informed consent, or as necessary to accomplish the purposes of the collection.

In November 2011, the Minnesota Supreme Court ruled on this issue in *Bearder v. State of Minnesota* (806 N.W. 2d 766, November 16, 2011), which challenged certain MDH activities related to the newborn screening programs in light of the genetic privacy law (Minn. Stat. § 13.386). The state Supreme Court found that the genetic privacy law does generally apply to blood samples collected under the newborn screening program; however, there are narrow exceptions provided in statute that authorize MDH to administer the newborn screening tests of blood samples, record and report those test results, maintain a registry of positive cases, and store those test results as required by federal law.

For more information: Contact legislative analyst Emily Cleveland at 651-296-5808.

Anita Neumann

Updated: June 2012

Minimum Wage

What is the state minimum wage?

Under Minnesota's minimum wage law, employers who do at least $625,000 of business in a year must pay their employees at least $6.15 per hour. Employers who do less than $625,000 of business in a year must pay least $5.25 per hour. An exception for employees under age 20 during their first 90 days of work allows employers to pay them $4.90 per hour.

What is the federal minimum wage?

As a result of legislation passed by Congress and signed by the president in 2007, the federal minimum wage increased to $7.25 per hour in three steps. The first step, effective July 24, 2007, increased the wage to $5.85 per hour. On July 24, 2008, the wage increased to $6.55 per hour. The third and final step, effective July 24, 2009, set the minimum wage rate at $7.25 per hour.

Are employees covered by state law, federal law, or both?

As a general matter, the federal law covers all employees of establishments that have at least $500,000 in gross receipts per year. Further, any employee of an establishment that does not meet the $500,000 minimum is covered if that employee's individual work involves transactions that in some way involve interstate commerce. The way these provisions are interpreted, most employees are covered by the federal law.

The state law covers most employees in Minnesota, unless they are specifically exempt. Therefore, unless they fit into one of the specific exceptions, most people who work in Minnesota are covered by both state and federal law.

What are the state and federal exemptions?

Many of the specific exemptions from minimum wage requirements are the same in federal and state law. Some exemptions are broad, such as the one that applies to executive, administrative, and professional employees, which appear in both state and federal law, and some are narrow, such as the federal exemption of employees who work at home making evergreen wreaths. State and federal regulations generally provide the boundaries of these categories.

If an employee is covered by both state and federal law, which prevails?

The short answer is that the higher wage prevails. If one law mandates a minimum of $6.15 and one mandates a minimum of $7.25, for instance, the employer can comply with both only by paying at least $7.25. Minnesota has a two-tier minimum wage. For small employers—those with annual sales volumes of less than $625,000—the Minnesota minimum wage rate is $5.25 per hour. For large employers ($625,000 or more in annual sales), the state minimum wage rate is $6.15. The state minimum wage rate for large employers is currently lower than the federal minimum wage rate. Thus, employers covered by both state and federal law must pay at least $7.25 per hour.

What about employees who receive tips?

Minnesota does not allow a "tip credit," so tipped employees in Minnesota who are subject to the minimum wage provisions must be paid the minimum hourly wage by the employer, regardless of whether they also receive tips. Further, the employer cannot require employees to share tips with the employer or with other employees, because the tips are the exclusive property of the person who receives them.

This differs from federal law, which allows a partial tip credit as long as the employer can prove that the employee actually receives enough tips to make up the difference between the lower hourly wage the employer pays and the statutory minimum wage.

When was the minimum wage last increased?

The most recent increase in the federal minimum wage became effective in July 2009. The most recent increase in the state minimum wage became effective in August 2005.

How does Minnesota's minimum wage compare to the minimum wage in other states?

According to information published by the U.S. Department of Labor in January 2012, five states have no minimum wage laws, 18 states plus the District of Columbia have minimum wages higher than the federal minimum, 23 states plus Guam and the Virgin Islands have minimum wages the same as the federal minimum, and four states plus Puerto Rico have minimum wage rates lower than the federal minimum (including Minnesota).

Who enforces minimum wage laws?

Minimum wage laws are enforced in Minnesota by the Minnesota Department of Labor and Industry and the U.S. Department of Labor.

For more information: Contact legislative analyst Anita Neumann at anita.neumann@house.mn.

Anita Neumann

Updated: June 2012

Unemployment Benefit Extensions and Supplemental Benefits in Minnesota

Current law limits most applicants to 26 weeks of regular unemployment benefits. Both the state and federal government, however, have provided additional benefits under special circumstances. The following information highlights those additional unemployment-related benefits.

General extension provisions available under state and federal law

Both state and federal law contain provisions that allow for additional unemployment benefits to be paid under special conditions. The federal-state extended benefit program provides up to 20 weeks of extended benefits when the unemployment rate in a state exceeds thresholds specified in federal and state law. Up to 13 weeks of extended benefits become available in Minnesota under the following conditions:

1. If in any week and the preceding 12 weeks, the rate of insured unemployment: (a) is 6 percent or more; or (b) is 5 percent or more and at least 120 percent of the average of the rates in the corresponding 13-week period in each of the two prior calendar years; or
2. The U.S. Secretary of Labor determines that the state's average rate of seasonally adjusted unemployment (in the most current three-month period for which data is available) is 6.5 percent or more and at least 110 percent of the rate in the corresponding three-month period in either of the prior two calendar years

Another seven weeks of extended benefits become available to eligible workers when the state's unemployment rate reaches 8 percent. The availability of extended benefits ceases when the state's unemployment rate falls below the threshold amounts explained above.

Additional state benefits

In addition to the general provisions available under state and federal law, up to 13 weeks in additional unemployment benefits are available in Minnesota if:

- at a facility with at least 100 employees, the employer lays off at least 50 percent of the workforce in a one-month period;
- the employer has no plan to resume operations leading to the reemployment of the laid-off workers in the immediate future; and
- the seasonally adjusted unemployment rate in the county where the facility is located was at least 10 percent during the month of the layoffs or during the three months before or after the month in which the reductions were made.

However, any other special state or federal benefits (other than regular benefits) are deducted from the total additional benefits available under this provision.

The legislature has historically provided special benefit provisions for particular workers. The following table shows instances where the legislature has granted these additional unemployment benefits to laid-off workers of particular companies, even though the mass layoff and county unemployment rate requirements described above were not satisfied.

Special Legislative Grants of Additional Unemployment Benefits

Year	Company	Additional weeks of benefits	Training requirement
1998	Hibbing Taconite	13 weeks	No
2000	Eveleth Taconite Hennepin Paper	13 weeks 26 weeks	No Yes
2001	LTV Steel	26 weeks	Yes
2002	• Farmland Foods • Fingerhut (St. Cloud, Mora, or Eveleth locations) • Named airlines (See Laws 2002, ch. 380, art. 1, § 5)	13 weeks	Yes
2007	Ainsworth Lumber Co. (Bemidji, Cook, and Grand Rapids)	13 weeks	Yes
2008	Ainsworth Lumber Co. (Cook)	Extended through 12/27/2008, if benefit entitlement exhausted after 1/1/08	No

Additional federal benefits

Emergency Unemployment Compensation and Benefit Extensions. In response to economic conditions, Congress occasionally authorizes special additional benefits and extensions of unemployment benefits. For example, in 2008, Congress authorized and then subsequently updated a federal Emergency Unemployment Compensation (EUC) program that provided additional federal benefits for individuals who exhausted their regular benefits and remained unemployed. The American Recovery and Reinvestment Act of 2009, the federal stimulus bill enacted in February 2009, authorized a $25-per-week benefit increase and exempted up to $2,400 of unemployment insurance benefits from federal income taxes in 2009. Federal law also provided COBRA premium payment assistance to unemployed persons. Up-to-date information on special benefits and benefit extensions is available at www.uimn.org.

Federal Trade Readjustment Allowances. Under federal law, Trade Readjustment Allowances provide income support to persons who have exhausted their unemployment benefit entitlement and were laid off or had hours reduced by their employer as a result of increased imports from other countries. Benefits under this program include job training, job search, and relocation assistance.

Federal Disaster Unemployment Assistance. The U.S. Department of Labor's Disaster Unemployment Assistance provides financial help to workers whose employment was interrupted or eliminated as a result of a disaster declared by the president. To be eligible for these benefits, a worker cannot be eligible for regular unemployment benefits.

Disaster employment assistance is available beginning with the first week following the beginning of the disaster and ends 26 weeks after the president's disaster declaration.

For more information: Contact legislative analyst Anita Neumann at anita.neumann@house.mn.

Nina Manzi June 2012

Major State Aids and Taxes: An Overview of the 2009 Update

This provides a brief overview of the report *Major State Aids and Taxes: A Comparative Analysis, 2009 Update*, which highlights major aids provided to the local governments and people in Minnesota and lists the major taxes collected. The per capita amounts were calculated using 2009 population. Some aids are presented on a different basis in other settings (e.g., per pupil for education aid); however, in the report they are presented on a per capita basis to allow comparison of different aids.

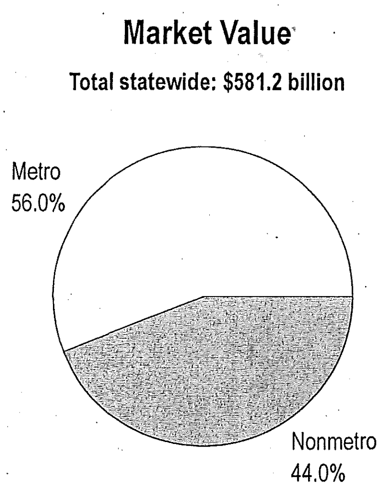
STATE AIDS

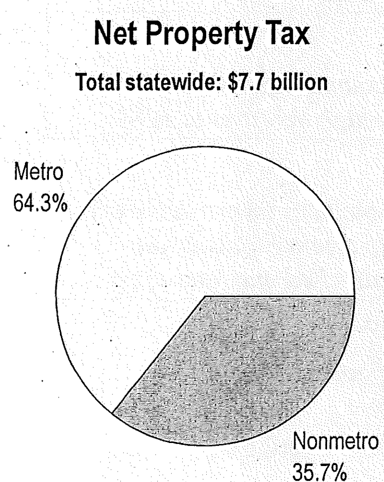
Program	Year	Amount (millions)	Per Capita
Education aid *Aid paid to school districts for all K-12 educational expenses*	2008/2009 (school year)	**$6,741.0 State** $3,746.6 Metro $2,994.4 Nonmetro	**$1,272 State** $1,300 Metro $1,238 Nonmetro
Human services aid *State's share of human services aid for various income and medical assistance programs*	2009	**$4,323.0 State** $2,375.0 Metro $1,948.0 Nonmetro	**$816 State** $824 Metro $805 Nonmetro
Highway aid *Distributed to counties, cities, and towns for highway purposes*	2009	**$579.7 State** $191.1 Metro $388.6 Nonmetro	**$109 State** $66 Metro $161 Nonmetro
Local government aid *Provides property tax relief by providing general purpose financial support to cities*	2009	**$481.5 State** $163.1 Metro $318.5 Nonmetro	**$91 State** $57 Metro $132 Nonmetro
Disparity reduction aid *Provides aid to jurisdictions (counties, towns, and school districts) that had inordinately high tax rates in 1988*	2009	**$18.1 State** $1.4 Metro $16.7 Nonmetro	**$3 State** – Metro $7 Nonmetro
County program aid *County general purpose aids: includes former homestead and agricultural credit, county criminal justice aid, family preservation aid, and attached machinery aid*	2009	**$194.3 State** $79.3 Metro $115.0 Nonmetro	**$37 State** $28 Metro $48 Nonmetro
Community corrections funding *Aid that provides a portion of counties' costs for community correctional services*	2009	**$85.4 State** $42.7 Metro $42.7 Nonmetro	**$16 State** $15 Metro $18 Nonmetro
Property tax refund (excludes targeting) *Reimburses homeowners and renters for a portion of property taxes if those taxes exceed a household income threshold*	2008 (filed in 2009)	**$449.4 State** $306.0 Metro $143.3 Nonmetro	**$85 State** $106 Metro $59 Nonmetro
Targeting *Additional homeowner property tax refund if property taxes increased a certain percentage threshold over previous year (no income limits)*	2008 (filed in 2009)	**$6.1 State** $3.8 Metro $2.3 Nonmetro	**$1 State** $1 Metro $1 Nonmetro

MAJOR TAXES

	Year	Amount (millions)	Per capita
Individual income tax *Imposed on income of state residents and income derived from state sources of nonresidents*	2008 (filed in 2009)	**$6,936.5 Total** **$6,674.1 Residents** $4,466.1 Metro $2,208.1 Nonmetro	**$1,259 State** $1,550 Metro $913 Nonmetro
Sales and use tax *Imposed on gross receipts of people who sell, lease, or rent tangible personal property at retail at a rate of 6.5 percent (does not include local sales taxes)*	2009	**$3,902.8 (After refunds)** **$3,282.1 Residents** $2,081.5 Metro $1,200.6 Nonmetro	**$619 State** $722 Metro $496 Nonmetro
Motor vehicle sales tax *Imposed on new and used motor vehicles at the time of sale at the same rate of state sales tax*	2009	**$442.3 State** $230.4 Metro $211.9 Nonmetro	**$83 State** $80 Metro $88 Nonmetro
Motor vehicle registration tax *Imposed annually on vehicles licensed in the state*	2009	**$512.4 State** $276.0 Metro $236.3 Nonmetro	**$97 State** $96 Metro $98 Nonmetro
Motor vehicle fuels tax (gas tax) *Imposed on gasoline, diesel fuel, and other motor fuels used by vehicles and on aviation fuels*	2009	**$798.3 State** $376.9 Metro $421.4 Nonmetro	**$151 State** $131 Metro $174 Nonmetro
Corporate franchise (income) tax *Imposed at a rate of 9.8 percent on the net income of corporations (or alternative minimum tax)*	2008	**$916.0 State** $663.6 Metro $252.4 Nonmetro	**$173 State** $230 Metro $104 Nonmetro
State general property tax *Imposed on commercial/industrial/public utility property and seasonal recreational property*	2009	**$774.0 State** $526.9 Metro $247.1 Nonmetro	**$146 State** $183 Metro $102 Nonmetro

PROPERTY TAX DATA





For more information: Contact legislative analyst Nina Manzi at 651-296-5204. See *Major State Aids and Taxes: Comparative Analysis, 2009 Update* (June 2012) for further details about each aid program and tax and data by county and economic development region.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

Colbey Sullivan **July 2012**

Biofuel Use Mandates

What is a biofuel?

A biofuel is a transportation fuel derived from plants or other renewable biological resources. The most widely used biofuels are ethanol produced from corn and biodiesel produced primarily from soybean oil. Ethanol is a substitute for gasoline; biodiesel is a substitute for diesel fuel. Gasoline and diesel are referred to as "fossil fuels" because they are created by processing nonrenewable petroleum.

What is a biofuel use mandate?

A biofuel use mandate is a law that requires transportation fuel suppliers and retailers to sell biofuel-blended fuels. Biofuel-blended fuels are fossil fuels mixed with a specific amount of biofuel. Minnesota lawmakers established biofuel use mandates for ethanol and biodiesel. In general, all motorists who fuel up in Minnesota purchase ethanol- or biodiesel-blended fuel. Regular gasoline and diesel are not typically available at gas stations. The mandates benefit biofuel producers by creating a relatively stable, statewide market for their product.

How does the ethanol mandate work?

The ethanol mandate law currently requires that nearly every gallon of gasoline sold in the state contain 10 percent ethanol. This blend is commonly referred to as "E10," or a mixture of 10 percent ethanol and 90 percent gasoline. Actually, the law requires the greater of E10 or a higher ethanol blend approved by the federal government. Once the U.S. Environmental Protection Agency (EPA) authorizes higher ethanol blends under the authority of the federal Clean Air Act, Minnesota's ethanol mandate will require motorists to use the new, higher blend instead of E10. However, because the ethanol mandate applies to nearly all motorists in Minnesota, the law states that the EPA must authorize new blends for use in all vehicles before the EPA's actions will increase the ethanol mandate level. For example, the EPA recently approved "E15." However, the mandate did not increase because the EPA authorized E15 use only in 2001 and newer light-duty vehicles. If the EPA approves E15, E20, E22.5, or any other level for all vehicles, Minnesota law will subsequently require its use statewide.

How does the biodiesel mandate work?

The biodiesel mandate law currently requires a 5 percent blend of biodiesel ("B5") in most diesel fuel sold in Minnesota. Unlike ethanol, the EPA has already approved all diesel-biodiesel blends. The law called for an increase to B10 on May 1, 2012, and B20 on May 1, 2015. However, these target dates are subject to change based on certain conditions specified in the law. For example, the scheduled increase from B5 to B10 in May of this year did not happen. The B10 mandate did not take effect as scheduled because executive branch agencies—as required by law and in consultation with nongovernmental stakeholders—examined the situation and determined that certain regulatory and supply issues were not sufficiently resolved.

In addition, the legislature authorized the executive branch to suspend the biodiesel mandate for a limited period of time if there is not enough biodiesel fuel available or if the wholesale price of biodiesel is so high relative to diesel fuel that the mandate would cause economic hardship for gas stations and other diesel fuel sellers who may lose business to competitors located outside of the state.

What exemptions exist?

The legislature granted specific mandate exemptions for certain vehicles, equipment, and fuels. The exemptions reflect stakeholder concerns about the suitability of biofuel-blended fuels for their vehicles or other gasoline- or diesel-powered equipment. For a list of exemptions, see the table below.

How are these mandates enforced?

Employees with the Weights and Measures Division of the Minnesota Department of Commerce sample gasoline and diesel stored at bulk delivery facilities or offered for sale at gas stations.

Are there other biofuels?

Researchers and companies are actively developing new biofuels and new feedstocks for ethanol and biodiesel. In May 2012, a company opened the first commercial-scale biobutanol plant in Luverne. Recognizing the development of new technologies and the exclusive focus of existing mandate laws on ethanol and biodiesel, the 2012 Legislature directed the state's NextGen Energy Board to examine emerging biofuels. In 2013, the board must report whether the legislature should broaden the ethanol and biodiesel mandates to include additional biofuels.

Biofuel Mandates, Implementation, and Exemptions

	Biodiesel	**Ethanol**
Mandate Level	5 percent biodiesel per gallon, scheduled to increase incrementally to a maximum of 20 percent in 2015 and thereafter	Greater of 10 percent ethanol per gallon or the highest level approved by the U.S. EPA for all vehicle model years
Initial Implementation	2005	2003*
Exemptions	Nuclear plants, trains, off-road mining and logging equipment, Coast Guard boats and certain boats subject to Coast Guard inspection. Number 1 diesel fuel is exempt entirely during the months of October to March due to cold-weather performance concerns	Aircraft, resorts, marinas, houseboat companies, recreational vehicle manufacturers, riparian landowners, motor sport racing events, collector vehicles, off-road vehicles, motorcycles, boats, snowmobiles, small engines

*The legislature required E10 use statewide in 2003. From 1997 to 2003, the law effectively required E7.7 statewide. Technically, the law mandated that gasoline contain 2.7 percent oxygen by weight, which according to the Minnesota Department of Agriculture equated to 7.7 percent ethanol.

For more information: For mandate compliance information, contact the Minnesota Department of Commerce, Weights and Measures Division, at 651-215-5821. For more detail on the biofuel mandates, see the following reports from the Minnesota Department of Agriculture: *Legislative Report on Ethanol – Review of E20* (January 2011) and *Biodiesel Annual Report to the Legislature* (January 2012), available at www.mda.state.mn.us/renewable.aspx. For legislative issues, contact legislative analyst Colbey Sullivan at 651-296-5047.

Colbey Sullivan Updated: July 2012

The Ethanol Industry in Minnesota

Ethanol—an alcohol commonly produced by fermenting the starch in field corn—can be blended with gasoline as a fuel extender and oxygenate. Examples of ethanol-gasoline blends include E10 (10 percent ethanol, 90 percent gasoline) and E85 (85 percent ethanol, 15 percent gasoline). Due in large part to policy and financial support at the state and federal levels, Minnesota ethanol production capacity has grown significantly—from less than 1 million gallons in 1987 to more than 1 billion gallons by the end of 2011.

Major Federal Laws

Renewable fuel standard In general, since 2005 federal lawmakers have required transportation fuel companies to blend ethanol into the gasoline sold to U.S. motorists. As a result, the law guarantees a base level of demand for ethanol and encourages U.S. ethanol production.

Federal fuel tax credit for ethanol Prior to December 31, 2011, a person who blended ethanol with gasoline was eligible for a refundable credit against his or her federal fuel tax liability. This credit encouraged fuel suppliers to use ethanol by lowering its effective cost.

Duties on imported ethanol Prior to December 31, 2011, the federal government imposed a 54-cent per gallon secondary tariff on imported ethanol. This tariff increased the cost of imported ethanol relative to ethanol produced in Minnesota and elsewhere in the United States. There remains a 2.5 percent ad valorem (i.e., percent of value) federal tax on imported ethanol.

Major State Laws

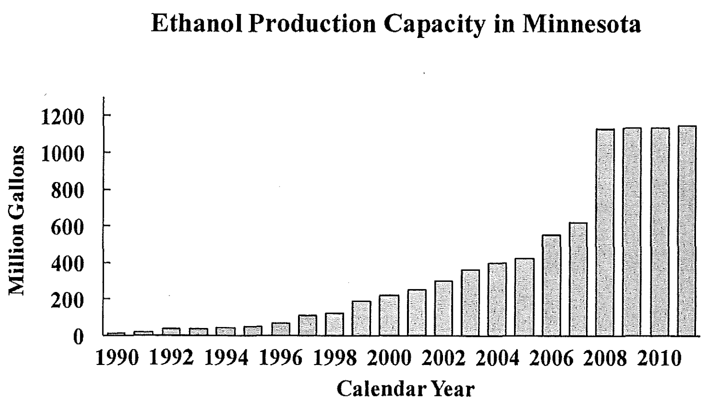
Ethanol mandate Predating the federal Renewable Fuel Standard, since 2003 Minnesota law has required gas stations to sell E10 blends. In 2009 and 2010, lawmakers amended the law to require the highest ethanol-gasoline blend approved by the federal government for use in all vehicles; currently that fuel is E10.

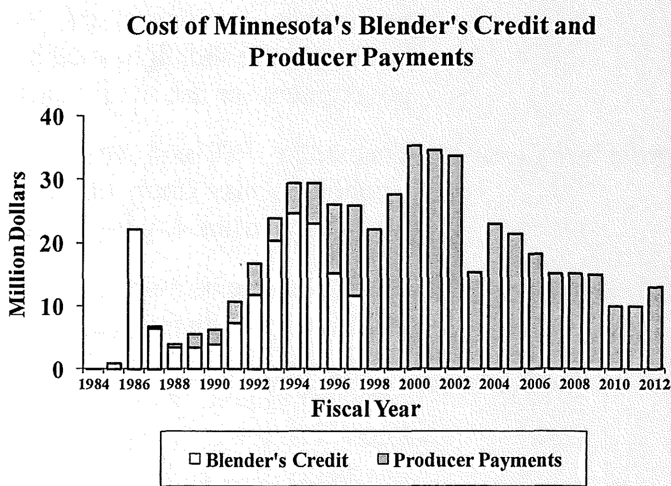
Blender's tax credit Enacted in 1980 and phased out completely by 1997, the tax credit for agricultural alcohol gasoline (more commonly referred to as the "blender's credit") reduced state fuel tax liability for blenders mixing ethanol and gasoline in Minnesota.

Producer payments In 1986, the legislature created the ethanol development fund to directly pay owners of Minnesota ethanol plants 20 cents per gallon of ethanol produced, subject to certain limitations. For 2004 through 2007, the legislature reduced payments to 13 cents per gallon, with a pledge to make up the remaining seven cents per gallon later. The program closed to new applicants in 2000 and the state issued the final payments to eligible plants in 2012. The total program cost is $345.5 million.

Public education and ethanol promotion efforts Each year from 1987 through 1998, the legislature appropriated funds (usually $100,000 per year) to the Department of Agriculture to educate the public about the benefits of ethanol and encourage the creation of farmer-owned plants.

Loans for start-up expenses and purchase of stock	A 1993 law created the Ethanol Production Facility Loan Program, providing up to \$500,000 in direct loans to seven plants for assistance during the construction and early production phases. The program is closed to new applicants. A 1994 law authorized low-interest loans to farmers for up to 45 percent of the cost to purchase shares of stock in a value-added agricultural product processing facility. Investors in at least 13 of Minnesota's ethanol plants have utilized these loans.
Tax increment financing	A number of communities have used tax increment financing (TIF) to encourage construction of local ethanol plants. In the early 1990s, the legislature enacted laws that made it easier to use TIF for ethanol projects.
Economic development support	At least three plants have received low-interest loans via the Minnesota Investment Fund, an economic development program designed to add and retain high-quality jobs. Another four received grants from its predecessor, the Economic Recovery Grants Program.
Job Opportunity Building Zones (JOBZ)	JOBZ provides local and state tax exemptions to new or expanding businesses that locate in designated areas of Greater Minnesota. At least nine ethanol plants have signed JOBZ agreements since the program began in January 2004. A 2006 law extended tax incentive eligibility from the standard 12 to 15 years for ethanol plants enrolled between April 30, 2006, and July 1, 2007.
E85 promotion	Since 1995, the state has taxed E85 at a lower rate than E10 and pure gasoline. Beginning in 2002, the legislature directed state agencies to purchase vehicles capable of burning cleaner fuels like E85 and use cleaner fuels whenever reasonably available. Since 2005, laws have authorized a total of \$2,400,000 in grants to partially reimburse service station owners who install E85 dispensing pumps. A 2005 law requires auto dealers to provide written notice to consumers that new flexible fuel vehicles can run on E85.
Environmental review exemptions	Since 2004, an extensive environmental impact study is not required prior to construction of an ethanol plant capable of producing less than 125 million gallons per year and located outside of the Twin Cities metropolitan area. In 2011, lawmakers prohibited governmental entities from requiring an environmental review based solely on the anticipated production capacity of an expanding plant.





For more information: Contact legislative analyst Colbey Sullivan at 651-296-5047.

Lisa Larson Updated: July 2012

Principal and Teacher Accountability Laws

The 2011 Legislature enacted laws that establish principal and teacher accountability. Principal accountability requirements apply beginning in the 2013-2014 school year, and teacher accountability requirements apply beginning in the 2014-2015 school year. The 2012 Legislature also made student academic growth account for 35 percent of the principal evaluation (Laws 2012, ch. 239, art. 2, § 8). At the 2011 Legislature's direction, a group of experts developed a performance-based principal evaluation model that superintendents may use to assess a school principal's performance. The model is described in the House Research short subject *Evaluating Minnesota's School Principals*.

A superintendent must annually evaluate school principals using a performance-based system

The principal accountability laws require a superintendent to use a performance-based system to annually evaluate each school principal assigned to supervise a school building within the school district (Minn. Stat. § 123B.143, subd. 1; § 123B.147, subd. 3). The evaluation is to improve teaching and learning by enhancing the principal's ability to shape the school's professional environment and support and improve school performance, student achievement, and teacher quality, performance, and effectiveness.

The evaluation must satisfy eight criteria:

- Support and improve a principal's instructional leadership, organizational management, and professional development, and strengthen the principal's capacity in instruction, supervision, evaluation, and teacher development
- Include formative and summative assessments
- Be consistent with a principal's job description and the plans and goals of the district and the principal, and support leadership behaviors and practices, rigorous curriculum, school performance, and high-quality instruction
- Include on-the-job observations and previous evaluations
- Allow surveys to help identify a principal's effectiveness, leadership skills and processes, and strengths and weaknesses in exercising leadership
- Use longitudinal data on student academic growth that incorporate district achievement goals and targets as 35 percent of the evaluation
- Be linked to professional development that emphasizes improved teaching and learning, curriculum and instruction, student learning, and a collaborative professional culture
- Require an improvement plan for a principal not meeting standards of professional practice or other performance criteria and specify the procedures and consequences of failing to improve performance

These criteria are meant to be sufficiently flexible to accommodate district needs and goals for developing, supporting, and evaluating principals.

A group of experts developed a model for principal evaluations

Before implementing annual principal evaluations, the education commissioner and the associations of secondary and elementary school principals had to convene a group of specified experts and stakeholders to develop a performance-based system model, which had to be presented to the legislature by February 1, 2012. The group could also consider whether to establish a multitiered evaluation system that supports newly licensed principals in becoming highly skilled school leaders and provides opportunities for advanced learning for more experienced school leaders.

Teachers will be evaluated under a locally agreed-upon process or a process developed by the education commissioner

The teacher accountability laws allow a school board and the exclusive representative of the teachers to jointly agree to an annual teacher evaluation and peer review process for probationary and nonprobationary teachers (Minn. Stat. § 122A.40, subds. 4, 5, 8, 9; and § 122A.41, subds. 2, 3, 5, 6). If there is no agreement, the district must implement the teacher evaluation and peer review process developed by the education commissioner and specified education stakeholders. Annual teacher evaluations are designed to develop, improve, and support qualified teachers and effective teaching practices and improve student learning and success. All annual teacher evaluations must satisfy 12 criteria:

- Provide the requisite evaluations for probationary teachers
- Establish a three-year professional review cycle for each teacher that includes a growth and development plan, peer review, the opportunity to participate in a professional learning community, and at least one summative evaluation performed by a qualified and trained evaluator
- Be based on professional teaching standards
- Coordinate staff development activities with the evaluation process and outcomes
- Perhaps allow school time for coaching and collaboration
- Perhaps include mentoring and induction programs
- Allow teachers to present a portfolio demonstrating evidence of reflection and professional growth that includes teachers' own performance assessment
- Use an agreed-upon teacher value-added assessment where value-added data are available and state or local student growth measures where value-added data are unavailable as a basis for 35 percent of teacher evaluation results
- Use longitudinal data on student engagement and connection and other student outcome measures aligned with curriculum for which teachers are responsible
- Require qualified and trained evaluators to perform summative evaluations
- Give teachers not meeting professional teaching standards the support to improve with established goals and timelines
- Discipline a teacher who does not adequately improve

Data on individual teachers generated under this evaluation process are defined as personnel data and are private data except as otherwise specified under law. The evaluations do not create additional due process rights for probationary teachers.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036.

HOUSE RESEARCH | Short Subjects

Lisa Larson

July 2012

Evaluating Minnesota's School Principals

K-12 principals must be evaluated annually; student academic growth accounts for 35 percent of the evaluation

The 2011 Legislature enacted laws (Minn. Stat. §§ 123B.143, subd. 1, and 123B.147, subd. 3) to assess school principals' performance using K-12 principal competencies and to enhance principals' professional growth through annual evaluations. The legislature directed the education commissioner and school principal and administrator associations to develop a performance-based evaluation model and an annual evaluation process. The 2012 Legislature also made student academic growth account for 35 percent of the principal evaluation.

The superintendent evaluates a principal's performance over a three-to-five year cycle

The evaluation model anticipates a three-to-five year performance improvement cycle. In the first year, the principal must set measureable goals for the entire evaluation cycle. The goals require self-assessment, professional development, and demonstrating performance on core principal competencies. The goals also require ongoing performance reviews throughout the cycle. The superintendent must annually evaluate the principal's progress in realizing those goals.

A superintendent (or designee) must use core principal competencies to evaluate the principal's performance. The principal and superintendent may focus the evaluation on different core competencies in different years based on a principal's identified areas of professional strength and needed improvement. A superintendent concerned about a principal's performance may modify the evaluation process and the principal's professional growth plan but must notify the principal. A principal who fails to improve may be terminated.

A superintendent may use all or parts of the evaluation model to assess a school principal's performance.

The superintendent uses seven core competencies to evaluate a principal's performance

The evaluation model contains seven core elements that reflect the general principal competencies contained in state rules:

- Strategic leadership: create the school's vision, mission, and goals
- Instructional leadership: set high standards for professional instruction and student performance
- Managerial leadership: promote student achievement and success
- Cultural leadership: understand the culture of the school, the students, and the community and positively invoke cultural norms
- Communications leadership: communicate internally and externally in a clear and effective manner appropriate to different audiences and individuals
- School community leadership: structure processes and opportunities for broad engagement in, support for, and ownership of the school by others

- Ethical and professional leadership: collaborate with staff and the community to ensure educational equity and demonstrate professionalism

The core competencies are detailed in *The Evaluation of Minnesota's School Principals*, available on the Minnesota Elementary Schools Principals' Association website (http://www.mespa.net/sites/2961a8e8-4b04-4b38-8da2-75542594a9f1/uploads/Evaluation_of_MN_School_Principals.pdf).

A principal may be rated as unsatisfactory, developing, proficient, accomplished, or distinguished

A principal's progress in realizing performance goals in core competencies may be rated: "unsatisfactory" if the principal does not meet acceptable performance standards; "developing" if the principal does not meet acceptable performance standards but demonstrates adequate growth toward meeting the standards; "proficient" if the principal demonstrates basic competency on performance standards; "accomplished" if the principal generally exceeds basic competency on performance standards; and "distinguished" if the principal consistently and significantly exceeds basic competency on performance standards.

The annual principal evaluation involves a six-step process

The principal evaluation process involves six steps:

- The superintendent orients the principal with information about the evaluation process and a summary of the principal's previous school improvement and professional growth plan
- The principal undertakes pre-evaluation planning to establish preliminary performance goals that will be measured using core competencies
- The superintendent and the principal discuss the principal's performance goals and the implicated core competencies and agree on the evidence, processes, and measures the superintendent will use for the evaluation; a superintendent must notify a principal if the evaluation focus is remediation
- The principal engages in self-reflection and collects evidence such as core competency data, individual and community feedback, professional development, and longitudinal data on student academic growth and achievement to demonstrate progress in realizing the principal's performance goals; the superintendent collects additional evidence from teachers and others and through observations
- The principal synthesizes the collected evidence summarizing the principal's performance while the superintendent prepares a preliminary assessment
- The principal and superintendent discuss their findings, the principal's previous evaluation, and their respective assessments, agree upon the principal's performance goals and a professional growth plan containing achievement measures, needed resources, and a timeline, and sign and file a summary evaluation report; a superintendent concerned about a principal's performance may unilaterally decide on evidence and performance goals for evaluating the principal

For more information: Contact legislative analyst Lisa Larson at 651-296-8036. Also see the House Research publication *Principal and Teacher Accountability Laws*, July 2012.

Lynn Aves

Updated: July 2012

State-Operated Services

What is State-Operated Services (SOS)?

State-Operated Services (SOS), a division of the Minnesota Department of Human Services, delivers publicly funded health care services to persons with complex needs. SOS provides care and treatment for individuals who display complex conditions associated with mental illness, chemical dependency, developmental disabilities, traumatic brain injury, and individuals who are committed to the Commissioner of Human Services as mentally ill and dangerous. SOS provides services for clients at hospitals, treatment programs, and residential locations throughout the state. In addition, services are delivered through partial hospitalization, outpatient services, and mobile crisis teams. Services are organized under two categories of funding: "appropriated services" and "enterprise services."

What are SOS appropriated services?

SOS appropriated services are those the legislature finances through a state appropriation. Services include inpatient and community-based services for adults with mental illness and specialized treatment services for individuals committed to the Commissioner of Human Services.

SOS appropriated services provide:

- **Services for adult mental health.** SOS provides inpatient psychiatric services to adults at community-based behavioral hospitals located throughout the state and at the Anoka Metro Regional Treatment Center. Residential, partial hospitalization, and outpatient services are also provided to adult mental health clients. These services are delivered in partnership with counties and community service providers.

- **Services for persons committed as Mentally Ill and Dangerous (MI&D).** SOS operates the Minnesota Security Hospital (MSH) in St. Peter, a secure treatment facility that provides multidisciplinary treatment for adults and adolescents admitted under judicial and other lawful orders for assessment and treatment of major mental disorders. MSH also operates a 58-bed transition program providing treatment to increase skills necessary for a safe return to the community. In addition, MSH operates a forensic nursing facility for persons in need of nursing home care and who are committed as mentally ill and dangerous, sexual psychopathic personalities, sexually dangerous persons, or who are on medical release from the Department of Corrections.

- **Services for adults committed as developmentally disabled who pose a risk to public safety.** SOS operates Minnesota Specialty Health Systems in Cambridge in residential community settings. The program specializes in treatment to improve client behavior and functioning and to identify support services that will permit clients to live safely in the community.

- **Child and Adolescent Behavioral Health Services (CABHS).** CABHS provides an array of services ranging from outpatient to residential services for children and adolescents throughout the state. Inpatient services are provided at the Willmar hospital site.

How are SOS appropriated services funded?

To assure the availability of services for clients in need, SOS appropriated services are funded prospectively through a general fund appropriation. DHS also seeks reimbursement for these services from Medicare, Medical Assistance, private insurance, clients' personal funds, and other revenue sources as available.

What are SOS enterprise services?

SOS enterprise services provide services to people with disabilities while operating in the marketplace with other providers. These services are funded solely through revenues collected from a variety of third-party payment sources.

Enterprise services provide the following:

- **Chemical Addiction Recovery Enterprise (CARE).** CARE provides inpatient and outpatient treatment to persons who are chemically dependent and abuse substances. CARE operates these programs in Anoka, Brainerd, Carlton, Fergus Falls, St. Peter, and Willmar. In conjunction with Hennepin County Medical Center, CARE provides intensive day treatment to residents of Hennepin County who are at risk of commitment due to chronic addiction.
- **Minnesota State-Operated Community Services (MSOCS).**
  - **Residential services for individuals with developmental disabilities or acquired brain injury.** MSOCS provides residential support services to people with disabilities in state-owned or state-leased homes, licensed foster care settings, or in the person's own home.
  - **Vocational and day training and habilitation (DT&H) services for individuals with developmental disabilities or acquired brain injury.** Vocational and DT&H programs provide vocational support services to persons through a licensed work site or supported work site with job coaches.
- **Rehabilitation services for individuals with serious brain injuries.** Minnesota Specialty Health Systems in Brainerd provides outreach and intensive rehabilitative services to individuals with traumatic brain injuries and neurocognitive disorders who have challenging behaviors. This program serves the entire state.

How are SOS enterprise services funded?

SOS enterprise activities are funded solely through revenues collected from a variety of third-party payment sources, including private health insurance, Medical Assistance, counties, and other revenue sources available to clients.

For more information: Contact legislative analyst Lynn Aves at 651-296-8079.

HOUSE RESEARCH | Short Subjects

Randall Chun August 2012

Emergency Medical Assistance

Emergency Medical Assistance (EMA) covers emergency services for legal noncitizens who are not eligible for regular Medical Assistance (MA) coverage with a federal match, undocumented persons, and nonimmigrants. EMA is administered by the Department of Human Services (DHS); the state receives the regular federal Medicaid match for the cost of EMA services. Eligibility and covered services for EMA are specified in Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (f), (g), and (h), and Laws of Minnesota 2012, chapter 247, article 1, section 29.

Eligibility

Individuals must have an MA basis of eligibility (which means they belong to a group for which MA coverage is available) and meet all MA eligibility requirements such as income and asset limits, other than those related to immigration status.

The following groups of individuals are eligible for EMA:

(1) Legal noncitizens who do not qualify for regular MA with a federal match due to their immigration status (pregnant women and children who are legal noncitizens qualify for regular MA with a federal match regardless of their immigration status)

(2) Sponsored immigrants ineligible for MA because of the deeming of sponsor income and assets (pregnant women and children under age 21 are exempt from sponsor deeming)

(3) Undocumented persons and nonimmigrants, such as tourists and foreign students (uninsured pregnant women in these groups qualify for regular MA services through the period of pregnancy, including labor and delivery and 60-days postpartum)

Services Covered Under EMA

Minnesota law specifies that EMA covers "care and services necessary for the treatment of an emergency medical condition" as this term is defined in federal law. Federal law (42 U.S.C. 1396b (v)) defines an emergency medical condition as "…a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate attention could reasonably be expected to result in –

(A) placing the patient's health in serious jeopardy,
(B) serious impairment to bodily functions, or
(C) serious dysfunction of any bodily organ or part."

Limits on delivery settings and services

The 2011 Legislature limited the settings under which EMA services can be provided, and also specifically excluded certain services from being considered services for the treatment of emergency medical conditions. These changes, effective January 1, 2012, had the effect of eliminating EMA coverage for many chronic care and long-term care services.

Services available under EMA are limited to: (1) services delivered in an emergency room or by an ambulance service directly related to treatment of an emergency condition; (2) inpatient hospital services following admission from an emergency room or clinic; and (3) follow-up services directly related to the original service provided to treat the emergency condition that are covered by the global payment made to the provider.

Certain services are specifically excluded from coverage under EMA. These services include, but are not limited to: transplants and routine prenatal care (both of these services had been specifically excluded under prior law); continuing care; preventive health care and family planning services; rehabilitation services; physical, occupational, and speech therapy services; case management; and chemical dependency treatment.

Coverage of additional services

EMA may cover services provided in a nursing facility or home/community setting following discharge from an emergency department or inpatient hospital, if these services are part of a care plan certified by DHS and are medically necessary and required to prevent the individual's condition from quickly becoming an emergency medical condition (typically within 48 hours); other criteria also must be met. Certain services, such as emergency dental services, personal care assistant and home care services, and outpatient prescription drugs, require authorization by DHS in addition to care plan certification, in order to be covered under EMA.

Temporary reinstatement of coverage

The 2012 Legislature temporarily reinstated, for the period May 1, 2012, through June 30, 2013, EMA coverage for: (1) dialysis services provided in a hospital or freestanding dialysis facility; and (2) surgery and chemotherapy, radiation, and related services necessary to treat cancer that is not in remission. Coverage for these services had been eliminated effective January 1, 2012.

Study of EMA

The 2012 Legislature also required the Commissioner of Human Services, in consultation with relevant stakeholders, to develop a plan to provide coordinated and cost-effective care to persons eligible for EMA. The plan must be submitted to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and financing by January 15, 2013.

For more information: Contact legislative analyst Randall Chun at 651-296-8639. See also the House Research information brief *Eligibility of Noncitizens for Health Care and Cash Assistance Programs*, September 2011.

.ebecca Pirius Updated: August 2012

Minnesota's Public Defender System

Who is entitled to a public defender?

The United States and Minnesota Constitutions both establish the right to an attorney for anyone facing a charge punishable by "loss of liberty." Minnesota law entitles anyone who is financially unable to obtain counsel to a public defender if he or she: (1) is charged with a felony, gross misdemeanor, or misdemeanor; (2) is appealing a felony, gross misdemeanor, or misdemeanor conviction, or pursuing post-conviction relief and has not already had a direct appeal; or (3) is contesting grounds for a probation revocation.

Are juveniles entitled to a public defender?

Similar to adults, juveniles who are financially unable to obtain counsel are entitled to a public defender. In delinquency cases, juveniles have the right to the appointment of a public defender except for juvenile petty offenses (e.g., minor alcohol or controlled substance offenses, minor traffic offenses, etc.). In CHIPS (Child in Need of Protection or Services) and TPR (Termination of Parental Rights) cases, juveniles who are ten years of age or older have the right to a public defender (except in habitual truancy cases). A guardian ad litem may be appointed to a juvenile under age ten.

Who is considered "financially unable" to obtain counsel?

Pursuant to statute, a defendant is financially unable to obtain counsel if the defendant, or a defendant's dependent (residing in the same household), receives means-tested governmental benefits, or, considering the defendant's liquid assets and current income, the defendant would be unable to pay the reasonable costs charged by a private attorney. (The court must *not* appoint a public defender to a person who is able to afford private counsel but refuses to do so.)

The burden is on the defendant to show financial inability to pay. The defendant must submit a financial statement under oath, and the court makes the determination of the defendant's financial eligibility. The defendant is under a continuing duty to disclose any change in financial circumstances.

How does a person request a public defender?

A person may request the court for appointment of a public defender at any time where the matter is pending or the conviction has occurred. Depending on the judicial district, a financial inquiry may occur before the first court appearance or in court. Prior to a court appearance, a person may request a public defender if facing a police interrogation or other procedures affecting one's rights. For more information, contact the public defender's office (http://www.puddef.state.mn.us/client_information.htm) or court administrator (http://www.mncourts.gov/district/4/?page=583) in the judicial district where charges are pending.

Does the defendant ever have to reimburse the state for the cost of a public defender?

The court may order a defendant to reimburse the state, in whole or in part, for the cost of a public defender. In determining the amount of reimbursement, the court must consider the defendant's income, assets, and employment. If necessary, the court may establish a reimbursement schedule or issue an order for wage withholding. In cases where a public defender is appointed to represent a juvenile, the court may order a parent to reimburse the state. The presiding judge must terminate the appointment of a public defender to any person who subsequently becomes financially able to pay for private counsel.

How do co-pays work?

Upon disposition of the case, a defendant who received public defender services must pay a $75 co-payment, unless the court reduces or waives the co-payment. (The statute does not indicate when a court should exercise its discretion to waive the co-payment. In 2003, the Minnesota Court of Appeals held that the court must waive the co-payment when a defendant is indigent or when the co-payment would cause manifest hardship on a defendant.)

Are public defenders appointed in civil cases?

Public defenders represent individuals only in criminal cases. A person is not generally entitled to representation by counsel in civil cases (e.g., divorce, eviction, contract, personal injury, wrongful death, etc.). There are organizations (with limited resources) throughout the state that may assist low-income individuals in civil lawsuits (e.g., legal aid) (http://www.mnlegalservices.org/) and certain judicial districts offer legal advice clinics (http://www.mncourts.gov/selfhelp/?page=251). (In certain civil cases, a person may have a statutory right to counsel at public expense. This is different from a public defender; generally, court-appointed counsel in such matters is a county expense.)

How is the Minnesota public defender system organized?

There is a district public defender office in each of the state's ten judicial districts. District public defenders represent individuals in trial and juvenile court. In addition, there is an appellate and a state public defender office. Attorneys in the appellate office represent individuals who are appealing a conviction or seeking post-conviction relief. The state public defender supervises the operation, activities, policies, and procedures of the statewide public defender system.

How is the Minnesota public defender system governed?

There is a State Board of Public Defense consisting of seven members: four attorneys appointed by the Supreme Court and three public members appointed by the governor. The board appoints the state public defender for a four-year term, and, with the advice of the state public defender, appoints a chief administrator. The board also appoints a chief public defender in each of the state's ten judicial districts and a chief appellate public defender. In addition, the board distributes funding from the legislature to the district and appellate offices. Although the State Board of Public Defense is part of the judicial branch of government, it is not under the judicial branch's administrative control.

How is the public defender system funded?

Money is appropriated to the Board of Public Defense from the state general fund each biennium. (In the 1990s, the state assumed the cost of the public defender system from the counties, with the exception of Hennepin County. In the Fourth Judicial District, costs are shared between the state and Hennepin County.) There are also four legal defense corporations funded through grants from the board.

For more information: Contact legislative analyst Rebecca Pirius at 651-296-5044 for legal citations. House Research does not provide legal advice or representation for members of the public.

HOUSE RESEARCH | Short Subjects

Randall Chun

Updated: August 2012

MinnesotaCare: An Overview

MinnesotaCare is a state program that provides subsidized health care coverage to low- and moderate-income families and individuals. The program is administered by the Department of Human Services (DHS); counties have the option of processing applications and determining eligibility.

Note: *The following text describes program changes that have been approved by the federal government but have not yet been fully implemented by DHS.*

Eligibility

To be eligible for MinnesotaCare, an individual must meet the following criteria:

- Have gross income that does not exceed 275 percent of the federal poverty guidelines (FPG) for families and children ($63,408 for a household of four), and 250 percent of FPG for adults without children ($27,936 for a household of one and $37,836 for a household of two). Parents with annual gross incomes over $57,500 are ineligible, whether or not they otherwise meet the 275 percent of FPG standard; this income cap does not apply to pregnant women and minor parents.
- Have assets that do not exceed $10,000 for a household of one and $20,000 for a household of two or more, after certain exclusions. This asset standard does not apply to pregnant women and children.
- Not have access to employer-subsidized health care coverage, and not have had access to this coverage through the current employer for 18 months prior to application or renewal. This requirement does not apply to children with incomes that do not exceed 200 percent of FPG and certain other children.
- Have no health care coverage at the time of application and for four months prior to application or renewal. Children with incomes that do not exceed 200 percent of FPG and certain other children are exempt from this requirement if they are considered to be "underinsured."
- Be a resident of Minnesota. Enrollees must meet the residency requirements of the Medical Assistance (MA) program.

Covered services

Pregnant women and children have access to a broader range of covered services than adults who are not pregnant. Pregnant women and children receive coverage for all health care services provided under MA. MA covers physician care, hospitalization, prescription drugs, nursing home care, and a wide range of other health care and long-term care services.

Parents and adults without children are covered for most, but not all MA services. Parents with household incomes greater than 215 percent of FPG and all adults without children are subject to an annual inpatient hospital benefit limit of $10,000. Services not covered include personal care attendant services, private duty nursing, nursing home care, ICF/DD (intermediate care facility for persons with developmental disabilities), and special transportation services.

Premiums and cost-sharing

Enrollees must pay premiums based on a sliding scale. Children with incomes that do not exceed 200 percent of FPG are not charged premiums. Adult enrollees who are not pregnant are subject to coinsurance and copayments for specified services.

Provider reimbursement

Nearly all enrollees receive health care services through prepaid health plans. The MinnesotaCare program pays prepaid health plans a monthly capitation payment for each MinnesotaCare enrollee. MinnesotaCare does not set provider reimbursement rates; these rates are instead the result of negotiation between health care providers and the prepaid health plan.

Defined contribution program

Since July 1, 2012, adults without children with incomes greater than or equal to 200 percent of FPG but not exceeding 250 percent of FPG have received monthly defined contributions provided by the state to purchase private sector health coverage. Covered services and cost-sharing are as provided under the terms of the private sector policy. Defined contribution enrollees do not pay MinnesotaCare premiums, but are required to pay any portion of the premium for private sector coverage that exceeds the monthly defined contribution.

Funding and expenditures

In fiscal year 2011, the MinnesotaCare program paid $738 million for medical services provided to enrollees. Sixty-eight percent of this cost was paid for by the state, 27 percent by the federal government, and 5 percent by enrollees through premium payments (this last category also includes enrollee cost-sharing).

State funding for MinnesotaCare and other health care access initiatives is provided by a tax of 2.0 percent on the gross revenues of health care providers and a tax of 1.0 percent on the premiums of nonprofit health plan companies.

The state receives federal funding at the MA match rate for health care services provided to enrollees who are children, parents, or pregnant women, and for enrollees who are adults without children with incomes greater than 75 percent but not exceeding 250 percent of FPG. The state receives federal funding at an enhanced match rate (under the Children's Health Insurance Program) for children under age 21 with incomes equal to or greater than 133 percent, but not exceeding 275 percent of FPG.

Recipients

As of April 2012, 131,431 individuals were enrolled in the MinnesotaCare program. Just over two-thirds of these enrollees were parents, children, or pregnant women.

Application procedure

MinnesotaCare applications can be obtained by calling 1-800-657-3672. Applications are also available at county human services agencies.

For more information: See the House Research information brief *MinnesotaCare*, August 2012.

Joel Michael

Updated: August 2012

Estate and Inheritance Taxation: An Overview of Taxes in the States

For deaths in 2012, 30 states impose no estate or inheritance tax

From 1924 through 2001, the federal estate tax allowed a dollar-for-dollar credit for state death taxes paid (up to maximum limits). All states imposed estate taxes up to the amount of the federal credit; some states also imposed additional inheritance or estate taxes. In 2001 Congress repealed the federal credit for state death taxes (effective for deaths after December 31, 2004). Now that they can no longer impose taxes that do not increase the total tax burden on estates and heirs, most states (30 for deaths in 2012) no longer impose estate or inheritance taxes. Three states' taxes are scheduled to be eliminated after 2012, and an initiative to repeal the Oregon estate tax is on the November 2012 general election ballot. Minnesota continues to impose an estate tax.

Inheritance and estate taxes differ in the base used to compute them; one depends on the total size of the estate, the other on to whom bequests are made

Estate taxes generally apply a single tax rate schedule to the taxable value of the decedent's total estate (bequests to charities and surviving spouses are typically exempt).

Inheritance taxes apply varying tax rate schedules to bequests made to different classes of beneficiaries. Bequests to surviving spouses and lineal heirs typically enjoy lower rates or are totally exempt, while bequests to more distant or unrelated heirs (collateral heirs) are usually taxed at higher rates or have lower exemptions or both.

Fourteen states and the District of Columbia impose only estate taxes

For decedents dying in calendar year 2012, 14 states (Connecticut, Delaware, Hawaii, Illinois, Maine, Massachusetts, Minnesota, New York, North Carolina, Ohio, Oregon, Rhode Island, Vermont, and Washington) and the District of Columbia impose only estate taxes. Two of these states (Delaware and Hawaii) had allowed their taxes to expire after Congress repealed the federal credit for state death taxes, but reenacted the taxes in 2010. In 2011, Ohio repealed its estate tax, effective for deaths after December 31, 2012.

Exemption amounts under the state estate taxes vary. For 2012, they range from $5.1 million (three states) to $338,333 (Ohio). The most common amount is $1 million (five states, including Minnesota). Top rates range from 7 percent to 19 percent with most states, like Minnesota, imposing a top rate of 16 percent.

Six states impose only inheritance taxes

Six states (Indiana, Iowa, Kentucky, Nebraska, Pennsylvania, and Tennessee) impose only inheritance taxes. In 2012, Tennessee and Indiana repealed their taxes. Both repeals phase out the taxes; Tennessee's repeal is effective for deaths after December 31, 2015; Indiana's after December 31, 2021.

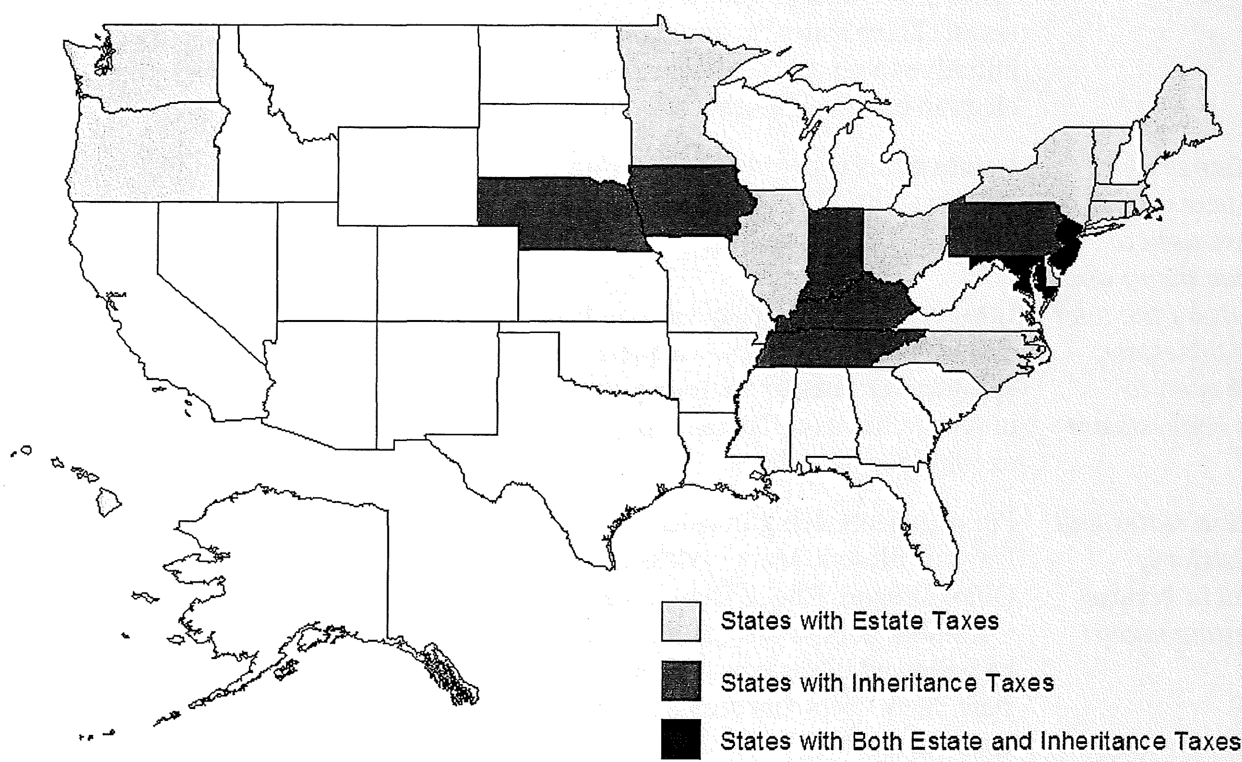
The exemptions under state inheritance taxes vary greatly, ranging from $100 (Indiana) for bequests to unrelated individuals to unlimited exemptions (Iowa and Kentucky) for bequests to lineal heirs, such as children or parents of the decedent. Most states do not tax bequests to surviving spouses under either estate or inheritance taxes. Top tax rates range from 4.5 percent (Pennsylvania on lineal heirs) to 20 percent (Indiana on collateral heirs).

Two states impose both taxes

Maryland and New Jersey impose both types of taxes, but the estate tax paid is a credit against the inheritance tax, so the total tax liability is not the sum of the two, but the greater of the two taxes.

The map shows the states with estates and inheritance taxes for 2012 deaths.

State Estate and Inheritance Taxes



House Research Department

For more information: See the information brief *Survey of State Estate, Inheritance, and Gift Taxes*, November 2011.

Kathy Novak and Nina Manzi Updated: August 2012

Economic Forecasts, Budget Surpluses, and Budget Shortfalls

When are economic forecasts prepared?

The commissioner of Minnesota Management and Budget must prepare a forecast of state revenues and expenditures twice each year—in February and November.

What are the forecasts used for?

The November forecast in even-numbered years becomes the basis for the governor's budget recommendations to the legislature. The November 2012 forecast will provide the revenue and expenditure projections that the governor will use in developing the budget for the fiscal year 2014-2015 biennium, which runs from July 1, 2013, to June 30, 2015. The November 2012 forecast will also show if the state is on track to finish the fiscal year 2012-2013 biennium with a balanced budget.

The February forecast in odd-numbered years fine-tunes the preceding November's forecast with data that becomes available early in the calendar year. The February 2013 forecast will provide the revenue and expenditure projections that the legislature will use in adopting a budget for the fiscal year 2014-2015 biennium. Following the February forecast, the governor will submit modifications to the budget developed from the November forecast, which are called "supplemental budget recommendations." The February 2013 forecast will also provide an update on the status of revenues and expenditures in the current biennium.

The November forecast in odd-numbered years and the February forecast in even-numbered years also provide updates on revenues and expenditures in the current biennium. Using the projections of the November 2013 forecast, the governor may make additional "supplemental budget recommendations" proposing changes to the fiscal year 2014-2015 budget during the 2014 legislative session. The legislature will use the projections in the February 2014 forecast to ensure that the fiscal year 2014-2015 biennium closes with a balanced budget.

What if a forecast shows a budget shortfall?

If a forecast shows a shortfall for the *general fund in the current biennium*, the commissioner of Minnesota Management and Budget may reduce the budget reserve account as needed to balance revenues with expenditures. If there isn't enough money in the budget reserve to balance the general fund in the current biennium, and if a balanced budget has been enacted for the biennium, then the commissioner may also reduce outstanding appropriations, commonly referred to as "unalloting." Before reducing the budget reserve or unalloting appropriations, the commissioner must obtain the approval of the governor and must consult with the Legislative Advisory Commission. When the legislature is in session, the governor typically makes recommendations to the legislature on how to resolve the shortfall before approving use of the budget reserve or unalloting.

If a forecast shows a shortfall for *any other fund in the current biennium*, the commissioner of Minnesota Management and Budget must reduce the affected agency's allotment to avoid a deficit. As with general fund shortfalls, if the legislature is in session the governor would typically make recommendations on how to resolve the shortfall.

If a forecast shows a shortfall for *the coming biennium*, the governor's budget recommendations must propose revenue and expenditure changes in order for the budget to be in balance at the close of the coming biennium.

What if the forecast shows a budget surplus?

If a forecast shows a surplus for the *general fund in the current biennium*, the commissioner of Minnesota Management and Budget must allocate the surplus in priority order as provided in Minnesota Statutes, section 16A.152, subdivision 2:

- to the cash flow account, until it reaches $350 million
- to the budget reserve account, until it reaches $653 million
- to increase the school aid payment schedule to 90 percent
- to restore previous school aid reductions and reduce the property tax recognition shift accordingly
- to restore the $15 million transferred in 2008 from the state airports fund to the general fund

If all these priorities have been met, the remaining surplus is reported in the forecast as a "positive unrestricted budgetary general fund balance."

If a forecast shows a surplus for *the coming biennium*, the governor's budget recommendations may propose revenue reductions and/or expenditure increases, as long as the proposed changes do not result in a projected budget shortfall.

What is the status of the priorities for repayment surpluses?

Part of the budget balancing solution enacted in the 2011 special session for the 2012-2013 biennium reduced the cash flow account balance to $95 million and the budget reserve balance to zero. The budget solution also included approximately $2.75 billion in shifted K-12 school aid and property tax recognition shifts.

As a result of the November 2011 forecasted surplus of $876 million for the 2012-2013 biennium, $255 million was added to the cash flow account, bringing it to the $350 million required by the first allocation priority. Another $621 million was added to the budget reserve, bringing its balance to $648 million. The February 2012 forecast projected an additional surplus of $323 million. The first $5 million was added to the budget reserve to meet the $653 million balance required by the second allocation priority, and $318 million was used to partially repay the K-12 school aid payment shift, the third allocation priority. Still to be repaid is approximately $1.4 billion of shifted school aid payments and the entire $600 million property tax recognition shift.

Repayment priorities can change in legislation. The 2012 Legislature repealed repayment of a 2010 transfer from the fire safety account, which had been the last statutory priority for allocating a forecasted budget surplus. The repeal was one of several changes in law to restore and stabilize funding for the fire safety account.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the House Research publication *Unallotment: Executive Branch Power to Reduce Spending to Avoid a Deficit,* December 2010.

Joel Michael

August 2012

Two-thirds Majority Vote to Enact General Banking Laws

Since its adoption in 1857, the Minnesota Constitution has provided that "general banking laws" may only be enacted upon a two-thirds majority vote by the legislature. Minn. Const. art. IV § 26. Based on the language of the original constitution and decisions of the Minnesota Supreme Court, it is clear that this supermajority requirement only applies to laws for "banks of issue"—i.e., banks authorized to issue notes that circulate as money.

The original constitutional provision authorized the legislature to pass general banking laws by a two-thirds majority vote, but only if the law met five specified conditions. Minn. Const. art. 9 § 13 (1857). Four of these conditions related to notes (money) ssued by the bank, while the fifth was a disclosure provision. These conditions clearly imply that general banking laws related only to banks with the power to issue their own circulating notes.

The Minnesota Supreme Court confirmed this interpretation in two cases. *Palmer v. Bank of Zumbrota* stated that the constitutional "provision applies only to a law for organizing banks of issue." 75 N.W.380, 382 (Minn. 1898). Earlier the court had made it clear that "banks of issue" are banks with the power to issue their own notes or currency:

> [W]hile banks of issue may have the power to do all these things, the only franchise or privilege which they possess, aside from the mere right to exist and act as a corporation, is that of issuing their notes for the purpose of circulation as money. It was this right and this class of corporations that the framers of the constitution evidently had in mind in using the term "banking privileges." *International Trust Co. v. American Loan & Trust Co.,* 65 N.W.78, 80 (Minn. 1895).

When the Constitution was adopted in 1857, America was in the "free banking" period during which there was neither a central bank to issue currency nor a national banking act authorizing national banks to issue notes. As a result, state bank notes were typically used as money. Thus, it made sense for Minnesota to authorize chartering of banks with the power to issue notes to be used as money and because of the gravity of this power to subject it to supermajority approval.

This situation changed in the Civil War when Congress authorized national banks to issue notes and provided a strong incentive for state banks to convert to national charters, if they wished to issue notes. To further cement this, Congress in 1865 imposed a 10 percent tax on state bank notes, effectively making them economically impractical. As a result, state banks generally ceased to issue notes. Enactment of the Federal Reserve Act in 1913 effectively transferred the function of creating money to a true central bank.

In 1974, the Minnesota Constitution was restructured by the legislature and the voters. This restructuring dropped the five conditions imposed on general banking laws, while retaining the two-thirds majority requirement. 1974 Minn. Laws 795, 810, ch. 409 §1. This amendment did not change the limitation of the supermajority requirement to laws organizing banks of issue, since by its terms it did not make "consequential changes" in the constitution. *Id.* at 819, §3. Because private American banks have not issued circulating notes for almost a century, the two-thirds majority vote requirement has little practical application.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

Nina Manzi

Updated: August 2012*

Income Tax Terms: Deductions and Credits

What is a deduction?

A deduction reduces income tax liability by reducing taxable income. On the federal income tax return, taxpayers can claim various deductions that reduce adjusted gross income (sometimes called "above-the-line" deductions); taxpayers may also claim either the standard deduction or itemized deductions, which result in smaller federal taxable income.

Minnesota's income tax calculation starts with federal taxable income. On the state income tax return, taxpayers may claim various state deductions (sometimes called "subtractions"), which result in smaller state taxable income.

What federal deductions are allowed?

In tax year 2012, the federal income tax allows above-the-line deductions for various retirement account contributions, certain employee business expenses, student loan interest payments, Health Savings Account contributions, moving expenses, one-half of self-employment tax, health insurance premiums (for self-employed taxpayers only), penalty on early withdrawal of savings, and alimony paid by the taxpayer. The federal income tax allows itemized deductions for state and local property taxes and either income or sales taxes, mortgage interest, charitable contributions, medical expenses in excess of 7.5 percent of income (the threshold increases in tax year 2013 to 10 percent for taxpayers under age 65, and in 2017 for all other taxpayers), casualty and theft losses in excess of 10 percent of income, and job expenses and miscellaneous expenses (most only allowed in excess of 2 percent of income).

What state subtractions are allowed?

Minnesota's income tax allows subtractions for K-12 dependent education expenses, most military pay, 50 percent of charitable contributions over $500 (for filers who do not claim federal itemized deductions only), up to $12,000 for low-income elderly and disabled taxpayers with low amounts of Social Security and nontaxable pensions, Job Opportunity Building Zone (JOBZ) income, organ donation expenses, gain on sale of farm property for insolvent taxpayers, foreign subnational income taxes, and national service education awards.

Minnesota also allows subtractions for U.S. bond interest, railroad retirement benefits, and on-reservation earnings of enrolled tribal members, because federal law prohibits state taxation of these types of income.

Finally, Minnesota's income tax allows various subtractions to coordinate the calculation of taxable income with other features of the income tax. Minnesota requires itemizers to add back the amount of state income tax deducted at the federal level and allows a subtraction for amounts refunded in order to avoid twice taxing the same income. Also, Minnesota does not conform to federal deductions for bonus depreciation, section 179 expensing, domestic production activities, income from the discharge of indebtedness, and net operating losses. Minnesota allows subtractions for amounts of these items that were included in Minnesota taxable income, but not federal taxable income, in earlier tax years.

How much are deductions worth?

The value of an income tax deduction equals the taxpayer's marginal rate times the amount of the deduction. A taxpayer whose income is too low to be subject to taxes does not benefit from a deduction, unless the law allows the unused deduction to be carried over to a later tax year.

In tax year 2012, federal marginal rates range from 10 percent to 35 percent, and state marginal rates from 5.35 percent to 7.85 percent. The graduated federal and state income tax rates make deductions worth more to high-income taxpayers than to low-income taxpayers. A taxpayer in the top federal and state brackets who claims a $1,000 deduction for moving expenses pays $350 less in federal taxes (35 percent of $1,000) and $78.50 less in state taxes (7.85 percent of $1,000). But a taxpayer in the bottom federal and state brackets who claims the same deduction pays $100 less in federal taxes (10 percent of $1,000), and $53.50 less in state taxes (5.35 percent of $1,000).

What is a credit?

Credits are subtracted directly from tax liability. Because credits are subtracted directly from liability, they are worth the same to all taxpayers with liability, regardless of income (i.e., it doesn't matter what tax rate bracket the taxpayer is in).

What is the difference between nonrefundable and refundable credits?

Nonrefundable credits only offset tax liability. Taxpayers with incomes too low to have any tax liability do not benefit from nonrefundable tax credits.

Refundable credits, in contrast, fully benefit taxpayers regardless of their tax liability. For example, a taxpayer with $700 in tax liability who qualifies for a $1,000 refundable credit would receive a refund of $300. If the credit was nonrefundable, that taxpayer would only be able to "use" the $700 of the tax credit that offset liability.

What federal credits are allowed?

In tax year 2012, the federal income tax allows *nonrefundable* credits for foreign taxes paid, child and dependent care expenses, higher education expenses, retirement contributions of low-income taxpayers, and residential energy efficient equipment. The federal income tax allows *refundable* credits for adoption expenses, certain health coverage expenses, and earned income of lower income filers. The federal child credit, for children age 17 and younger, is partially refundable.

What state credits are allowed?

In tax year 2012, Minnesota allows *nonrefundable* credits for marriage penalties resulting from the state's progressive rate structure (marriage credit), long-term care insurance premiums, and military retirement pay of low-income veterans. Minnesota also allows *refundable credits* for earned income of low-income filers (working family credit), dependent care expenses, and K-12 education expenses.

For more information: Contact legislative analyst Nina Manzi at 651-296-5204. Also see the income tax area on the House Research website for more information on tax credits.

* This information has been previously published as an information brief.

HOUSE RESEARCH | Short Subjects

Joel Michael

Updated: August 2012

Cigarette and Tobacco Excise Taxes and Fees

Minnesota imposes several taxes and fees on cigarettes and tobacco products

Minnesota imposes a series of taxes and fees on the sale or possession of cigarettes and tobacco products. The table lists the taxes and fees and their rates. The cigarette taxes and fees are all imposed on a "per unit" basis—i.e., on the number of cigarettes sold, not as a percentage of the sale price.

Because the taxes and fees are set on a per-unit basis, they do not increase as the prices of cigarettes increase. (The tax in lieu of the general sales tax on cigarettes is annually indexed for inflation in the price of cigarettes so it increases with overall increases in cigarette prices.) The taxes and fees on tobacco products, such as cigars, pipe tobacco, snuff, and chewing tobacco, are imposed as a percentage of their wholesale prices. Thus, these taxes fluctuate as the prices of the products change.

Tax or fee	Per pack of 20 rate	Percent of price
Cigarette excise tax	48 cents	NA
Tobacco products excise tax	NA	35%
Health impact fee	75 cents	35%
Fee on cigarettes manufactured by nonsettling companies	35 cents	NA
Tax in lieu of general sales tax (effective calendar year 2012)	35.6 cents	NA

A per-pack tax applies in lieu of the general sales tax

Since 2005, cigarette sales have been exempt from state and local sales taxes. A per-pack tax applies instead of the sales tax. The commissioner of revenue annually sets this in-lieu tax based on a survey of Minnesota retail cigarette prices. The rate is set as an average of these prices and is reset January 1 for the calendar year. The tax does not replace local sales taxes, although these local taxes do not apply to cigarette sales.

Payments made to settle state lawsuits against the tobacco industry have similar effects as excise taxes

Settlements of the states' lawsuits against the tobacco companies have similar economic effects to cigarette taxes, since these settlement payments are passed along to consumers (nationally) as higher cigarette prices. However, they do not affect companies that were not part of the lawsuit or that have not entered the Master Settlement Agreement as participating manufacturers. To compensate partially for the lower prices of cigarettes produced by nonsettling companies, the 2003 Legislature imposed a 35-cent per-pack fee on those cigarettes. The legality this fee and the health impact fee were both upheld by the Minnesota Supreme Court when the industry challenged them on various grounds in 2006.

A use tax can apply, if Minnesota tax has otherwise not been paid

A use tax applies to consumers who purchase untaxed cigarettes (e.g., over the Internet or in-person in another state) for use in Minnesota. The tax is the same as the combined rate of the excise tax and health impact fee. The use tax does not apply to one carton of cigarettes purchased in another state and brought into the state by the individual. For larger quantities brought into the state and for any quantity shipped to the consumer in Minnesota, the use tax applies.

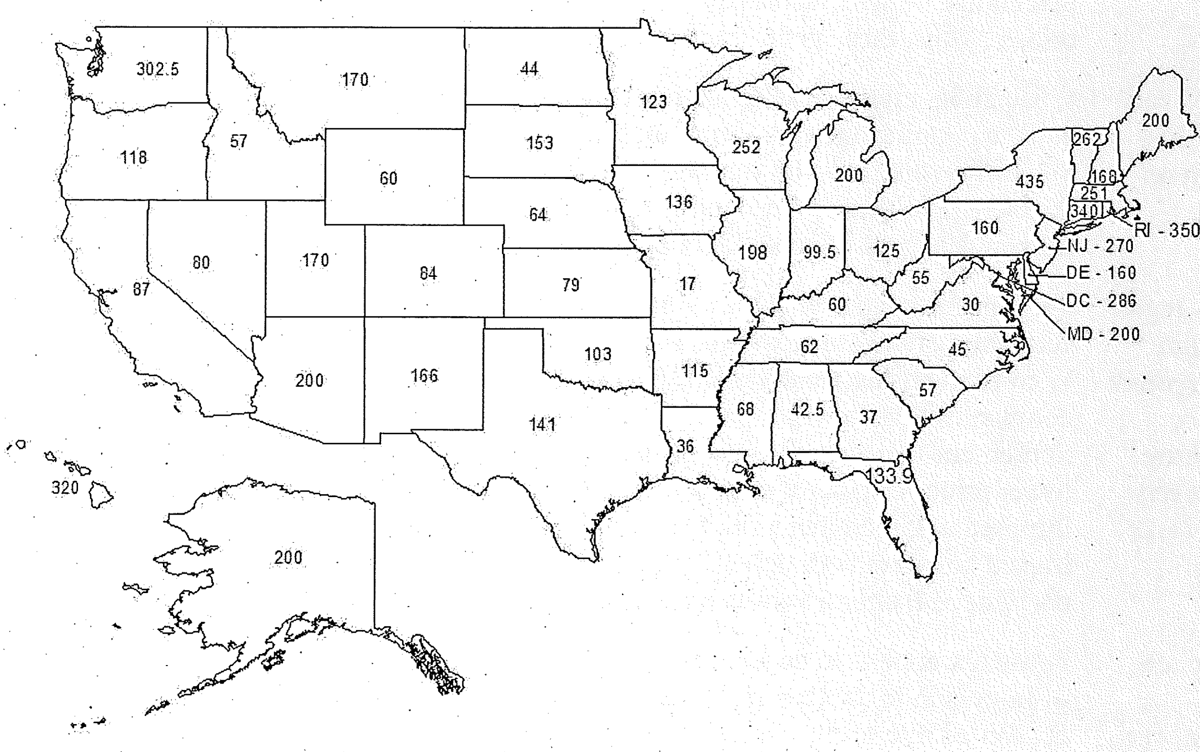
The taxes and fees are estimated to yield revenues of $423.1 million in FY 2013

For fiscal year 2013, Minnesota Management and Budget estimates collections from the two excise taxes and the sales tax on cigarettes will be $223.6 million and from the health impact fee, $199.5 million (February 2012 forecast). Revenues from the tobacco products tax are deposited in the general fund. Each fiscal year, cigarette tax revenues of $22.25 million go to fund the Academic Health Center, $3.94 million to the medical education and research account, and the rest to the state general fund. The health impact fee revenues are deposited in a health impact fund and are transferred to the general fund after the commissioner of human services certifies that state health programs have incurred tobacco-related costs equal to the fee.

Neighboring states have higher tax rates

Because cigarettes can easily be transported, the tax rates in other states (especially border states) are important. Taking into account the combined effects of Minnesota's tax and fee ($1.23/pack), three bordering states have higher rates: Wisconsin ($2.52), South Dakota ($1.53), and Iowa ($1.36). North Dakota (44 cents) has a lower rate. All states' rates are shown on the map below. The map does not reflect local cigarette taxes; some of these local taxes are substantial (e.g., $1.50 in New York City and $2.68 per pack in Chicago). The map does not reflect the effect of general sales taxes (including Minnesota's per-pack tax in lieu of the sales tax). Some states have no sales tax or exempt cigarettes from sales taxation, lowering the overall tax burden.

State Cigarette Tax Rates*
as of 7/1/2012
cents per pack



* These exclude some significant local taxes.
Source: Federation of Tax Administrators and other sources

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

HOUSE RESEARCH | Short Subjects

Deborah A. Dyson
Revised: September 2012

"60-Day Rule" Deadline for Certain Agency Actions

What is the "60-day rule"?

In 1995, the legislature enacted Minnesota Statutes, section 15.99, commonly referred to as "the 60-day rule." The 60-day rule requires governmental entities to approve or deny a written request for certain actions within 60 days or the request is approved. More specifically, "failure of an agency to deny a request within 60 days is approval of the request. If an agency denies the request, it must state in writing the reasons for the denial at the time that it denies the request."

Who does it apply to?

The law applies to the following, all defined as "agencies":

- a department, agency, board, commission, or other group in the executive branch of state government
- a statutory or home rule charter city, county, town, or school district
- any metropolitan agency or regional entity
- any other political subdivision of the state

What requests does it apply to?

It applies to "a written request relating to zoning, septic systems, watershed district review, soil and water conservation district review, or expansion of the metropolitan urban service area for a permit, license, or other governmental approval of an action."

A "request" is a written application on a form provided by the agency, if a form exists. A request not on an agency's form must include all information required by the agency, and it must identify clearly on the first page the specific permit, license, or other governmental approval being sought.

The law does not apply to building permit requests. *Advantage Capital Mgmt. v. City of Northfield*, 664 N.W.2d 421 (Minn. App. 2003). The law also does not apply to the city or town subdivision regulation review process, review of local comprehensive plans by the Metropolitan Council, or the plat review process in Minnesota Statutes, chapter 505.

When does the time begin to run?

The 60 days begins to run when the agency receives a complete application. If an application needs to be amended, the 60 days begins again upon receipt of a complete amended application. *Tollefson Dev. Co. v. City of Elk River*, 665 N.W.2d 554 (Minn. App. 2003). The application fee, if any, is one of the items that must be paid before an application is complete. The agency has 15 business days after receiving any part of an application to inform an applicant in writing that the application is missing some required element. If more than one state agency in the executive branch must approve or deny the application, the 60 days begins to run when the first agency receives the complete application, and it is up to that agency to make sure all other agencies get copies of the application. If an agency grants a conditional approval, the agency may revoke or rescind its approval without missing the 60-day deadline if the applicant fails to satisfy the conditions.

Are extensions allowed?

An agency may extend the review period by up to 60 days if it provides the applicant written notice of and reasons for the extension before the end of the initial 60 days. The notice of extension must be made after the complete application is submitted and the initial 60 days has begun to run. An agency does not have to have extenuating circumstances to extend the review time; it is enough that the agency needs more time. *American Tower, L.P. v. City of Grant*, 636 N.W.2d 309, 313-314 (Minn. 2001). The law also takes into account other proceedings or federal law requirements that may delay the beginning of the 60-day period. An applicant may request an extension of time in writing. An interim ordinance (moratorium) does not extend the time for agency action as to an application filed before the effective date of the interim ordinance.

What constitutes approval or denial of a request?

A request can be approved by the agency in its customary manner or by failing to deny the request within the 60-day period. An agency can only approve a request to the extent of its authority under other law. *Breza v. City of Minnetrista*, 725 N.W.2d 106 (Minn. 2006) ("The breadth of the exemption approved, however, is limited by the scope of the city's authority to grant an exemption…").

If an agency other than one with a multimember governing body denies a request, it must state in writing the reasons for the denial at the time it denies the request. A multimember governing body may deny a request by adopting a resolution or motion to deny the request, or failing to adopt a resolution or motion to approve a request. The governing body must provide its reason for denial on the record at the time of the vote on the resolution or motion. It must also provide a written statement of reasons for the denial to the applicant before the expiration of the time allowed for a decision. The written statement must be consistent with the reasons stated at the time of the decision.

While failure to approve or deny a request results in approval, failure to timely provide the applicant with a written statement of the reasons for denial does not result in automatic approval. *Johnson v. Cook County*, 786 N.W.2d 291, 295-96 (Minn. 2010), citing *Hans Hagen Homes, Inc. v. City of Minnetrista*, 728 N.W. 2d 536 (Minn. 2007) (en banc) (describing the difference between "directory" and "mandatory" requirements in statute, determining that the requirement to provide an applicant with a copy of the written reasons for denial was directory and because city had stated reason for denial on the record within the time allowed, the failure to provide a written statement did not result in automatic approval). "[A] statute may contain a requirement but provide no consequence for noncompliance, in which case we regard the statute as directory, not mandatory." *Hans Hagen Homes, Inc.,* 728 N.W.2d at 541-42.

For more information: Contact legislative analyst Deborah A. Dyson at deborah.dyson@house.mn.

Joel Michael

Updated: September 2012

Survey of State and Local Gasoline Taxes

This short subject shows state and local gasoline taxes in each state as of July 1, 2012. Because of the interrelationship in some states between per-gallon gasoline taxes and gasoline sales taxes, and between state and local gasoline taxes, a compilation of all such taxes is necessary to reflect each state's total tax burden. While all states impose per-gallon taxes, eight states also impose sales taxes (which fluctuate based on price), and ten states allow local gas or sales taxes to be imposed. Minnesota's total tax burden on gasoline, which includes the 28.5-cent per-gallon excise tax and 0.1-cent inspection fee, places it 18th highest based on state taxes and 21st highest based on total state and local taxes. (The 2-cent per-gallon Petrofund cleanup fee did not apply on July 1, 2012, but will be re-imposed starting August 1, 2012, through November 30, 2013.)

Gasoline taxes include state and local taxes

The columns in the table below represent the following:

- State excise tax: Per-gallon tax on gasoline imposed at the state level
- State sales tax: State retail sales tax applied to gasoline; in some states, the sales tax rate is prefigured and prepaid at the wholesale level rather than being calculated and paid at the pump
- Other state tax/fee: Leaking underground storage fees, inspection fees, various environmental fees; in some states, including Minnesota, these are "blink-on" taxes that are imposed whenever a specified fund reaches a certain level; the table applies these fees, if they applied on July 1, 2012
- Total state taxes: Combined per-gallon tax, sales tax, other state taxes and fees
- Local excise tax: Locally imposed per-gallon taxes in the largest city in the state
- Local sales tax: Local retail sales taxes that apply to gasoline in the largest city in the state
- Total local tax: Combined local gas taxes and sales taxes
- Total tax: Combined state and local taxes

For price-based taxes, U.S. Energy Information Administration price data for July 2012 was used for the applicable region, state, or city. This price was adjusted in those states that impose a sales tax on gasoline, but excludes state or federal per-gallon taxes from the taxable price.

Total State and Local Taxes on Gasoline as of July 1, 2012

	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Alabama	$0.160		$0.049	**$0.209**	36	$0.010		**$0.010**	**$0.219**	35
Alaska	0.080			**0.080**	50				**0.080**	50
Arizona	0.180		0.010	**0.190**	41				**0.190**	41
Arkansas	0.215		0.003	**0.218**	34				**0.218**	36
California	0.360	0.087	0.090	**0.537**	1		0.097	**0.097**	**0.634**	1
Colorado	0.220			**0.220**	32				**0.220**	33

Total State and Local Taxes on Gasoline as of July 1, 2012										
	State Excise Tax	State Sales Tax	Other State Tax/Fee	Total State Tax	State Rank	Local Excise Tax	Local Sales Tax	Total Local Tax	Total State and Local Tax	Total Taxes Rank
Connecticut	0.250		0.210	**0.460**	2				**0.460**	5
Delaware	0.230		0.065	**0.295**	17				**0.295**	20
Florida	0.040	0.166	0.022	**0.228**	31	0.129	0.028	**0.157**	**0.385**	8
Georgia	0.075	0.121		**0.196**	40		0.136	**0.136**	**0.332**	12
Hawaii	0.170	0.145	0.055	**0.370**	9	0.165	0.018	**0.183**	**0.553**	4
Idaho	0.250		0.010	**0.260**	22				**0.260**	25
Illinois	0.190	0.211	0.011	**0.412**	3	0.110	0.110	**0.220**	**0.632**	2
Indiana	0.180	0.218	0.010	**0.408**	4				**0.408**	6
Iowa	0.210		0.010	**0.220**	32				**0.220**	33
Kansas	0.240		0.010	**0.250**	24				**0.250**	27
Kentucky	0.285		0.014	**0.299**	16				**0.299**	19
Louisiana	0.200		0.001	**0.201**	37				**0.201**	38
Maine	0.300		0.015	**0.315**	14				**0.315**	18
Maryland	0.235			**0.235**	28				**0.235**	30
Massachusetts	0.210		0.025	**0.235**	28				**0.235**	30
Michigan	0.190	0.208	0.009	**0.407**	5				**0.407**	7
Minnesota	**0.285**		**0.001**	**0.286**	**18**				**0.286**	**21**
Mississippi	0.180		0.004	**0.184**	43				**0.184**	43
Missouri	0.170		0.003	**0.173**	45				**0.173**	45
Montana	0.270		0.008	**0.278**	20				**0.278**	23
Nebraska	0.262		0.009	**0.271**	21				**0.271**	24
Nevada	0.230		0.008	**0.238**	27	0.090		**0.090**	**0.328**	16
New Hampshire	0.180		0.016	**0.196**	39				**0.196**	40
New Jersey	0.105		0.040	**0.145**	48				**0.145**	48
New Mexico	0.170		0.019	**0.189**	42				**0.189**	42
New York	0.080	0.146	0.179	**0.404**	6		0.178	**0.178**	**0.582**	3
North Carolina	0.375		0.003	**0.378**	7				**0.378**	9
North Dakota	0.230			**0.230**	30				**0.230**	32
Ohio	0.280			**0.280**	19				**0.280**	22
Oklahoma	0.160		0.010	**0.170**	46				**0.170**	46
Oregon	0.300			**0.300**	15	0.030		**0.030**	**0.330**	13
Pennsylvania	0.120		0.203	**0.323**	13				**0.323**	17
Rhode Island	0.320		0.010	**0.330**	11				**0.330**	13
South Carolina	0.160		0.008	**0.168**	47				**0.168**	47
South Dakota	0.220		0.020	**0.240**	26				**0.240**	29
Tennessee	0.200		0.014	**0.214**	35				**0.214**	37
Texas	0.200			**0.200**	38				**0.200**	39
Utah	0.245			**0.245**	25				**0.245**	28
Vermont	0.190		0.068	**0.258**	23				**0.258**	26
Virginia	0.175		0.006	**0.181**	44				**0.181**	44
Washington	0.375			**0.375**	8				**0.375**	10
West Virginia	0.205		0.129	**0.334**	10				**0.334**	11
Wisconsin	0.309		0.020	**0.329**	12				**0.329**	15
Wyoming	0.130		0.010	**0.140**	49				**0.140**	49

Note: The table does not include special tax rates for alcohol-gasoline blends or for gasoline used in commercial vehicles.
Sources: Federation of Tax Administrators; American Petroleum Institute; U.S. Energy Information Administration; and state revenue agency websites.

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn.

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

Steve Hinze and Nina Manzi Updated: August 2012

Senior Citizens Property Tax Deferral Program

What is the Senior Citizens Property Tax Deferral Program?

The Senior Citizens Property Tax Deferral Program allows property taxpayers who are 65 years or older, and whose total household income is $60,000 or less, to defer a portion of their homestead property taxes until some later time. It allows senior citizens whose property taxes are high relative to their incomes, but who wish to stay in their homes, an option for paying their property taxes.

How does it work?

Regardless of how high the tax is on the homestead, the taxpayer initially pays an amount equal to only 3 percent of the total preceding year's household income. The state pays any amount over 3 percent, called the "deferred tax," to the county in which the home is located. A lien attaches to the property. The deferred tax is a loan. Interest on the loan is calculated at the same rate as unpaid state taxes; a floating rate that cannot exceed 5 percent. Before the owner can transfer the title of the property, the deferred tax plus interest must be repaid.

For example, John and Mary Jones own a home; its total property tax is $1,400. They have a total household income of $30,000. Under this program, they must pay $900 in tax (3 percent of $30,000); the remaining $500 ($1,400 minus $900) is deferred.

Who qualifies?

In order to qualify for the program, **all** of the following criteria must be met:

- The property must be owned and occupied as a homestead by a person at least 65 years old (If married, one spouse must be at least 65 years old and the other must be at least 62 years old)
- Total household income must be $60,000 or less for the calendar year preceding the year of the initial application
- The home must have been owned and occupied as the homestead of at least one of the homeowners for at least 15 years before the initial application
- There must be no state or federal tax liens or judgment liens on the property
- The total unpaid balances of debts secured by mortgages and other liens on the property, including deferred tax and interest amounts under the program, unpaid and delinquent special assessments and property taxes, penalties and interest (but excluding the current year's property taxes), do not exceed 75 percent of the assessor's estimated market value for the current year

What information is the applicant required to provide?

An applicant must provide, at her or his own expense, a report detailing any mortgages, liens, judgments, or unpaid property taxes on the property. For "Abstract" properties, these reports must be prepared by a licensed abstracter. For "Torrens" properties, the information is part of the "Condition of Register" available from the county recorder. If owners are unsure which type of property they have, they may find out from the county recorder.

Does the taxpayer need to annually reapply?

No, once a taxpayer is enrolled in the program, annual applications are not required. However, if household income exceeds $60,000 in any calendar year, the owner must notify the Department of Revenue, and no *further* property taxes may be deferred. However, the owners will remain enrolled in the program, and once their income falls below the $60,000 threshold again, they may notify the state and request that the deferral be resumed.

Can the taxpayer still file for refunds?

Yes, a taxpayer is still allowed to file for the property tax refund and any other property rebates that the state offers. However, no direct cash payments will be made to the taxpayer. Rather, the amount of the refund will be applied to the total amount of the deferred property tax on the taxpayer's home. The property tax refund is calculated on the full tax amount.

When does it terminate?

The deferral terminates when **any one** of the following events occurs:

- the property is sold or transferred
- all qualifying homeowners die
- the homeowner notifies the Commissioner of Revenue, in writing, of intent to withdraw from the program
- the property no longer qualifies as a homestead

How many people participate in the program?

For property taxes payable in 2011, 313 people participated in the program across the state, resulting in $1.3 million in tax deferrals.

Where does a taxpayer apply for the program?

Applications are available in the county auditor's office or may be obtained from the Department of Revenue's website at www.revenue.state.mn.us/Forms_and_Instructions/crscd.pdf.

For more information: Contact legislative analyst Steve Hinze at steve.hinze@house.mn or Nina Manzi at nina.manzi@house.mn.

Joel Michael Updated: September 2012

Single Sales Apportionment of Corporate Franchise Tax

Apportionment is a key feature of state corporate taxes

Apportionment formulas are important features of state corporate income taxes. They determine how much of a business's income is taxable and affect the incidence and competitiveness of the tax. Minnesota apportions corporate income using the Minnesota proportions of the corporation's sales, payroll, and property factors to determine corporate franchise tax.

Minnesota is phasing in single sales apportionment

Under 2005 legislation, Minnesota is phasing in single sales apportionment over an eight-year period that began in tax year 2007. The table shows the remaining phase-in schedule.

Tax year	Sales	Property	Payroll
2012	93%	3.5%	3.5%
2013	96%	2.0%	2.0%
2014	100%	0.0%	0.0%

Effects vary by type of business

The effects of adopting single sales apportionment vary by business. The crucial variables are the business's Minnesota apportionment factors:

- The taxes of businesses with all of their property, payroll, and sales in Minnesota will be unaffected.
- Minnesota businesses whose Minnesota sales factor is lower than the average of their Minnesota property and payroll factors will receive a tax cut. The larger the disparity, the bigger the benefit is. A classic example is a business with most of its operations (headquarters, plants, and so forth) in Minnesota, but most of its sales outside of Minnesota.
- Businesses with higher Minnesota sales factors than their average Minnesota property and payroll factors will have tax increases, such as a national consumer products company with few facilities in Minnesota.

"Throwback rules" affect the benefit to taxpayers of single sales apportionment

Over half of the states with corporate taxes also use "throwback rules" in defining the sales factor. Throwback rules treat sales to out-of-state buyers as in-state sales, if the buyer's state cannot tax the business/seller or if the purchaser is a federal government agency. These "thrown-back" sales increase in-state sales factor and corporate tax, decreasing the benefits to the taxpayer of single sales apportionment. Minnesota does not have a throwback rule.

Rationale for single sales apportionment: improve competitiveness

The principal rationale for single sales apportionment is a competitiveness argument: It helps Minnesota attract or retain investment in plant and equipment. Sales are determined by the buyer's location. All other things being equal, increasing non-Minnesota sales will reduce the amount of Minnesota taxable income, since more income will be attributed to or apportioned outside of Minnesota. Thus, single sales apportionment creates an incentive for companies to invest in Minnesota property or to hire more employees (or reduces the tax's disincentive to do so) to sell products outside of Minnesota. Empirical studies have found some support for this argument.

Policy concerns with single sales apportionment: equity and tax theory

Opponents of single sales apportionment argue that it shifts the tax burden from capital (the property factor) to consumption, reducing the tax's progressivity. Some also question as an empirical matter whether it has the desired effects on competitiveness. Tax theorists argue that if the corporate tax is to be a benefits tax (i.e., based on businesses' use of government services) or if it is to be based on production of income, apportionment should take into account where the business's property and employees are located. Both factors contribute to the production of income and the consumption of government services.

Sales-weighted apportionment reduces revenues

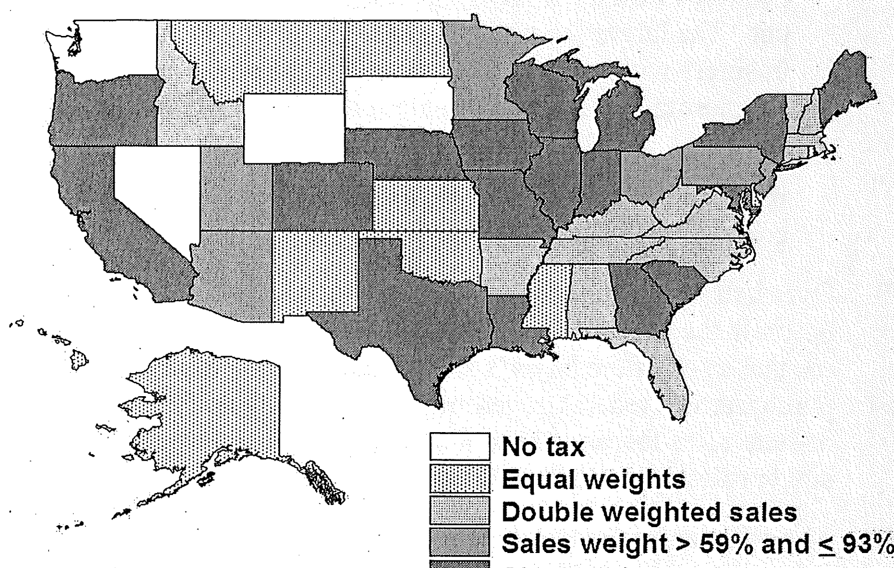
Compared with equally weighting each apportionment factor, weighting sales more heavily reduces tax revenues. The Department of Revenue's *Tax Expenditure Budget* (February 2012) shows an expenditure cost of $260 million for fiscal year 2013, rising to $303 million in 2015 when single sales applies.

Trend in other states to heavier sales weighting

States are increasingly shifting their apportionment formulas to more heavily weighted sales. Effective for tax year 2012, 16 states use or allow single sales as their apportionment formula for manufacturers. Many of Minnesota's neighboring states use single sales apportionment: Illinois, Indiana, Iowa, Michigan, Missouri, Nebraska, and Wisconsin. New Jersey and Utah are scheduled to use single sales in 2013, Virginia (in addition to Minnesota) in 2014, and Arizona in 2017. The map below shows the apportionment formulas for manufacturers as of tax year 2012. Some states allow elections between two formulas. The map shows these with the highest permitted sales weighting.

Apportionment of Corporate Income

Applicable to Manufacturers



Source: Federation of Tax Administrators and CCH

For more information: Contact legislative analyst Joel Michael at joel.michael@house.mn. Also see the House Research publication *Apportionment of Corporate Franchise Tax*, October 2011.

HOUSE RESEARCH | Short Subjects

Randall Chun

Revised: September 2012

Medical Assistance: An Overview

Medical Assistance (MA), the state's Medicaid program, is a jointly funded, federal-state program that pays for health care services for low-income individuals. The program is administered locally by counties, under the supervision of the state Department of Human Services (DHS). Federal Medicaid law allows states considerable flexibility in designing their Medicaid programs.

Eligibility

To be eligible for MA, an individual must meet the following criteria:

- Be a member of a group for which MA coverage is mandatory under federal law or a member of an optional group that the state has chosen to cover. Covered groups include families, children, pregnant women, the elderly, persons with disabilities, and adults without children.
- Meet program income and asset limits. Different limits apply to different categories of individuals. Certain types of income and specified assets are excluded when determining eligibility. Income and asset limits for selected groups are described below.

Eligibility group	Net income limit, as % of federal poverty guidelines (FPG)	Asset limit*
Children < age 2	280	None
Children 2 through 18	150	None
Children 19 through 20	100	None
Pregnant women	275	None
Parents	100	$10,000 for one/$20,000 for two or more persons
Aged, blind, or disabled	100	$3,000 for one/$6,000 for two/$200 each additional
Adults without children	75	None

* The homestead, household goods, a vehicle, a burial plot and certain assets for burial expenses, and other specified items are not counted as assets.

Individuals with incomes over these limits can also qualify for MA through a spenddown. Under a spenddown, an individual must incur medical bills in an amount that is equal to or greater than the amount by which the individual's income exceeds the spenddown limit of 100 percent of FPG for families and children and 75 percent of FPG for individuals who are aged, blind, or disabled. There is no spenddown for adults without children.

- Be a U.S. citizen or a noncitizen who meets specified immigration criteria.
- Be a resident of Minnesota.
- Meet other program eligibility requirements.

Medicaid Expansion

The federal Affordable Care Act (ACA), read in light of the recent U.S. Supreme Court decision, gives states the option, effective January 1, 2014, to expand Medicaid to adults without dependent children with incomes not exceeding 133 percent of FPG who meet specified criteria. The ACA allows states to expand or phase in coverage to this group before this date. The 2010 Legislature gave the then current governor and the succeeding governor the option to implement by executive order early Medicaid expansion for adults without dependent children with incomes not exceeding 75 percent of FPG. Gov. Mark Dayton issued an executive order that implemented early expansion effective March 1, 2011.

Covered services

Minnesota provides all federally mandated services and most services designated by the federal Medicaid program as optional. These services include, but are not limited to: physician care, hospitalization, therapy and rehabilitation, dental, medical equipment and supplies, home health care, health clinic services, mental health, prescription drugs, medical transportation, nursing home, and intermediate care facility for persons with developmental disabilities (ICF/DD) services. Adult enrollees who are not pregnant are subject to copayments for certain services.

The state has also received federal approval to provide services not normally covered by Medicaid. These home and community-based "waivered services" are intended to make it possible for individuals to remain in the community, rather than reside in a hospital, nursing home, or ICF/DD.

Provider reimbursement

The MA program reimburses providers under both a fee-for-service system and a managed care system (composed of the Prepaid Medical Assistance Program or PMAP, county-based purchasing initiatives, and programs for the elderly and persons with disabilities).

Funding and expenditures

In fiscal year 2011, total state and federal MA expenditures for services were $7.525 billion. The federal share of MA costs is determined by a formula based on state per capita income. In most fiscal years, the federal government has paid 50 percent of the cost of MA services, with Minnesota responsible for the remaining 50 percent.

Recipients

During fiscal year 2011, an average of 665,483 individuals were eligible for MA services each month. As of May 2012, 488,072 MA recipients received services under PMAP, a county-based purchasing initiative, or managed care programs for the elderly or persons with disabilities.

Application procedure

Individuals interested in applying for MA should contact their county human services agency.

For more information: See the House Research information brief *Medical Assistance*, September 2012.

HOUSE RESEARCH | Short Subjects

Lisa Larson September 2012

Regulating Students' Online Speech Under the First Amendment

In an era where the Internet is integral to public speech, students' online free speech rights in public elementary and secondary schools and universities are unsettled. For example, it is not clear whether First Amendment standards affecting student speech in public elementary and secondary schools apply equally to universities, whether it matters that online speech occurs on or off campus, or whether offensive or otherwise harmful communications posted on Facebook or other social media are public or private.

Courts exercise restraint when considering the policy decisions of school officials

Courts generally recognize school officials' authority over K-12 students and exercise restraint when considering the policy decisions that school officials make. However, school officials' authority is not boundless and students retain free speech rights in school, even if those rights are limited by previous U.S. Supreme Court decisions dealing with First Amendment rights.

The U.S. Supreme Court has decided four major cases regulating K-12 First Amendment student speech on campus or at a school activity

The way in which First Amendment speech standards apply to students' online speech is unsettled law. In the last 40 years, the U.S. Supreme Court has decided four major cases regulating student speech in elementary and secondary schools, none of which specifically address students' online speech.

- In *Tinker v. Des Moines Independent Community School District*, 393 U.S. 503 (1969), the school district suspended students for wearing black arm bands in school to protest the Vietnam War. The court ruled that schools could ban student speech only if it materially and substantially disrupted the work and discipline of the school. The court found the students' suspensions unconstitutional because school officials had no reason to believe the students' black arm bands would cause a material disruption in the school.
- In *Bethel School District v. Fraser*, 478 U.S. 675 (1986), in order to teach the boundaries of socially appropriate behavior, the court allowed secondary school officials to prohibit a student's speech containing "explicit sexual metaphors," regardless of whether the speech materially or substantially disrupted the education process.
- In *Hazelwood School District v. Kuhlmeier*, 484 U.S. 260 (1988), the court allowed school officials to remove from a school-sponsored student newspaper, articles on teen pregnancy because the topic was inappropriate for younger students and unfair to pregnant students who might be identified from the text. The court held that school officials can censor school-sponsored student publications produced as part of a journalism class in order to address legitimate educational concerns.
- In *Morse v. Frederick*, 551 U.S. 393 (2007), a principal suspended a student for holding up a banner at a school-sponsored event with the message "Bong Hits 4 Jesus," a slang reference to marijuana smoking. The court ruled that school officials can prohibit students from displaying messages that promote illegal drug use.

The U.S. Supreme Court recently refused to hear two student online speech cases

The U.S. Supreme Court recently let lower court decisions stand when it refused to hear two student online speech cases. In *J.S. v. Blue Mountain Sch. Dist.*, 650 F.3d 915 (3d Cir. 2011), a middle school student used her home computer to create a phony MySpace profile that cruelly ridiculed her school principal. The Third Circuit Court ruled the district could not reasonably show the spoof profile would substantially disrupt the school, and the decision to suspend the student violated her First Amendment right to speech.

In *Kowalski v. Berkeley Count Sch.*, 652 F.3d 565 (4th Cir. 2011), a high school student used her home computer to create a MySpace chat group page SASH (Students Against Sluts Herpes) that successfully encouraged vulgar and offensive comments about another student. The Fourth Circuit Court ruled that the student's speech was not constitutionally protected because the distress it inflicted on the targeted student disrupted the school. (Minnesota is in the 8th Circuit.)

Minnesota statutes provide limited oversight of K-12 students' online speech on or off campus

In Minnesota, there is limited state oversight of elementary and secondary students' online speech on or off campus, but state laws do address bullying in schools. Minnesota Statutes, section 121A.0695, requires school boards to adopt a policy prohibiting student intimidation and bullying, including "electronic forms [of bullying] and forms involving Internet use." Many school districts and charter schools in Minnesota use model policies developed by the Minnesota School Boards Association to regulate students' Internet speech (See *MSBA/MASA Model Policy 524 and 514).* Gov. Mark Dayton's 2012 task force on preventing bullying, including cyberbullying, in schools expects to recommend school bullying policies for Minnesota.

The U.S. Supreme Court has not decided the standard of review for university students' speech

It is not clear whether the U.S. Supreme Court's secondary students' free speech analysis applies equally in a university setting. The court reserved in a footnote in *Hazelwood* the question of whether the deferential standard of review used to regulate high school speech in a school-sponsored student newspaper also applies to universities. However, the court has not upheld a restriction on university students' speech and most of the speech-related cases the court has reviewed have implicated universities' funding of student groups on campus.

The Minnesota Supreme Court allowed the University of Minnesota to punish a student for satirical Facebook comments

In 2012, the Minnesota Supreme Court in *Tatro v. University of Minnesota* ruled that the University of Minnesota did not violate a college student's free speech rights when it punished her for posting satirical Facebook comments about the school cadaver she was working on as part of the university's mortuary science program; the program prepares students to become funeral directors and morticians. The court found the university's sanctions of Amanda Tatro's off-campus online speech justified because she violated the university's narrowly tailored academic program rules that directly relate to established standards of professional conduct in mortuary science. The court noted that it was the specific circumstances of the case—a professional program that operates under standards of professional conduct, a program that gives students access to donated human cadavers, written program rules that require a high degree of respect for human cadavers, and discipline that was not arbitrary or intended to punish the student for protected speech—that accounted for the court's narrow holding.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036.

Patrick McCormack **Updated: September 2012**

Minnesota's Laws on Tastings and Samples of Alcohol

Minnesota Statutes make a distinction between events for the tasting of alcoholic beverages and the provision by vendors of free samples of wine, beer, and liquor.

Tastings

There are three statutorily acceptable methods for conducting a tasting:

(1) *Licensed establishments:* A bar, restaurant, taproom, or other holder of an on-sale intoxicating liquor license can hold a tasting as part of the normal operation of the establishment and would presumably charge a fee for either the event or each glass of wine, distilled spirits, or malt liquor served

(2) *Nonprofits or charities:* A nonprofit or charity may conduct a wine tasting under section 340A.418. This section provides that:

- a wine tasting is defined as an "event at which persons pay a fee or donation to participate, and are allowed to consume wine by the glass without paying a separate charge for each glass";
- these events can be no more than four hours in duration and receipts are to be dedicated to the charitable purpose;
- the charity or nonprofit must hold a temporary license or conduct the tasting on the premises of the holder of an existing on-sale license;
- no wine may be sold and no orders taken for off-premises consumption; and
- donations from and arrangements with wine wholesalers are permissible

(3) *Exclusive liquor stores*: A broader range of tastings and classes may be held by an exclusive liquor store. These include tastings of wine, distilled spirits, and malt liquors. There are two ways that these stores can conduct such tastings:

- off-site, if those tastings are held at the holder of an on-sale license as specified under section 340A.419, subdivision 2, paragraph (a)
- on-site, if those tastings are held in classes conducted at the liquor store, under section 340A.419, subdivision 2, paragraph (f)

These tastings may not be accompanied by sales of the items, but may include the use of order forms where such items can be later purchased.

The existence of three separate methods of tastings, the differences in the kinds of liquor, and the ways that tastings can be conducted, may cause confusion. Local governments and the Department of Public Safety are the final arbiters of what tastings are allowable in a given jurisdiction.

Free Samples

Minnesota Statutes, section 340A.510, allows a liquor store, bar, or municipal liquor store to either offer free samples directly or to allow a licensed manufacturer or wholesaler to provide samples on their premises. Sample sizes are limited to 100 milliliters for malt liquors, 50 milliliters for wine, 25 milliliters of liqueur or cordial, and 15 milliliters of distilled spirits. Samples must be of beverages that are otherwise for sale.

Samples may not be offered at retail establishments that do not hold an on-sale, off-sale, or municipal liquor license. Minnesota law is silent on whether brewery tours may offer samples, although there is no direct prohibition, and taxes are not collected on beer served on-site at the brewery (Minn. Stat. § 297G.07, subd. 1 (4)). In addition, breweries are allowed to open "taprooms," where beer brewed on the premises may be both sampled and served.

A number of off-sale licensees have begun to build both sampling and tastings into their business model, creating sampling stations open for multiple hours and days and conducting classes on- or off-site, with associated tastings. The law on tastings was clarified in 2012 to make such tastings legal (Minn. Stat. § 340A.419, subd. 2). This modification has the potential to change the nature of an off-sale business.

A farm winery may give free samples of its products (Minn. Stat. § 340A.315) and may hold other licenses, including on-sale licenses in order to operate bars or restaurants. A 2008 law allows farm wineries to produce distilled spirits and to give 15-milliliter samples of each variety produced.

Culinary Classes

A limited on-sale liquor license may be issued to establishments that conduct culinary classes, and under this license, participants may be served up to six ounces of wine or 12 ounces of intoxicating malt liquor, for consumption on the premises. As an alternative, a culinary establishment may hold a regular on-sale license and serve beverages under general on-sale laws. Culinary establishments may only hold a regular on-sale license if they are also a restaurant, hotel, etc. In addition, liquor stores are allowed to conduct classes and serve alcohol at these classes.

HOUSE RESEARCH | Short Subjects

Matt Burress

Updated: September 2012

Municipal State-Aid Street System

The municipal state-aid street system is a collection of about 3,600 miles of key streets located in 142 Minnesota cities across the state. The system constitutes around 22 percent of all miles of city streets. Cities receive financial assistance from the state for construction and maintenance of those streets included in the system. Assistance comes from a portion of constitutionally dedicated, transportation-related taxes. Aid distribution is based on a statutory formula administered by the Minnesota Department of Transportation (MnDOT). Minn. Stat. § 162.13. The aid can only be expended on streets that constitute part of the municipal state-aid street system. Total available funds for calendar year 2012 amounted to $150.7 million.

Constitutional framework for aid

The Minnesota Constitution establishes a basic framework for state highway finance. It (1) dedicates funding to be "used solely for highway purposes" through taxes on motor fuels, motor vehicle registration, and motor vehicle sales (with a portion of the latter dedicated to transit); (2) establishes various accounting funds, including a municipal state-aid street (MSAS) fund for financial assistance to cities; (3) allocates tax revenues among state, county, and municipal roads, so that the MSAS fund receives 9 percent of 95 percent of those tax revenues constitutionally dedicated to streets and highways (after some special allocations and transfers); and (4) establishes certain requirements related to use of the funds and characteristics of each highway system. Minn. Const. art. XIV. State statutes further specify finance and policy provisions such as aid allocation formulas and requirements for cities to receive aid.

City eligibility based on population

For a city to be included in the state-aid system it must have a population over 5,000, a requirement under the Minnesota Constitution. Minn. Const. art. XIV, § 8. Population is determined by the last federal decennial census, with provisions for some special circumstances that include:

- an exception for Chisholm, whose population fell below the cutoff with the 2000 census but is permanently grandfathered in; and
- a four-year transition period of continued aid to a city that had been receiving assistance but whose population dropped below the cutoff in a census (which was established under a 2012 legislative change and applies to five cities for calendar years 2012-2015). Minn. Stat. § 162.09, subd. 4; Laws 2001, 1st spec. sess., ch. 8, art. 2, § 6; Laws 2002, ch. 364, § 29.

While smaller cities having a population under 5,000 are not eligible for aid from the MSAS fund, they are indirectly assisted through separate funding for certain county highways. A portion of state funds for the county state-aid highway system provided to each county must be allocated to a municipal account for county state-aid highways located in smaller cities. Minn. Stat. § 162.08.

Street system limitations

Within each city, the municipal state-aid street system is restricted to up to 20 percent of the total miles of (1) the city's streets, plus (2) county highways located within the jurisdiction of that city. City streets that were previously part of a state trunk highway or a county highway system and were "turned back" to a city are also included in the municipal state-aid street system and do not count against the 20 percent limit. Minn. Stat. § 162.09.

Distribution of funds

State-aid funding is distributed on a calendar-year basis. MnDOT determines the amount annually based on both tax receipts to date and estimates of receipts for the remainder of that fiscal year. Apportionment amounts are released each January.

For calendar year 2012, total available MSAS funding totaled $150.7 million. Funds were distributed based on formulas and caps set in state law, consisting of:

- $144.7 million apportioned by formula as direct aid to cities;
- $3.0 million to an administrative account for MnDOT expenses in administering the state-aid program;
- $2.3 million to a disaster account for unforeseen events resulting in undue financial hardship; and
- $695,000 to a research account. Minn. Stat. §§ 162.12, 162.13.

Direct aid allocation formula

Money in the MSAS fund apportioned to cities via direct aid follows a formula provided in statute, so that:

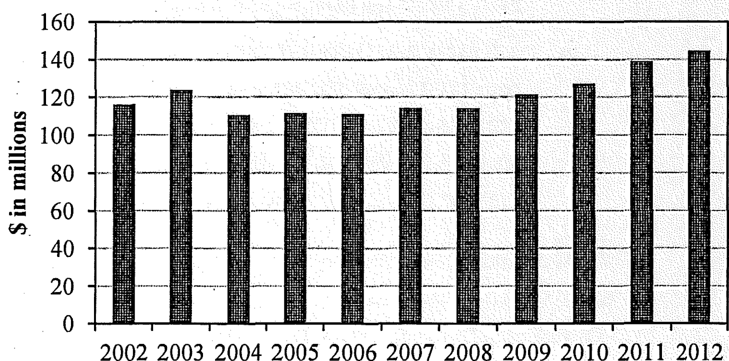
- **50 percent** is divided proportionally based on the population of each city (compared to the total for all municipal state-aid cities); and
- **50 percent** is divided proportionally based on the construction needs of each city, which is the amount the city needs to bring all its municipal state-aid streets up to state standards. Minn. Stat. § 162.13.

Analysis of aid apportionment

Owing to the variety of cities with streets in the state-aid system, MSAS fund distributions vary. Calendar year 2012 direct aid apportionments to cities ranged from about $144,000 to nearly $13 million (and $24 to almost $83 on a per capita basis). Because of the influence of population in the aid formula, larger cities tend to receive greater allocations. The average was just over $1 million, with 50 cities receiving less than $500,000 a piece and 21 cities receiving over $2 million.

In recent years direct assistance has generally increased, as summarized below.

MSAS Direct Aid History
CY 2002-12



For more information: Contact legislative analyst Matt Burress at 651-296-5045. Also see the House Research publication *Highway Finance Overview*, January 2011.

HOUSE RESEARCH | Short Subjects

Steve Hinze

Updated: September 2012

Minnesota's Green Acres Program
And Other Property Tax Programs for Rural Lands

What is the Green Acres program?

The Green Acres program, formally called the Minnesota Agricultural Property Tax Law, allows eligible agricultural property to be taxed at a value less than its full market value. Under Green Acres, when the market value of agricultural property is influenced by other potential uses of the property, such as residential or retail development, or for recreational purposes, the assessor is required to value the property based only on its agricultural value.

How does the program work?

Each year, the property taxes for an enrolled property are based on the property's agricultural value, and most special assessments are deferred. The county assessor and auditor also determine what the property taxes would be based on the property's full market value (based on its "highest and best use") and record that information on the property's record. When property is withdrawn from the program or is no longer eligible, the landowner must pay back-taxes equal to the difference in taxes for the current year and the two previous years, plus deferred special assessments. When enrolled property is sold or transferred, it may be reenrolled by the new owner if it continues to qualify, and no back-taxes are due at the time of the transfer.

What kind of land may be enrolled?

Prior to May 1, 2008, any land classified as agricultural homestead, or as agricultural nonhomestead under the same ownership for at least seven years, was eligible for enrollment, provided that it was at least ten acres in size.

After April 30, 2008, the land was also required to be in agricultural production (cropland or pasture land; class 2a), in addition to the ownership requirements above.

What changes have been made in the program recently?

Due to perceptions that some of the enrolled land may not have been the kind of land the legislation was intended to protect and that the law was not being applied uniformly across the state, the legislature altered the program in 2008, 2009, and 2010. The primary change was to only allow property in agricultural production (class 2a) to be eligible for Green Acres. A new program was created for non-productive rural vacant land (class 2b) called the Rural Preserve program, with benefits similar to Green Acres.

How are existing enrollees affected by the changes?

Existing enrollees with land that is no longer eligible (class 2b) must withdraw the land prior to January 2013. No back-taxes were due if the land was withdrawn prior to August 16, 2010, or if the land is enrolled in the new Rural Preserve program.

How does the new Rural Preserve program work?

Beginning with taxes payable in 2012, rural vacant land that is part of an agricultural homestead enrolled in Green Acres, or that was previously enrolled in Green Acres itself, may be enrolled in the Rural Preserve program. Rural Preserve land must be valued for tax purposes no higher than the average value for class 2a agricultural land in the county. As with Green Acres, back-taxes are due when the property is withdrawn from the program equal to three years of difference between the taxes based on market value and the taxes based on "rural preserve" value.

How is a property's agricultural value determined?

Each year, the Department of Revenue (DOR) determines a tillable acreage base value for each participating county based on sales of agricultural properties in areas of the state least affected by nonagricultural influences. The base values are scaled to reflect the productivity of tillable acreage in the county compared to productivity in other areas of the state. The county assessor then assigns values to Green Acres properties in the county using the base values assigned by DOR.

How much land is enrolled in Green Acres?

For taxes payable in 2012, 62 of the state's 87 counties had acreage enrolled in Green Acres, encompassing 13.6 percent of the productive agricultural acres in the state. In a study released in 2008, the Office of the Legislative Auditor found that taxes on enrolled lands were approximately $35 million less than they would have been without the program, with other taxpayers in jurisdictions where the property is located bearing the increased tax burden. (*"Green Acres" and Agricultural Land Preservation Programs*, Office of the Legislative Auditor (Feb. 8, 2008))

Are there other programs similar to Green Acres?

The Metro Agricultural Preserves program operates in the seven-county metro area and works somewhat like Green Acres. Taxes are based only on the agricultural value of the property. But unlike Green Acres, under agricultural preserves: (1) the local government must designate the area for long-term agricultural use, (2) the landowner must sign a covenant pledging that the land will be used only for agriculture for at least eight years, (3) most special assessments are prohibited, (4) participating landowners receive a small property tax credit to further reduce the taxes, and (5) no back-taxes are due at the time of withdrawal. There are other nonfinancial benefits as well, related to issues of land use.

A similar program called the Agricultural Land Preservation Program exists in Greater Minnesota, but only three counties (Waseca, Winona, and Wright) currently participate. The program differs from Green Acres and Metro Agricultural Preserves in that taxes are based on full market value rather than a reduced agricultural value, but landowners receive a property tax credit of $1.50 per acre. As with the Metro program, landowners must sign a restrictive covenant agreeing to continue using the land as agricultural property. Many of the nonfinancial benefits available in the Metro program also apply.

For more information: Contact legislative analyst Steve Hinze (steve.hinze@house.mn). See the Department of Revenue's fact sheet on Green Acres at http://www.revenue.state.mn.us/propertytax/factsheets/factsheet_05.pdf, and the fact sheet on Rural Preserves at http://www.revenue.state.mn.us/propertytax/factsheets/factsheet_15.pdf.

HOUSE RESEARCH | Short Subjects

Matt Burress

Updated: September 2012

Minnesota Speed Limits

Minnesota law sets speed limits on public roads, identifies penalties, and authorizes the Department of Transportation (MnDOT), and in some case local governments, to change the limit.

Basic speed limits and requirements

Speed limits set in statute are default maximums, but there are circumstances where MnDOT and local governments can modify them. The statutory speed limits are: 30 m.p.h. for roads in an "urban district," which is any segment of a city street or town road that is built up with structures spaced less than 100 feet apart for a minimum distance of a quarter-mile; 65 or 70 m.p.h. for interstates (depending on whether it is, respectively, within or outside an urbanized area of at least 50,000); 65 m.p.h. on divided highways with controlled access; 10 m.p.h. for alleys, mobile home parks, and campgrounds; and a default of 55 m.p.h. on other roads. Some other limits apply for specific vehicles. A 40-m.p.h. minimum speed limit applies on interstates. Minn. Stat. §§ 169.011, subd. 90; 169.14, subd. 2; 169.801; 327.27, subd. 2.

State law also mandates that "no person shall drive a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions." Minn. Stat. § 169.14, subd. 1. This can place an additional obligation on a motorist to lower the speed of travel, particularly if there are dangerous conditions such as snow.

The speed limit increases by 10 m.p.h. when passing on two-lane highways with a posted limit of at least 55 m.p.h. Minn. Stat. § 169.14, subd. 2a.

Adjustments to the limits

MnDOT has the authority to establish speed zones in which the speed limit is higher or lower than the default limits set in statute. Zones are established after MnDOT conducts an engineering and traffic investigation that analyzes factors like roadway design, physical characteristics, traffic volume, crash history, and observed speeds. MnDOT's policy is that the limit should normally be set near the 85th percentile (the speed at or below which 85 percent of vehicles travel).

Restricted local authority

Cities, counties, and towns have limited power over setting speed limits, even on their own streets and highways. If requested by a local road authority, MnDOT must perform an engineering and traffic study of the road. However, MnDOT—not the local authority—determines the safe and reasonable speed limit as well as whether to establish a speed zone.

This general rule has a few exceptions.

- If MnDOT sets a speed zone for a city street or town road in an "urban district" (defined above) that is at least a quarter-mile long, the city or town can lower the limit to 30 m.p.h. Minn. Stat. § 169.14, subd. 5b.
- In a rural residential district, a local road authority may reduce the speed limit to 35 m.p.h. A "rural residential district" is a segment of a city street or town road having houses spaced less than 300 feet apart for a

minimum distance of a quarter-mile. Minn. Stat. § 169.011, subd. 69a.

- On a residential roadway, a local road authority may reduce the speed limit to 25 m.p.h. A "residential roadway" is a city street or town road whose total length is up to a half-mile. Minn. Stat. § 169.011, subd. 64.
- In school zones, a local road authority may prescribe a lower limit that is not less than 15 m.p.h. or more than 30 m.p.h. below the surrounding limit. School zones are defined as a segment of street or highway that abuts school grounds where children have access to the roadway or where a school crossing is in place. Minn. Stat. § 169.14, subd. 5a.
- Subject to various requirements, adjusted speed limits can be set on other roadways, including: (1) park roads (at not less than 15 m.p.h., or more than 20 m.p.h. below the surrounding limit); (2) on streets that have a designated bicycle lane (at not less than 25 m.p.h.); (3) in alleys; and (4) in mobile home parks (at over 10 but no more than 30 m.p.h.). Minn. Stat. §§ 160.263, subd. 4; 169.14, subds. 5c and 5e; 327.27.
- Both MnDOT and local road authorities can also set speed limits within highway work zones, which are effective while workers are present, and MnDOT can set temporary limits for long-term construction projects.

Penalties for violations

Speeding is generally a petty misdemeanor, punishable by a base fine normally ranging from $40 to $150 and no prison sentence. The fine is doubled if the violation (1) occurs in a highway work zone or school zone, (2) involves speeds of 20 m.p.h. or more above the posted limit, or (3) occurs when passing a parked emergency vehicle with flashing lights. In addition, a $75 court surcharge is imposed for speeding convictions, and there can be a law library fee. If a speeding violation is committed in a manner that endangers persons or property, it can be charged as a misdemeanor with maximum penalties of a $1,000 fine, 90 days' imprisonment, or both. Minn. Stat. §§ 169.14; 169.89, subd. 1.

A driver's license will be revoked for at least six months for driving over 100 m.p.h. Minnesota does not use a point system, which assigns points to traffic violations and removes driving privileges if too many points accumulate. However, multiple speeding or other traffic violations within a year can lead to loss of a license. Minn. Stat. §§ 169.14, subd. 1a; 169.89; 171.17.

Speeding violations on a driver's record

A 1986 law (known as the "Dimler amendment") that was modified in 2012 governs recording of speeding violations on the motorist's driving record, which is kept by the Department of Public Safety and made accessible to insurance companies (records are also kept by the courts). Minn. Stat. § 171.12, subd. 6.

Speeding violations are not placed on the driving record if the driver traveled no more than 10 m.p.h. above the speed limit in a 55 or 60 m.p.h. zone. This provision will adjust so that starting August 1, 2014, in a 60 m.p.h. zone it only prevents recording violations of no more than 5 m.p.h. over the limit.

The prohibition on recording violations does not apply if: (1) the speed limit is below 55 m.p.h. or is 65 m.p.h. or higher; (2) the speeding violation occurred in a commercial motor vehicle; or (3) the driver holds a commercial driver's license (class A, B, or C).

For more information: Contact legislative analyst Matt Burress at 651-296-5045.

Lisa Larson

Updated: September 2012

Homeschools in Minnesota

Minnesota law allows children to attend homeschools and parents to provide instruction

Minnesota's compulsory attendance law requires children between ages 7 and 16 to attend school; the statutory definition of "school" includes a homeschool. Under state law, school instructors include the parent of a child who is assessed annually using a nationally norm-referenced standardized achievement exam agreed to by the district superintendent and the parent instructor.

Minnesota Department of Education data show that 16,081 students, or about 1.8 percent of the total elementary and secondary student population, were enrolled in a homeschool in the 2011-2012 school year in the state.

Parent educators must provide instruction in required subject areas and must report enrollment and student achievement information

Homeschool parents must provide instruction in reading, writing, literature, fine arts, math, science, social studies including history, geography, and government, and health and physical education. There is no minimum number of required days of instruction. Parent instructors must report to the district superintendent:

- by October 1 of the first school year the child receives instruction after reaching age 7;
- within 15 days of withdrawing a child from public school to homeschool or moving out of a district; and
- by October 1 after establishing a new resident district, the following information: the name, birth date, and address of each child receiving instruction at home; the annual tests used to meet state assessment requirements; the name of the child's instructor; and evidence that the instructor meets statutory criteria for instructors.

Every year, parent instructors must submit a letter to the district superintendent indicating their intent to continue providing instruction.

Parent instructors must document that they are teaching required subject areas and administering required tests. The documents must include class schedules and copies of instructional materials, and describe the methods used to assess student achievement. Parent instructors also must submit a statement indicating that their children have been immunized, or not immunized due to the parents' conscientiously held beliefs.

Parent instructors must use a standardized achievement exam and supplemental tests to assess home school students

Parent instructors who are not licensed teachers for that grade level or have not successfully completed a teacher competency exam must use a nationally norm-referenced standardized achievement exam and supplemental tests for required subject areas not covered in the standardized achievement exam to assess children attending a homeschool.

A parent instructor must have a child evaluated who scores below the 30th percentile or one grade level below children of the same age on a standardized achievement exam to determine whether the child has learning problems.

Homeschool students may receive health, guidance, and special education services School districts must provide homeschool students with the same health services offered to public school students within existing cost limits. School districts also must provide homeschool students in grades 7 to 12 with the same guidance and counseling services offered to public school students, within the existing cost limits and if the services are provided at a public school or neutral site. Federal law makes special education services available to eligible homeschool students residing in the district.

Homeschool students may participate in PSEO, online learning, CLEP, and driver's education programs Homeschool students may take courses for credit at public and private Minnesota postsecondary institutions under the Postsecondary Enrollment Options Program (PSEO). PSEO students do not pay tuition, fees, or the cost of required textbooks. Homeschool students may enroll in a full-time online learning program where participation is limited by available revenue and order of application. Homeschool students may participate in the College Level Examination Program (CLEP) and obtain college credit. The Minnesota Department of Public Safety offers driver's education options to homeschool students.

Homeschool students may participate in extracurricular activities Homeschools of five or fewer students may have students participate in the extracurricular activities of the resident district on the same basis as public school students. A school board may charge students fees to participate in extracurricular activities. Homeschools also may participate in Minnesota state high school league activities and sometimes form cooperative sponsorships with other schools to participate in such activities.

Parent instructors may be eligible for reimbursement of expenses and the state's K-12 education credit and deduction Homeschool parent instructors are eligible to be reimbursed by the resident school district for instructional materials; reimbursed items are considered district property.

Parent instructors whose household income is less than $33,500 and who have paid qualifying expenses for their children's K-12 education may be eligible for the full amount of the state's K-12 education credit. The credit phases out for families with income over $33,500, depending on the number of qualifying children. The K-12 education credit and deduction apply to homeschool expenses that would be expenses for subjects normally taught in public elementary and secondary schools. Such expenses may include required instructional materials, required books, class trips taken during the school day, purchase or rental of required equipment, after school enrichment programs, required testing fees, computer hardware, and educational software and tuition and fees.

Homeschool student information is private data under Minnesota law Under the state's data practices law, student information that a parent instructor submits to the district superintendent is private data and cannot be designated as directory information or disclosed without the parent's prior written consent unless a limited exception applies. However, school districts that receive federal funds under the Elementary and Secondary Education Act (NCLB) must provide military recruiters, when requested, with directory information that includes students' names, addresses, and telephone numbers. The district cannot release any information about a homeschool student to a military recruiter if the student's parent requests that the district not release the information.

For more information: Contact legislative analyst Lisa Larson at 651-296-8036.

HOUSE RESEARCH | Short Subjects

Joel Michael and Nina Manzi

Updated: September 2012

Minnesota Angel Investment Credit

What is the angel investment credit?

The Minnesota Small Business Investment Credit (commonly referred to as the angel investment credit) provides qualified investors in certified small businesses with a refundable income tax credit equal to 25 percent of their investments up to a maximum of $125,000 ($250,000 for married joint filers). The 2010 Legislature enacted the credit to encourage investment in emerging Minnesota small businesses. It took effect for tax year 2010 and expires for investments made after tax year 2014.

Three key sets of requirements apply under the credit:

- Rules that govern which investors qualify to make investments
- Rules specifying the types of businesses that qualify to receive investments
- Limits on which investments qualify

What investors qualify for the credit?

The angel credit allows two different types of investors to qualify for the credit:

- **Individual investors** qualify either by being accredited investors under Securities and Exchange Commission (SEC) Regulation D or by certifying that they will only invest in an offering that is exempt from registration under state law. Accredited investors generally must have net worth of at least $1 million (excluding the value of their homes) or annual income of at least $200,000 ($300,000 for married couples).
- **Qualified funds** are pass-through tax entities, such as LLCs or S corporations that invest in qualifying small businesses and have three or more investors who each meet the requirements for individual investors. These funds pass through the credit to their individual owners, who claim it on their own tax returns.

Investors must apply to and be certified by the Department of Employment and Economic Development (DEED) before making the investment for which they are claiming the credit. However, individuals who are not accredited investors but who qualify because the offering is a small corporation exempt from registration may apply up to 30 days after making the investment. Investors (either individuals or funds) or members of their immediate families may not derive more than 50 percent of their gross annual incomes from the small business.

What small businesses qualify under the credit?

The credit only applies to investments in a qualifying small business that DEED certifies:

- Has its headquarters and 51 percent of its employees and payroll in Minnesota;
- Is engaged in a specified field of business involving proprietary technology or product;
- Has fewer than 25 employees;
- Pays most of its employees wages equal to at least 175 percent of the federal

poverty guideline for a family of four;
- Has not been in operation for more than ten years; and
- Has not received more than $2 million in private equity investment.

What types of investments qualify for the credit?

To qualify for the credit, an investment must:
- Receive DEED credit certification from the annual credit cap;
- Be made in cash;
- Satisfy minimums of either $10,000 (individuals) or $30,000 (fund); and
- Receive in return an equity-type interest (e.g., common stock, partnership interest, preferred stock, or debt with a mandatory conversion to equity).

What is the maximum credit for a business?

The law prohibits DEED for certifying more than $1 million in credit allocations to any one business. Thus, a business that attracts $4 million of qualifying investments could receive the maximum credit.

How much will the credit reduce state tax revenues?

The law imposes an annual dollar limit or cap on the total amount of credits. The Department of Revenue has estimated that credits will be claimed up to the full amount of the limits. Some of these credits may be paid as refunds (rather than reducing tax liability), since the credit is refundable. The total limit over the life of the credit is $58.9 million:
- $11 million for tax year 2010
- $12 million per year for tax years 2011 through 2014, except the 2013 amount is reduced by $100,000 to fund a program evaluation

DEED administers the limits by certifying dollar amounts of credits to applicant investors on a first-come, first-served basis.

Has the demand for credits exceeded the limits?

Credit applications for tax year 2010 were about $4 million less than the limit. Under the law, the $4 million in unused credits carried over to tax year 2011, increasing the limit to $16 million. Applications for tax year 2011 used up the full $16 million by November, and applications for tax year 2012 used up the $12 million available by late July, requiring DEED to reject applicants in both years.

How many businesses and individuals benefited from the credits?

Sixty-seven businesses in 2010 and 113 in 2011 received investments that resulted in credits. Sixty-two of these businesses were located in the metro area in 2010, and 102 in 2011. Metro-area businesses received 94 percent of investments resulting in credits in 2010, and 80 percent in 2011. For tax year 2010, 267 individuals (including those investing via funds) qualified for credits for their investments.

Do clawback provisions apply?

The law provides for revocation and repayment of the credit if the small business does not maintain at least 51 percent of its employees and payroll in Minnesota for five years starting the year after the investment was made. The required repayment declines by 20 percentage points per year (100 percent in year one, 80 percent in year two, etc.). The business, not the investors, must make the repayment.

What reporting requirements apply?

Investors, funds, and small businesses must annually report to DEED on their compliance with the law. DEED annually reports to the legislature. The law requires an independent program evaluation to be completed by January 2014.

For more information: See the DEED website: http://www.positivelyminnesota.com/Business/Financing_a_Business/DEED_Business_Finance_Programs/Angel_Tax_Credit.aspx.

HOUSE RESEARCH | Short Subjects

Steve Hinze

Updated: October 2012

The Fiscal Disparities Program: Commercial-Industrial Tax-Base Sharing

What is the fiscal disparities program?

The fiscal disparities program is a system for the partial sharing of commercial-industrial (C/I) property tax base among all jurisdictions within a geographic area. In Minnesota, the program operates in two areas: the first one was enacted in 1971 and operates in the seven counties of the Twin Cities metropolitan area; a second version was enacted in 1995 operating within the Iron Range in northeastern Minnesota.

Why share commercial-industrial tax base?

The main purposes and goals of the program are to:

- *Support a regional approach to development.* Tax-base sharing spreads the fiscal benefit of business development spawned by regional facilities, such as shopping centers, airports, freeway interchanges, and sports stadiums. It also may make communities more willing to accept low-tax-yield regional facilities, such as parks.

- *Equalize the distribution of fiscal resources.* Communities with low tax bases must impose higher tax rates to deliver the same services as communities with higher tax bases. These high tax rates make poor communities less attractive places for businesses to locate or expand in, exacerbating the problem. Sharing C/I tax base can reduce this effect.

- *Reduce competition for commercial-industrial development.* Communities generally believe that some kinds of C/I properties pay more in taxes than it costs to provide services to them. This encourages communities to compete for these properties by providing tax concessions or extra services, which can weaken their fiscal condition. Tax-base sharing reduces the incentive for this competition, thereby discouraging urban sprawl and reducing the cost of providing regional services such as sewage and transportation.

How does the fiscal disparities program work?

Contributions to the areawide tax base. Each taxing jurisdiction annually contributes 40 percent of the growth in its C/I tax base since the year of enactment to an abstract entity called the "areawide tax base." This contribution value is not available for taxation by the jurisdictions where the property is located.

Distributions from the areawide tax base. Each municipality receives a share of the areawide tax base through a formula based on its share of the area's population and its relative property tax wealth (tax base per capita). The municipality is allowed to tax this distribution value at the same rate as the tax rate paid by its residents. All taxing jurisdictions whose boundaries encompass the municipality are also allowed to tax the municipality's distribution value (i.e., counties, school districts, and special taxing districts).

Calculating the property tax for each commercial-industrial property. The property tax statement for each C/I property has a local portion and an areawide portion, based on the relative amount of the tax base that is contributed and the amount that is retained by the municipality where the property is located.

How much tax base is redistributed through the programs?

In 2012, 37.6 percent of all local commercial-industrial property taxes are paid through fiscal disparities, and the areawide tax base accounts for 12 percent of the total tax base in the metropolitan area. In the Iron Range program, 17.8 percent of all local commercial-industrial property taxes are paid through fiscal disparities, and the areawide tax base constitutes 3 percent of the total tax base on the Iron Range.

How much does the fiscal disparities program affect taxes in the metro area?

A House Research Department study based on taxes payable in 2012 found that the average homestead tax in Columbia Heights, which is one of the largest net beneficiaries of the program, was 14.6 percent lower because of fiscal disparities. The study found that the average homestead tax in Bloomington, which is one of the largest net contributors, was 5.4 percent higher. Homestead effects throughout the area generally varied between these extremes.

For commercial-industrial properties, average taxes were 9.8 percent lower in Columbia Heights due to fiscal disparities and 13.7 percent higher in Eagan, another suburban city that is a large net contributor. Commercial-industrial property tax impacts elsewhere in the metro area generally fall between these extremes.

The study looked only at the direct effect of fiscal disparities, i.e., the redistribution of tax base, and made no attempt to factor in alternative development patterns that might have occurred without fiscal disparities.

What are the effects of the Iron Range program?

The same study found that the average homestead tax in Keewatin (Itasca County) was 24.8 percent lower because of fiscal disparities, while homestead taxes in Silver Bay were 5.5 percent higher, with other municipalities generally falling between those extremes.

For commercial-industrial properties, average taxes were 17 percent lower in Keewatin due to fiscal disparities and 20.4 percent higher in Farm Island township (Aitkin County). Commercial-industrial property tax impacts elsewhere on the Iron Range generally fall between these extremes.

For more information: Contact legislative analyst Steve Hinze (steve.hinze@house.mn). A report showing the impact of the fiscal disparities program by municipality can be viewed at: http://www.house.mn/hrd/issinfo/csim12E1.pdf.

HOUSE RESEARCH | Short Subjects

Nina Manzi & Steve Hinze Updated: October 2012

Homeowner's Property Tax Refund Program

What is the property tax refund program?

The homeowner's property tax refund program (sometimes called the "circuit breaker" or the PTR) is a state-paid refund that provides tax relief to homeowners whose property taxes are high relative to their incomes. If property tax exceeds a threshold percentage of income, the refund equals a percentage of the tax over the threshold, up to a maximum amount. As income increases:

- the threshold percentage increases,
- the share of tax over the threshold that the taxpayer must pay increases, and
- the maximum refund decreases.

The program uses household income, a broad measure that includes most types of income. Deductions are allowed for dependents and for claimants who are over age 65 or disabled.

What are recent changes to the program?

The 2008 and 2011 tax laws both expanded the homeowner's property tax refund program. The 2008 changes, effective for refunds based on taxes payable in 2009, lowered the maximum threshold percentage for determining eligibility from 4.0 percent of income to 3.5 percent of income and increased the maximum refund allowed by about $500. The 2011 changes, effective for refunds based on taxes payable in 2012, increased the maximum refund for homeowners with incomes under about $37,000, and decreased the copayment percentage for most homeowners.

What are the maximums?

For refund claims filed in 2013, based on property taxes payable in 2013 and 2012 household income, the maximum refund is $2,530. Homeowners whose income exceeds $103,729 are not eligible for a refund.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue (DOR) Schedule M1PR, which is filed separately from the individual income tax form. Claims filed before August 15, 2013, will be paid beginning in late September 2013; claims filed electronically may be paid a month earlier. The deadline for filing claims based on taxes payable in 2013 is August 15, 2014; taxpayers filing claims after that date will not receive a refund.

What is the average refund and total amount paid?

Statewide Homeowner Property Tax Refunds Filed in 2011
(based on 2010 incomes and payable 2011 taxes, most recent data available)

	Number of returns	Total refund amount	Average per return
Under 65 years old	218,495	$162.9 million	$745
Senior/disabled	144,414	$109.4 million	$758
Total: all homeowners	362,909	$272.3 million	$750

How do refunds vary depending upon the filer's income and property tax?

The following table shows the refund calculations for four example families with different incomes—two families in the metro area and two in greater Minnesota. Although the property tax refund threshold, copayment rates, and maximum refund amounts are the same statewide, the average residential homestead property tax in the metro area is higher than in greater Minnesota. The metro area families have payable 2013 property taxes of $3,163, a typical amount for the metro. The families in greater Minnesota have payable 2013 property taxes of $1,532, a typical amount for greater Minnesota. Taxpayers who are over age 65, disabled, or have dependents are allowed a subtraction from income in determining the refund.

Married couple, both under age 65, two dependents
Example refunds for claims to be filed in 2013,
based on taxes payable in 2013 and 2012 income

		Metro area		**Greater Minnesota**	
		Taxpayer #1	**Taxpayer #2**	**Taxpayer #3**	**Taxpayer #4**
1	Typical estimated market value of home	$222,700	$222,700	$149,400	$149,400
2	Gross income	$35,000	$75,000	$35,000	$75,000
3	Deduction for dependents	$10,260	$10,260	$10,260	$10,260
4	Household income (2 – 3 = 4)	$24,740	$64,740	$24,740	$64,740
5	Property tax	$3,163	$3,163	$1,532	$1,532
6	Threshold income percentage	2.3%	3.2%	2.3%	3.2%
7	Threshold % x income (4 x 6 = 7)	$569	$2,072	$569	$2,072
8	Property tax over threshold (5 – 7 = 8)	$2,594	$1,091	$963	$0
9	Statutory copay percentage	30%	40%	30%	40%
10	Taxpayer copay amount (8 x 9 = 10)	$778	$437	$289	NA
11	Remaining tax over threshold (8 – 10 = 11)	$1,816	$655	$674	NA
12	Maximum refund allowed	$2,530	$1,480	$2,530	$1,480
13	Net property tax refund	$1,816	$655	$674	$0

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.revenue.state.mn.us.

HOUSE RESEARCH | Short Subjects

Nina Manzi & Joel Michael

Updated: October 2012

Penalties for Underreporting Minnesota Individual Income Tax

What is the civil penalty for failure to pay Minnesota income tax by the due date?

For calendar year taxpayers, final payments are due on April 15 following the close of the tax year. (Most taxpayers pay on a calendar-year basis; a small number use fiscal years instead.) Income tax not paid by April 15 is subject to a late payment penalty equal to 4 percent of the amount not paid.

An additional 4 percent penalty applies to amounts owed as a result of an assessment order from the commissioner of revenue if the taxpayer either does not pay the amount assessed within 60 days of the order or does not appeal the assessment.

An additional extended delinquency penalty of 5 percent of the tax due applies to income tax not paid within 180 days of an order from the commissioner or the date a return is filed.

Is there a reasonable cause exception?

Yes. A taxpayer is presumed to have reasonable cause for underpayment if the taxpayer paid 90 percent of the amount due by the April 15 due date, filed the return by October 15, and paid the balance of the tax due when the return was filed. In this situation, the 4 percent late-payment penalty does not apply.

What is the "additional tax charge"?

Individuals who expect to owe $500 or more after withholding and credits must make estimated payments, which are due in four installments: April 15, June 15, and September 15 during the tax year, and January 15 following the close of the tax year. If estimated payments and withholding do not equal at least 90 percent of the tax due, or 100 percent of liability for the preceding tax year, the taxpayer is subject to an additional tax charge. The additional tax charge equals 4 percent of the amount underpaid, prorated by the number of days elapsed between the due dates of the four installments and the date of the final payment.

The additional tax charge does *not* apply if the individual was a Minnesota resident in the preceding tax year but did not have tax liability.

What is the civil penalty for failure to file a return?

For calendar year taxpayers, income tax returns are due by April 15 following the close of the tax year, but there is no late filing penalty if the return is filed by October 15. Taxpayers who fail to file an individual income tax return by October 15 must pay a penalty equal to 5 percent of the tax not paid by October 15.

If an individual is required to file a return and does not file it by October 15 and receives a written demand to file from the Department of Revenue, the individual must file within 60 days or face an additional "extended late file" penalty. The extended-late-file penalty equals the greater of 5 percent of the tax not paid or $100.

What other civil penalties are there?

- **Failure to report changes to the federal return: 10 percent.** When a federal return is amended by the taxpayer or corrected by the Internal Revenue Service, a copy of that return or a letter of explanation must be reported to Minnesota within 180 days. An amended Minnesota return is also required within 180 days. If federal changes are not reported, a penalty of 10 percent of the underpayment of Minnesota tax attributable to the federal change applies.
- **Intentional disregard of laws: 10 percent.** A 10 percent penalty applies if the taxpayer has been negligent or shown intentional disregard of the law or rules for determining liability, but didn't intend to defraud.
- **Substantial understatement of liability: 20 percent.** "Substantial understatement" means underreporting of the correct tax that exceeds the greater of $5,000 or 10 percent of the tax actually owed. A penalty of 20 percent applies to a substantial understatement of liability.
- **Filing a frivolous return: greater of 25 percent or $1,000.** A return is considered frivolous if it is substantially incorrect on its face or lacks information needed to judge the accuracy of the return, and consists of inappropriate conduct or reflects a desire to impede the tax process.
- **Filing a false or fraudulent return: 50 percent.** A penalty of 50 percent applies to the underreported liability and overstated refund claimed if the commissioner can prove the return was fraudulent in order to evade the tax, or if failure to file a return was intended to evade the tax. The 50 percent penalty also applies to fraudulently claimed refundable credits (the dependent care credit, the working family credit, the K-12 education credit, the military service combat zone credit, and the property tax refund).

Does interest apply to underreported tax liability and penalties?

In addition to the penalties listed, taxpayers who underreport individual income tax liability must pay interest on the amount underpaid and on the associated penalty from the date the tax was due. Penalties and underreported liability bear interest at an annual rate tied to the prime rate. This rate is adjusted annually and is set at 3 percent for 2010 through 2013.

How are the penalties applied?

The penalties for underreporting of individual income tax liability are imposed and collected in the same manner as the original taxes.

Are failing to file and underreporting liability criminal offenses in Minnesota?

In certain circumstances, failing to file and underreporting tax liability are criminal offenses. It is a gross misdemeanor to knowingly fail to file a return or pay tax. It is a felony to willfully fail to file a return or pay tax, with intent to evade the tax, and a felony to file a false return concerning a material matter. Penalties for these criminal offenses are in addition to civil penalties.

For more information: Contact legislative analysts Nina Manzi at 651-296-5204 or Joel Michael at joel.michael@house.mn.

HOUSE RESEARCH | Short Subjects

Steve Hinze and Jim Cleary Updated: October 2012

Disabled Veteran Homestead Valuation Exclusion

What is the disabled veteran valuation exclusion?

This program provides a property tax benefit to qualifying homeowners by reducing the value of their home for property tax purposes by up to $300,000. The benefit applies to certain disabled veterans, their surviving spouses, the surviving spouses of military personnel who have died in the line of duty, and certain primary caregivers of disabled veterans.

What is the benefit?

Veterans who are totally and permanently disabled (100% T&P) are eligible for a valuation exclusion of $300,000; veterans who are not totally and permanently disabled, but who have a disability rating of 70 percent or higher, are eligible for an exclusion of $150,000. Surviving spouses of deceased disabled veterans that were eligible for the $300,000 exclusion are eligible to receive the same benefit for five additional years after the veteran's death. If a disabled veteran does not own a house, but has a designated "primary family caregiver" who does own a house, the caregiver can receive the exclusion for such time as they continue in that role. Surviving spouses of military personnel who have died in the line of duty are eligible to receive a $300,000 exclusion for five years following the service member's death.

How does the benefit work?

The exclusion amount is subtracted from the value of the homestead as determined by the assessor before property taxes are calculated. If the value of the homestead in any year is less than the exclusion amount, the homestead is totally exempt from property taxes for that year. The actual tax benefit for a specific property will vary based on the value of the home and the local tax rate.

What are the qualifications for disabled veterans?

To qualify as a disabled veteran, the veteran must have been honorably discharged from the U.S. armed forces as indicated by U.S. Department of Defense form DD214 or other official military discharge papers, and must be certified by the U.S. Dept. of Veterans Affairs (US/VA) as having a service-connected disability with a disability rating of 70 percent or higher.

How do you enroll in the program?

Application for benefits under this program must be filed with the county assessor. A disabled veteran must provide form CR-DVHE70 or CR-DVHE100 and provide proof of honorable discharge and of disability rating. A surviving spouse of a service member who dies while in active service must provide either U.S. Government Form DD1300 or DD2064. Primary family caregivers must supply certification that they qualify under the US/VA Program of Comprehensive Assistance for Family Caregivers. Recipients must apply for the benefit each year, except that totally and permanently disabled veterans do not need to reapply each year, since their disability status is permanent and their benefit is not time-limited.

When do the benefits begin?	Applications received prior to July 1 of any year take effect for taxes payable in the following year, unless the homestead is a manufactured home, in which case the benefit takes effect in the same year. Veterans who fail to apply in the first year that they are eligible may file in any subsequent year and begin receiving benefits after that.
How is the tax benefit paid for?	Excluding all or a portion of the value of the disabled veteran's home from property taxes slightly increases the taxes on other properties (homes, businesses, farms, etc.) in the taxing jurisdictions where the veteran's home is located, meaning that the veteran's property tax benefit is essentially being provided by the surrounding properties.
What about special assessments?	Other charges that might appear on the property tax statement, such as special assessments and various types of fees, are not affected by the valuation exclusion and must continue to be paid in full.
Are there survivor benefits?	For a veteran who is totally and permanently disabled, the surviving spouse continues to receive program benefits in the five calendar years following the death of the veteran, provided that the surviving spouse continues to own and reside in the house. There is no survivor benefit for spouses of veterans qualifying at the 70 percent standard. There is also no survivor benefit for spouses of disabled veterans who are not enrolled in the program before the veteran's death.
How does the exclusion apply to an agricultural homestead?	For agricultural homesteads, the exclusion applies only to that portion of the property consisting of the house, garage, and surrounding one acre of land.
Does the market value exclusion affect other property tax relief programs?	Properties that qualify for the disabled veterans homestead valuation exclusion do not receive the "regular" market value homestead exclusion of $30,400 or less. Properties that qualify for the disabled veterans homestead valuation exclusion are not eligible to receive the preferential classification (1b) generally available on the first $50,000 of market value on homesteads owned by persons who are blind or disabled. Disabled veterans, surviving spouses, and primary caregivers continue to be eligible for the property tax refund program, although it is likely that they would qualify for a significantly smaller refund because their property taxes would be so much lower due to the exclusion.

For more information: Contact legislative analyst Steve Hinze at steve.hinze@house.mn or Jim Cleary at jim.cleary@house.mn. Also see the Department of Revenue's fact sheet on the disabled veterans exclusion program at http://www.revenue.state.mn.us/propertytax/factsheets/factsheet_13.pdf .

Nina Manzi and Steve Hinze Updated: October 2012

Renter's Property Tax Refund Program

What is the renter's property tax refund program?

The renter's property tax refund program (sometimes called the "renters' credit") is a state-paid refund that provides tax relief to renters whose rent and "implicit property taxes" are high relative to their incomes. "Rent constituting property taxes" is assumed to equal 17 percent of rent paid. If rent constituting property tax exceeds a threshold percentage of income, the refund equals a percentage of the tax over the threshold, up to a maximum amount. As income increases:

- the threshold percentage increases,
- the share of tax over the threshold that the taxpayer must pay increases, and
- the maximum refund decreases.

The program uses household income, a broad measure that includes most types of income. Deductions are allowed for dependents and for claimants who are over age 65 or disabled.

What are the maximums?

For refund claims filed in 2012, based on rent paid in 2011 and 2011 household income, the maximum refund is $1,550. Renters whose income exceeds $54,619 are not eligible for refunds.

How are claims filed?

Refund claims are filed using Minnesota Department of Revenue (DOR) Schedule M1PR. Schedule M1PR is filed separately from the individual income tax form. Claims filed before August 15, 2012, will be paid beginning in August 2012. The deadline for filing claims based on rent paid in 2011 is August 15, 2013; taxpayers filing claims after that date will not receive a refund. Forms are available online at DOR's website, under "Forms and Instructions."

What is the average refund and total amount paid?

Statewide Renter Property Tax Refunds, Filed in 2010
(based on 2009 incomes and rent paid in 2009, taxes assumed to equal 15% of rent paid)

	Number of returns	Total amount	Average per return
Under 65 years old	198,313	$94.3 million	$476
Senior/disabled	83,139	$43.2 million	$520
Total: all renters	281,452	$137.6 million	$489

How has the percent of rent considered property taxes changed in recent years?

For refunds based on rent paid from 1998 to 2008, the percentage of rent constituting property taxes equaled 19 percent. Under Gov. Tim Pawlenty's June 2009 unallotment, subsequently enacted into law, the percentage of rent constituting property taxes was reduced from 19 percent to 15 percent for refunds based on rent paid in 2009 only. For refunds based on rent paid in 2010, the percentage returned to 19 percent. Legislation enacted in the 2011 reduced the rate to 17 percent for refunds based on rent paid in 2011 and following years.

How do refunds vary depending on income and property taxes?

The following table shows the refund amount for two example families (married couples without dependents). Although the threshold percentage, copayment rates, and maximum refund amounts are the same statewide, the average rent is higher in the metro area than in greater Minnesota. The metro area family paid monthly rent in 2012 of $745, the fair market rent for a one-bedroom apartment in the metro area. The family in greater Minnesota paid monthly rent in 2012 of $472, the fair market rent for a one-bedroom apartment in many greater Minnesota counties. Taxpayers who are over age 65, disabled, or have dependents are allowed a subtraction from income in determining the refund.

Married couple, both under age 65, no dependents
Example refunds for claims to be filed in 2013,
based on rent paid in 2012 and 2012 household income

		Metro area		**Greater Minnesota**	
		Taxpayer #1	**Taxpayer #2**	**Taxpayer #1**	**Taxpayer #2**
1	Gross income	$15,000	$30,000	$15,000	$30,000
2	Deduction for dependents	0	0	0	0
3	Household income (1 – 2 = 3)	$15,000	$30,000	$15,000	$30,000
4	Rent constituting property tax	$1,520	$1,520	$963	$963
5	Statutory threshold percentage	1.4%	2.0%	1.4%	2.0%
6	Threshold % x income (3 x 5 = 6)	$210	$600	$210	$600
7	Property tax over threshold (4 – 6 = 7)	$1,310	$920	$753	$363
8	Copay percentage	15%	30%	15%	30%
9	Taxpayer copay amount (7 x 8 = 9)	$196	$276	$113	$109
10	Remaining tax over threshold (7 – 9 = 10)	$1,113	$644	$640	$254
11	Maximum refund allowed	$1,600	$1,600	$1,600	$1,600
12	Net property tax refund	$1,113	$644	$640	$254

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.revenue.state.mn.us.

HOUSE RESEARCH | Short Subjects

Mark Shepard Updated: November 2012

Gift Ban Law and Rules for House Members and Employees

What does the gift ban law prohibit?

Legislators and legislative employees must not request or accept a gift from a lobbyist or principal, and lobbyists and principals must not give a gift to a legislator or legislative employee or ask someone else to do so. Family members are not subject to the ban.

Who are lobbyists and principals?

A "lobbyist" is an individual who is required to register with the Campaign Finance and Public Disclosure Board to lobby Minnesota state government. A "principal" is an entity that hires lobbyists or that spends more than $50,000 in a year to influence official action. Lobbyists and principals are listed on the board's website at www.cfboard.state.mn.us. If an individual or entity is not listed on the website, a member may call the board at 651-539-1189 to see if the website is current. Members and staff may rely on the information provided by board staff on the issue of who is a lobbyist or principal. Examples of people who are not lobbyists include members of the media, local government elected officials, state employees, and representatives of foreign governments touring the Capitol.

What is the penalty for a violation?

There is no criminal penalty or civil fine. The board, which administers the law, takes the position that if possible, it will make a recipient return or pay for an improper gift. This has happened at least once.

What is a gift?

A gift is something received without giving equal or greater value in return. If the House pays to send a member or employee to a conference sponsored by a principal, the conference is not a gift from the principal. The event was paid for. By express terms or board advisory opinions "gift" includes the following:

- discounts, loans, privileges, or access made available to legislators but not to the general public
- paying off a debt for a legislator
- honoraria
- travel expenses or lodging for a meeting
- donations to a legal defense fund to benefit public officials generally
- donations to a retirement party held for a public official who is in office or has taken a new office

Some of the advisory opinions involved legislators, but the reasoning would also apply to legislative staff.

The following are excluded from the gift ban by the statute or by board opinions:

- campaign contributions
- services to assist in performing official duties
- services of insignificant monetary value
- plaques with a resale value of $5 or less
- trinkets or mementos costing $5 or less
- informational material with a resale value of $5 or less
- food and drink when asked to speak or answer questions at a program (eating lunch free when speaking at a legislative update program sponsored by a principal; not eating lunch free when touring a business that hires lobbyists). An advisory opinion lets a covered individual attend a party paid for by a principal if the individual (1) reimburses the principal for his or her fair share of the cost of the party; or (2) contributes to the party an item or items that equal or exceed the individual's share of the cost of the party.
- a gift received because of membership in a group, a majority of whom are not officials, and everyone in the group gets a similar gift (a member may accept a gift from his or her spouse's employer that is a principal if the employer gives all spouses a similar gift and a majority of those spouses are not public officials)
- a gift from a lobbyist or principal who is a family member, unless the gift is given on behalf of someone outside the family
- referral of legal matters between attorneys
- a job offer in the normal course of career changes

What House rules apply to gifts?

House Rule 9.20 prohibits a member from accepting an honorarium (other than expense reimbursement) for services performed for an individual or organization with a direct interest in the business of the House, including, but not limited to, lobbyists and principals. The rule specifies that violations must be referred to the Ethics Committee. The rule does not mention employees. House Rule 9.21 prohibits members and employees from accepting travel or lodging from a for-profit business, union, lobbyist, association of lobbyists, or a foreign government. Both rules are stricter than the statute in restricting the sources from which members and employees may accept things.

For more information: Contact legislative analyst Mark Shepard at 651-296-5051 or Jeffrey Diebel at 651-296-5041.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Steve Hinze

Updated: December 2012

Targeting Property Tax Refund

What is targeting?

The "additional" or "special" property tax refund, generally referred to as "targeting," directs property tax relief to homeowners who have large property tax increases from one year to the next.

Who qualifies?

A homeowner qualifies if the property tax on the home has increased by more than 12 percent over the previous year's tax and if the increase is over $100. In determining eligibility, the previous year's tax amount is the net amount paid by the homeowner after deduction of any targeting refund received in that year.

The homeowner must have owned and lived in the same home for both years. If any improvements were made to the home, that portion of the tax increase resulting from the improvements must be subtracted when determining the refund.

How does targeting work?

Generally, the refund equals 60 percent of the increase over the greater of (1) 12 percent of the previous year's tax after deduction of targeting, or (2) $100. For refunds based on taxes payable in 2012 only, the refund percentage was 90 percent instead of 60 percent. The maximum refund is $1,000. The following example shows how the refund is calculated.

Payable 2012 Property Tax after Targeting Payable 2013 Property Tax	$1,600 $2,000
2013 tax increase (over 2012) Taxpayer pays first 12% of increase compared to previous year's tax, which must be at least $100 (12% x $1,600)	$400 $192
Remaining increase eligible for relief ($400 - $192 = $208)	$208
State pays 60% of excess over 12% increase up to a $1,000 maximum (60% x $208 = $125)	$125
Amount of 2013 increase paid by taxpayer ($400 - $125)	$275

The taxpayer's $400 increase (i.e., 25 percent) is reduced to an out-of-pocket property tax increase of $275 (i.e., 17.2 percent) as a result of the $125 refund.

The taxpayer pays the full $2,000 amount of the 2013 property tax to the county, the first half in May and the second half in October. The taxpayer applies to the state for a targeting refund on form M1PR. The targeting refund is paid at the same time the regular homeowner property tax refund ("circuit breaker") is paid in late September.

Does targeting have any other restrictions?

No, unlike the regular property tax refund, the targeting refund is not tied to the taxpayer's household income. Under the regular homeowner property tax refund, the taxpayer's household income may not exceed a specified maximum and the amount of household income affects the amount of the refund.

However, the targeting refund does not use income as a factor, nor is there any limitation on the taxpayer's household income. Therefore, many higher income taxpayers who do not qualify for the regular property tax refund due to income restrictions are eligible for the targeting refund.

What are statewide amounts?

The amounts paid out for the targeting program decreased substantially from $7.4 million in 2008 to about $1.2 million in 2011, with comparable percentage decreases occurring in the metro area and in nonmetro Minnesota.

The table below shows the statewide amount, with a breakdown for the metro and the 80 nonmetro counties, for the past four years.

Targeting Refunds, Filed 2008 – 2011 (dollars in thousands)

	Filed 2008	Filed 2009	Filed 2010	Filed 2011
Total Metro	$4,330	$3,750	$1,024	$1,211
Total Nonmetro	$3,046	$2,338	$1,310	$691
State	$7,376	$6,088	$2,334	$1,902

Some taxpayers (e.g., those who typically don't qualify for the regular property tax refund) may not be aware of the targeting program, resulting in lower total refunds statewide than if all eligible taxpayers had filed.

How many homeowners claim the refund?

In 2011, just over 23,000 homeowners claimed refunds based on their property tax increase from payable 2010 to 2011. The average refund amount was $83.

How are claims filed?

Refund claims are filed using the Minnesota Department of Revenue (DOR) Schedule M1PR, the property tax refund form. There is a separate schedule on the back of the M1PR ("Schedule 1 – Special Refund") for the targeting program. The taxpayer files for this refund after receiving his or her property tax statement in February or March. Claims filed before August 15, 2013, will be paid beginning in late September 2013. The deadline for filing claims based on taxes payable in 2013 is August 15, 2014; taxpayers filing claims after that date will not receive a refund. Forms are available online at DOR's website, under "Forms and Instructions" (www.revenue.state.mn.us).

For more information: Claimants can check the status of their refund by calling DOR at (651) 296-4444 or online at www.revenue.state.mn.us. Also see the House Research Short Subject *Homeowner's Property Tax Refund Program*, December 2012, and the Information Brief *Targeting*, March 2012.

HOUSE RESEARCH | Short Subjects

Danyell A. Punelli

December 2012

Public Assistance Fraud Prevention

Who is responsible for fraud prevention?

The Department of Human Services (DHS), Office of Inspector General (OIG), oversees fraud prevention and recovery efforts, including health care, child care, and food support fraud detection and recovery efforts. The OIG is responsible for operating the Medicaid Integrity program as well.

The state and counties work together to prevent public assistance fraud. Minnesota funds a county-administered program called the integrity reinvestment project, which pays for preventing and investigating fraud in the state's cash assistance, child care, health care, and food programs. Participating county agencies must develop and submit annual proposals to the Commissioner of Human Services with a plan to coordinate county duties related to the prevention, investigation, and prosecution of public assistance fraud.

How does fraud prevention work?

Fraud prevention programs prevent and reduce improper payments by resolving eligibility questions for caseworkers. When caseworkers have questions about eligibility or suspect fraud, they refer the matter to investigators.

County criminal investigators consider public assistance fraud a crime of theft. Some instances of fraud are considered to be felony theft and are referred to the criminal justice system.

Where fraud has been discovered, the state and counties use a variety of collection methods to recover benefits from recipients who have been determined to be ineligible for benefits.

What recent changes have been made to reduce fraud?

The 2011 and 2012 Legislatures passed several provisions aimed at reducing public assistance fraud. In 2011, the legislature enacted laws related to electronic benefit transfer (EBT) cards to:

- require the name of the head of household to be printed on the card (Minn. Stat. § 256.987, subd. 1);
- prohibit the purchase of tobacco products or alcoholic beverages with the card (Minn. Stat. § 256.987, subd. 2);
- disqualify card users from public assistance programs if they are found to have purchased prohibited items with the card; and
- require liquor stores, tobacco stores, gambling establishments, and tattoo parlors to block EBT card transactions at their places of business and withdrawals of cash at ATMs located in their places of business (Minn. Stat. § 256.9871).

The 2012 Legislature modified the EBT card provisions related to disqualifications from public assistance by disqualifying the individual found to be guilty of making prohibited purchases with the card for one year after the first offense, two years after the second offense, and permanently after the third or subsequent offense (Minn. Stat. § 256.987, subd. 4). The 2012 Legislature also:

- restricted use of the cash portion of the EBT card to vendors and ATMs located in Minnesota and the surrounding states of Iowa, North Dakota, South Dakota, and Wisconsin (Minn. Stat. § 256.987, subd. 3);
- required peace officers to report to the head of the officer's department every arrest where the person arrested possesses more than one public assistance EBT card (the report must then be forwarded to the Commissioner of Human Services) (Minn. Stat. § 626.5533); and
- allowed for sharing of certain data between the state court administrator, Department of Public Safety, and DHS for purposes of preventing public assistance fraud (Minn. Stat. § 256.01, subds. 18c, 18d, and 18e).

What are the results of recent fraud investigations?

According to the DHS fact sheet *Minnesota Welfare Fraud Prevention and Reduction Efforts*, in fiscal year 2011, fraud investigators:

- completed 6,900 investigations (benefits were stopped or reduced in 47 percent of those cases);
- identified $13.7 million in cost-avoidance (benefits not paid to ineligible applicants and recipients) and overpayments (cases where payments had been higher than warranted);
- responded to 7,050 fraud complaints and verification requests; and
- stopped disbursement of, or identified for collection, $4.67 for every $1 spent on program administrative costs.

Are fraud investigations referred to the justice system?

Some public assistance fraud cases are considered to be felony theft; these cases require the involvement of the criminal justice system. According to the DHS fact sheet, in fiscal year 2011, criminal investigators:

- completed more than 1,350 criminal investigations;
- identified $3.5 million in overpayments;
- prevailed in 172 administrative disqualification processes;
- completed 28 cases in which recipients admitted guilt prior to trial and agreed to restitution with sentencing deferred; and
- participated in 90 convictions for public assistance fraud.

For more information: Contact legislative analyst Danyell Punelli at 651-296-5058. Also see Minnesota Department of Human Services, *Minnesota Welfare Fraud Prevention and Reduction Efforts*, March 2012.

HOUSE RESEARCH | Short Subjects

Nina Manzi and Jim Cleary **Updated: December 2012**

Military Pay under Minnesota's Individual Income Tax

Most military pay is exempt from Minnesota income tax

Calculation of Minnesota's individual income tax starts with a person's federal taxable income. As a result, military pay that is exempt from taxation at the federal level, such as combat pay and hazardous duty pay, is also exempt at the state level. Minnesota allows subtraction from federal taxable income of most other types of military pay that are taxed at the federal level, thereby making such income exempt from Minnesota income tax. However, no subtraction is allowed for pay for either of the two following types of military service:

(1) service by a Minnesota resident serving in the National Guard while assigned to Active Guard and Reserve (AGR) status under U.S. Code, title 32

(2) service performed in accordance with Minnesota Statutes, section 190.08, subdivision 3 (i.e., current or former military personnel employed for the full-time administration of the Minnesota Department of Military Affairs)

Federal law prohibits states from taxing some types of military income

Federal law prohibits states from taxing active service military pay earned by nonresidents. Thus, a nonresident member of the military often does not need to file a Minnesota tax return.

Military pay for regular full-time active service is generally not taxed by the state

Minnesota also allows for the subtraction of military pay earned by a Minnesota resident for full-time active military service (other than for the two types of military service described above). This subtraction typically applies to Minnesota residents who serve either within Minnesota as full-time military recruiters or Coast Guard personnel, for example, and to Minnesota residents who are in full-time military service outside Minnesota.

Military pay for most types of National Guard and reserve service is not taxed by the state

A member of the National Guard or other military reserve unit is allowed to subtract pay received for active service.

"Active service" includes:

- certain state active service, such as assistance in natural disasters and searches for lost persons (Minn. Stat. § 190.05, subd. 5a, cl. (1));
- federally funded state active service, under U.S. Code, title 32 (National Guard), such as, weekend drills and annual training (summer camp), special school attendance, airport security, or active duty for special work (ADSW) (Minn. Stat. § 190.05, subd. 5b);
- federal active service, under U.S. Code, title 10 (Reserves), such as weekend drills, annual training (summer camp), special school

attendance, pre- or postdeployment-related duty, and time on medical hold under U.S. Code, title 10; active duty orders while recuperating from an injury; and Active Guard and Reserve (AGR) service under U.S. Code, title 10 (Minn. Stat. § 190.05, subd. 5c).

"Active service" does not include service by Minnesota residents working in AGR status under U.S. Code, title 32 (federally funded state active service), nor service by current or former members of the National Guard or reserves ordered to active service by the adjutant general to perform full-time administration of the Department of Military Affairs.

Military pay for service outside Minnesota is generally not taxed by the state

Income received by Minnesota residents for military service under U.S. Code, title 10, including service in AGR status by members of the military reserves other than the National Guard, is not taxed by the state of Minnesota, and thus is not subject to Minnesota income tax withholding.

Unless a service member who has served only outside Minnesota during the year is due some specific tax-related benefit from the state (e.g., a refundable tax credit), has had other income tax withheld, or has earned a sufficient amount ($9,750 or more for tax year 2012) of other taxable military and/or nonmilitary income to require filing, it may not be necessary for the person to file a Minnesota income tax return for a given tax year.

The following are some common types of income received by Minnesota residents that are normally subject to the Minnesota income tax, regardless of whether the service member has been serving outside of Minnesota during part or all of the year:

- income earned by the service member's spouse living and employed within Minnesota (when filing jointly)
- nonmilitary income earned by the service member as a pay differential provided by the person's (public or private) Minnesota civilian employer
- nonmilitary income earned by the service member from civilian employment within Minnesota during part of the year (e.g., preceding or following military deployment or transfer)
- other nonmilitary income earned by the service member before, during, or following military deployment outside Minnesota (e.g., rental income from property in Minnesota)

For more information: The Department of Revenue maintains information on taxation of military pay online at http://www.revenue.state.mn.us/individuals/individ_income/Pages/Members_of_the_Military.aspx or contact legislative analyst Nina Manzi at 651-296-5204 or Jim Cleary at jim.cleary@house.mn.

HOUSE RESEARCH | Short Subjects

Steve Hinze

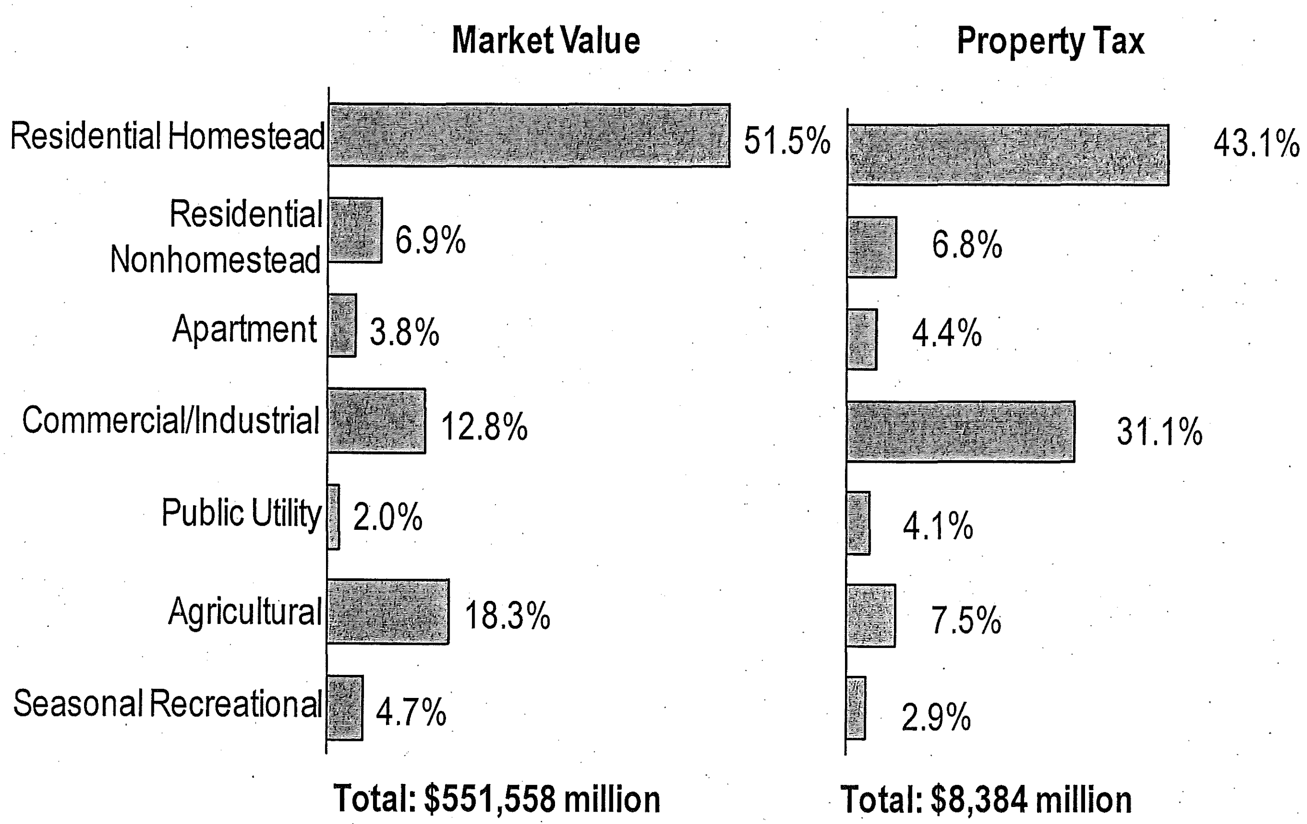
Updated: December 2012

Property Tax 101: Who Pays Property Taxes and Who Receives Them

Where property taxes come from

Total property taxes statewide were $8,384 million for calendar year 2012. The total amount of property value (excluding the value of exempt property) was $551,558 million. The graphs below show the breakdown of the state's total property tax base by market value and by taxes paid in 2012.

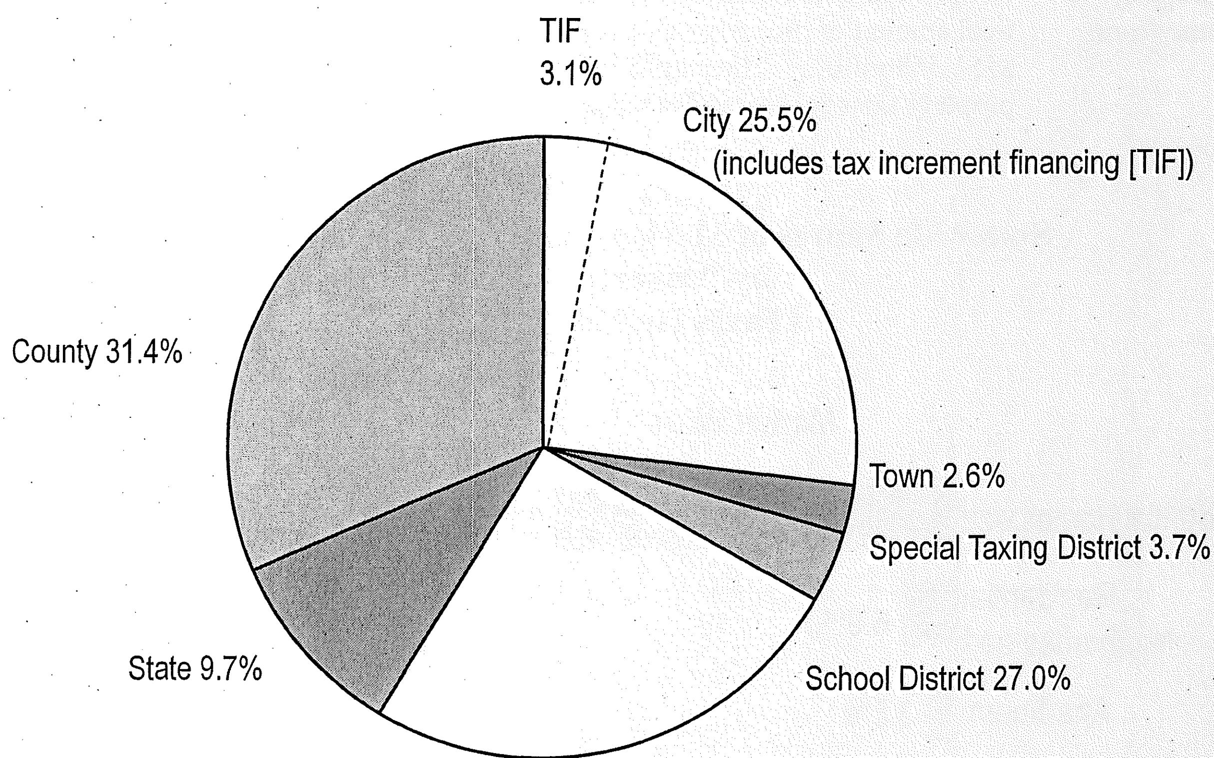
Statewide Shares of Market Value and Property Tax by Property Type (Taxes Payable 2012)



Where property taxes go

The total property tax burden in Minnesota was $8,384 million for calendar year 2012. The pie chart below shows the distribution of the tax among the various types of taxing jurisdictions.

Statewide Property Tax by Type of Government,*
Taxes Payable 2012
(Total: $8,384 million)



*Amounts shown are after allocation of property tax credits.

For more information: Contact legislative analyst Steve Hinze (steve.hinze@house.mn).

Joel Michael and Nina Manzi Updated: December 2012

Revenue Recapture Program

Revenue recapture allows state and some local governments to collect debts by intercepting tax refunds

Revenue recapture authorizes the Department of Revenue (DOR) to intercept or offset part or all of a state tax refund or other payment to collect a debt that the taxpayer owes to a government agency or other authorized creditor.

The following agencies may use the Revenue Recapture Program:

- State agencies
- University of Minnesota
- Minnesota district courts
- Counties
- Cities, including for public library debts
- Governmentally owned hospitals and Regions Hospital
- Agencies responsible for child support enforcement
- Agencies that administer low-income housing programs
- Licensed ambulance services

A variety of debts qualify for collection using recapture

The debt (minimum amount of $25) must be owed to or collectable by one of the qualifying governmental agencies. The debtor must be an individual; the law does not apply to corporations. The creditor does not need to obtain a court judgment or order to enforce the debt. Qualifying debts include the following:

- Contractual or statutory obligations
- Criminal fines and fines for petty misdemeanors
- Court-ordered restitution for a crime
- Child support obligations
- Overpayment of public assistance
- Unpaid MinnesotaCare insurance premiums

Obligations of low-income individuals (incomes between $11,570 and $21,870 in 2011, depending upon family size) to repay debts for medical care, including hospitalization, cannot be recaptured. Debts barred by the statute of limitations also cannot be recaptured.

Amounts available to offset qualifying debts are applied first to unpaid taxes, interest, and penalties before revenue recapture takes effect.

Some types of refunds are subject to recapture

Revenue recapture applies to the following:

- Individual income tax refunds
- Property tax refunds
- Sustainable forest incentive payments
- Lottery prizes

The claimant must notify debtor about revenue recapture

Under revenue recapture, a claimant (creditor) agency submits the claim (debt) to DOR for offset. Within five days after doing so, it must notify the debtor-taxpayer in writing of the debt(s) that will be subject to revenue recapture. The taxpayer then has 45 days to request a hearing, which the claimant agency initiates; the hearing is conducted as a contested case under the Administrative Procedures Act.

Child support has first priority for collection

When more than one debt is submitted, the debts are applied in the following order of priority:

- Child support obligations
- Restitution obligations
- Claims submitted for a hospital or ambulance service
- Other debts based on the order in which DOR received the claims

DOR accounts receivable (e.g., unpaid taxes, interest, and penalties) are offset before claims under revenue recapture.

A $15 administrative fee applies

A fee of $15 per claim is first deducted from the refund, and the claimant agency receives the balance of the refund or the claim amount, whichever is less. Of this $15, $4 is set aside in a dedicated, revolving fund to pay DOR's cost of operating the program; the rest goes to the state's general fund.

More than $63 million was recaptured in 2011

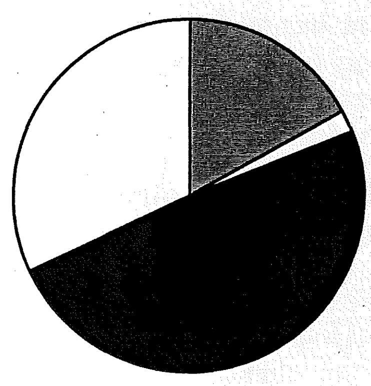
The table to the right shows the number of revenue recapture offsets and amount of refunds offset for calendar years 2007 to 2011.

The graph below shows the percentage of revenue recapture amounts and tax debts offset for calendar years 2007 to 2011 by four of the major types of debts for which the law sets priorities.

Revenue Recapture Amounts CY2007-2011

	Number of Offsets	Amount of Recapture
2007	211,636	$68,275,418
2008	230,911	$87,756,822
2009	216,623	$72,845,049
2010	226,754	$78,173,924
2011	193,629	$63,231,794

2011 data exclude offsets for unpaid state taxes. In 2011, there were 216,966 offsets for $29,609,189 in unpaid state taxes.
All years exlude amounts offset to satisfy federal tax debts.
Source: DOR



For more information: See www.revenue.state.mn.us/collection/Pages/Revenue_Recapture.aspx for more information, or contact the Department of Revenue at 651-556-3037; or email revenue.recapture@state.mn.us

The Research Department of the Minnesota House of Representatives is a nonpartisan office providing legislative, legal, and information services to the entire House.

HOUSE RESEARCH | Short Subjects

Matt Burress

Updated: December 2012

Transit Systems in Minnesota

Public transit systems in Minnesota are marked by variation in their size, geographic coverage area, and service offerings. While the state assists transit operators with funding and planning, the systems are operated at a local or regional level, primarily by public entities such as counties and cities.

Forms of service

The public transportation systems vary with respect to forms of service provided to its riders. The basic forms are:

- **Regular route bus** service, operating primarily in urban settings on fixed routes and standard schedules and typically with a high frequency of stops;
- **Express bus** service (including bus rapid transit), which generally follows longer fixed routes and has fewer stops compared to regular route buses;
- **Rail transit**, which operates on railroad track and includes street cars, light rail transit (LRT), commuter rail, and intercity passenger rail;
- **Demand response or "dial-a-ride,"** in which riders (usually in areas not served by regular route transit) can arrange for specific trips upon request;
- **Route deviation**, bus service on typically regular schedules that generally follows fixed routes but with small deviations upon rider request; and
- **Paratransit**, which provides door-to-door transport for people who are unable to use regular bus service (required under the federal Americans with Disabilities Act (ADA) to complement fixed route bus service areas).

Systems in Greater Minnesota

There are around 60 transit systems throughout Greater Minnesota. Each one is classified under state law into one of four categories based on its location and system characteristics, as summarized in the table below. Minn. Stat. § 174.24.

Class	Count	Forms of Service	Service Areas	Examples
Urbanized	6	Mainly regular route	One or a few cities	Duluth, Moorhead, St. Cloud
Small urban	13	Dial-a-ride, deviation	One or a few cities	Hibbing, Northfield, Winona
Rural	40	Dial-a-ride, deviation	Various	Arrowhead, Becker, Steele
Elderly/disabled	5	Paratransit	Matches regular route	E. Grand Forks, Rochester

Although there are commonalities (particularly within each classification), the transit systems vary in some key characteristics. Service is most often operated by cities and counties but some systems are run by joint powers boards, tribal governments, other forms of local government, and nonprofits. Fixed route service and paratransit are only found in more densely populated urban areas. Route deviation or dial-a-ride service, or both, are offered in small urban and rural settings. While transit systems in an urban area typically cover one or a couple of cities, rural systems can cover part of a county, be countywide, or be regional (extending across multiple counties). Hours of bus service usually cover the working day, but in rural areas can be limited in the evening and weekends. Bus frequency also varies and might not be offered daily. Ten counties lack countywide transit service, and two counties do not have transit all together. Some privately operated (and federally subsidized) intercity bus routes cross transit provider coverage areas and connect more distant cities.

Systems in the Twin Cities metropolitan area

Transit options in the Twin Cities metropolitan area consist of:

- **Metro Transit**, encompassing an extensive bus system as well as the state's only light rail transit line and only commuter rail line;
- **Metro Mobility** paratransit for those with disabilities or health conditions;
- **Transit Link dial-a-ride** minibus or van service for the general public in those parts of the metropolitan area not served by regular route transit;
- **"Opt-out"** systems consisting of seven suburban transit providers that replace Metro Transit service in several metropolitan cities; and
- **Other operators**, as in Ramsey Star and the University of Minnesota.

The Metropolitan Council

The Metropolitan Council's transportation division consists of Metro Transit and Metropolitan Transportation Services (MTS). MTS manages contracts with public and private entities to operate (1) Metro Mobility, (2) Transit Link dial-a-ride service, and (3) additional regular bus routes (mainly for commuter service). The council's rail and regular route bus service constitutes the single largest transit system in Minnesota, accounting for around 78 percent of 2011 ridership statewide. In addition to being a transit operator, the Metropolitan Council maintains most metropolitan park-and-ride lots linking motorists to bus and rail service, and performs regional transportation planning and management.

Opt-outs

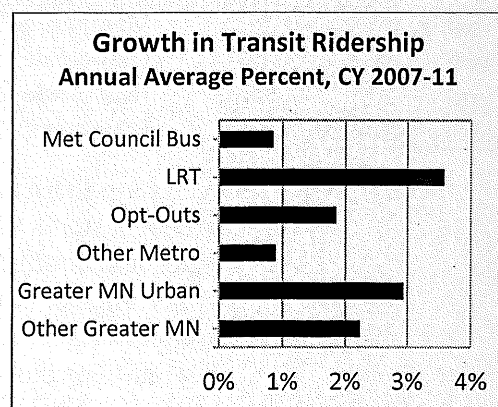
The opt-outs are operated by a range of agencies including counties and cities (independently or through a joint powers agreement) as well as nonprofits. Service offerings vary, covering regular route circulator service within specific communities, dial-a-ride, and express bus service. Bus service provided by the opt-outs replaces that offered by the Metropolitan Council (although there is some overlap in coverage areas due to commuter service to the central cities).

Ridership & growth

Across all transit systems, ridership grew by an annual average of 1.5 percent over calendar years 2007 to 2011. The charts below show ridership and its growth.

Category	CY 2011 Ridership	CY 2007-11 Growth
Met Council Bus	72.0	2.3
LRT	10.4	1.3
Commuter Rail	0.7	–
Opt-Outs	5.1	0.4
Other Metro	5.7	0.2
Greater MN Urban	7.5	0.8
Other Greater MN	4.0	0.3
Total	**105.4**	**5.3**

Notes
Amounts are in millions.
CY is calendar year.



Notes
Chart excludes commuter rail.