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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. **2716**

05/21/2017 Authored by Drazkowski, Hertaus, Whelan, Lohmer, Green and others
The bill was read for the first time and referred to the Committee on Taxes

1.1 A bill for an act

1.2 relating to taxation; eliminating income and business taxes and replacing the sales

1.3 tax with a fair tax; amending Minnesota Statutes 2016, sections 297A.61,

1.4 subdivisions 2, 7, 24; 297A.62, subdivisions 1, 1a; 297A.63, by adding a

1.5 subdivision; 297A.66, subdivision 3; proposing coding for new law in Minnesota

1.6 Statutes, chapter 297A; repealing Minnesota Statutes 2016, sections 290.01,

1.7 subdivisions 1, 1a, 2, 3, 3a, 3b, 4, 4a, 4c, 5, 5a, 5b, 6, 7, 7a, 7b, 8, 8a, 9, 10, 11,

1.8 12, 13, 14, 15, 16, 17, 18, 19, as amended, 20, 22, 29, 29a, 30, 31, as amended;

1.9 290.0131, as amended; 290.0132; 290.0133, as amended; 290.0134; 290.0135;

1.10 290.0136; 290.014; 290.015; 290.02; 290.03; 290.032, subdivisions 1, 2, 3; 290.04;

1.11 290.05, subdivisions 1, 2, 3, 4, 8; 290.06, subdivisions 1, 2c, 2d, 22, 23, 27, 28,

1.12 29, 33, 35, 36; 290.067, subdivisions 1, 2, 2a, 2b, 3, 4; 290.0671, subdivisions 1,

1.13 as amended, 1a, 2, 4, 5, 6, 6a, 7; 290.0672; 290.0674, subdivisions 1, 2, 4, 5;

1.14 290.0675, subdivisions 1, 2, 3, 4; 290.0677; 290.0679; 290.068, subdivisions 1,

1.15 2, 3, 4, 5, 6a, 7; 290.0681; 290.0685; 290.0692; 290.07, subdivisions 1, 2, 4, 7;

1.16 290.0802; 290.081; 290.091; 290.0921, subdivisions 1, 2, 3, 3a, 4, 6, 8; 290.0922;

1.17 290.093; 290.095, subdivisions 1, 2, 3, 4, 5, 9, 11; 290.10; 290.17, subdivisions

1.18 1, 2, 3, 4, 5, 6; 290.172; 290.191, subdivisions 1, 2, 3, 5, 6, 8, 9, 10, 11, 12; 290.20;

1.19 290.21, subdivisions 1, 4; 290.22; 290.26, subdivision 6; 290.281, subdivision 1;

1.20 290.30; 290.31, subdivisions 1, 27; 290.311, subdivision 1; 290.32; 290.34,

1.21 subdivisions 1, 2; 290.36; 290.371, subdivisions 1, 2, 3, 4; 290.431; 290.432;

1.22 290.48, subdivision 10; 290.491; 290.62; 290.92, subdivisions 1, 2a, 3, 4, 4a, 4b,

1.23 4c, 5, 5a, 9, 10, 12, 16, 17, 19, 20, 21, 24, 25, 26, 27, 28, 29, 30; 290.9201,

1.24 subdivisions 1, 2, 6, 7, 8, 11; 290.923, subdivisions 1, 2, 3, 4, 5, 6, 8, 9, 10, 11;

1.25 290.9705, subdivisions 1, 3, 4; 290.9725; 290.9726, subdivisions 1, 2, 4; 290.9727;

1.26 290.9728; 290.9729; 290.9741; 290.9742; 290.9743; 290.9744; 297A.61,

1.27 subdivisions 3, 4, 10, 12, 13, 16a, 16b, 16c, 17, 17a, 17b, 18, 25, 26, 30, 31, 32,

1.28 33, 34, 35, 36, 37, 39, 40, 41, 42, 44, 45, 46, 49; 297A.62, subdivision 3; 297A.63,

1.29 subdivision 2; 297A.64; 297A.65; 297A.67, subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8,

1.30 9, 10, 11, 12, 13, 13a, 14, 15, 16, 17, 18, 19, 20, 21, 23, 25, 26, 27, 28, 29, 30, 31,

1.31 32, 33; 297A.68, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 17,

1.32 19, 20, 22, 23, 24, 25, 28, 29, 30, 31, 32, 33, 34, 35a, 36, 37, 39, 40, 42, 43, 44;

1.33 297A.69, subdivisions 1, 2, 3, 4, 6, 7; 297A.70; 297A.71, subdivisions 1, 3, 6, 8,

1.34 11, 12, 13, 14, 22, 23, 34, 35, 40, 43, 44, 45, 48; 297A.75; 297D.01; 297D.02;

1.35 297D.03; 297D.04; 297D.05; 297D.06; 297D.07; 297D.08; 297D.085; 297D.09;

1.36 297D.10; 297D.11; 297D.12; 297D.13; 297F.01; 297F.02; 297F.03; 297F.031;

1.37 297F.04; 297F.05; 297F.06; 297F.07; 297F.08, subdivisions 1, 2, 3, 4, 5, 6, 7, 8,

1.38 8a, 9, 10, 12, 13; 297F.09, subdivisions 1, 2, 3, 4, 4a, 5, 7, 8, 9, 10; 297F.10;

1.39 297F.11; 297F.12; 297F.13; 297F.14; 297F.15, subdivisions 9, 10; 297F.17;

2.1 297F.18; 297F.185; 297F.19, subdivisions 1, 2, 3, 5, 6, 7, 8, 9; 297F.20; 297F.21,
 2.2 subdivisions 1, 2, 3; 297F.23; 297F.24; 297F.25; 297G.01; 297G.02; 297G.03;
 2.3 297G.031; 297G.032; 297G.04; 297G.05; 297G.06; 297G.07; 297G.08; 297G.09,
 2.4 subdivisions 1, 2, 3, 4, 6, 7, 8, 9, 10; 297G.10; 297G.11; 297G.12; 297G.13;
 2.5 297G.14, subdivision 9; 297G.16; 297G.17; 297G.18, subdivisions 1, 2, 3, 5, 6,
 2.6 7, 8, 9, 10, 11; 297G.19; 297G.20, subdivisions 1, 2, 3, 4; 297G.22; 297H.01;
 2.7 297H.02; 297H.03; 297H.04; 297H.05; 297H.06; 297H.07; 297H.08; 297H.09;
 2.8 297H.10, subdivision 1; 297H.11; 297H.115; 297H.12; 297H.13, subdivisions 1,
 2.9 2, 5; 297I.01; 297I.05, subdivisions 1, 2, 3, 4, 5, 7, 11, 12, as amended, 13, 14;
 2.10 297I.06; 297I.10, subdivisions 1, 3, 4; 297I.11; 297I.15; 297I.20; 297I.25; 297I.30,
 2.11 subdivisions 1, 2, 7, 8, 9, 10; 297I.35; 297I.40; 297I.60; 297I.65; 297I.70; 297I.75;
 2.12 297I.80; 297I.85; 297I.90.

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

2.14 Section 1. Minnesota Statutes 2016, section 297A.61, subdivision 2, is amended to read:

2.15 Subd. 2. **Person.** (a) "Person" means any natural person, and includes any individual or
 2.16 group and any combination of individuals, groups, or individuals and groups acting as a
 2.17 unit.

2.18 (b) Person also includes, unless the context clearly does not allow it, a firm, partnership,
 2.19 joint venture, limited liability company, association, cooperative, social club, fraternal
 2.20 organization, municipal or private corporation whether or not organized for profit, estate,
 2.21 trust, business trust, receiver, trustee, syndicate, the United States, and a state and its political
 2.22 subdivisions.

2.23 (c) Person includes, but is not limited to, directors and officers of corporations, governors
 2.24 and managers of a limited liability company, or members of partnerships who, either
 2.25 individually or jointly with others, have the control, supervision, or responsibility of filing
 2.26 returns and making payment of the amount of tax imposed by this chapter.

2.27 (d) Person includes any agent or consignee of any individual or organization listed in
 2.28 this subdivision.

2.29 **EFFECTIVE DATE.** This section is effective for sales and purchases made after January
 2.30 1, 2019.

2.31 Sec. 2. Minnesota Statutes 2016, section 297A.61, subdivision 7, is amended to read:

2.32 Subd. 7. **Sales price.** (a) "Sales price" means the measure subject to sales tax, and means
 2.33 the total amount of consideration, including cash, credit, personal property, and services,
 2.34 for which personal property or services are sold, leased, or rented, valued in money, whether
 2.35 received in money or otherwise, without any deduction for the following:

2.36 (1) the seller's cost of the property sold;

3.1 (2) the cost of materials used, labor or service cost, interest, losses, all costs of
3.2 transportation to the seller, all taxes imposed on the seller, and any other expenses of the
3.3 seller;

3.4 (3) charges by the seller for any services necessary to complete the sale, other than
3.5 delivery and installation charges;

3.6 (4) delivery charges, except the percentage of the delivery charge allocated to delivery
3.7 of tax exempt property, when the delivery charge is allocated by using either (i) a percentage
3.8 based on the total sales price of the taxable property compared to the total sales price of all
3.9 property in the shipment, or (ii) a percentage based on the total weight of the taxable property
3.10 compared to the total weight of all property in the shipment; and

3.11 (5) installation charges.

3.12 (b) Sales price does not include:

3.13 (1) discounts, including cash, terms, or coupons, that are not reimbursed by a third party
3.14 and that are allowed by the seller and taken by a purchaser on a sale; and

3.15 ~~(2) interest, financing, and carrying charges from credit extended on the sale of personal~~
3.16 ~~property or services, if the amount is separately stated on the invoice, bill of sale, or similar~~
3.17 ~~document given to the purchaser; and~~

3.18 ~~(3)~~ any taxes legally imposed directly on the consumer that are separately stated on the
3.19 invoice, bill of sale, or similar document given to the purchaser.

3.20 (c) Sales price includes consideration received by the seller from third parties if:

3.21 (1) the seller actually receives consideration from a party other than the purchaser and
3.22 the consideration is directly related to a price reduction or discount on the sale;

3.23 (2) the seller has an obligation to pass the price reduction or discount through to the
3.24 purchaser;

3.25 (3) the amount of the consideration attributable to the sale is fixed and determinable by
3.26 the seller at the time of the sale of the item to the purchaser; and

3.27 (4) one of the following criteria is met:

3.28 (i) the purchaser presents a coupon, certificate, or other documentation to the seller to
3.29 claim a price reduction or discount when the coupon, certificate, or documentation is
3.30 authorized, distributed, or granted by a third party with the understanding that the third party
3.31 will reimburse any seller to whom the coupon, certificate, or documentation is presented;

4.1 (ii) the purchaser identifies himself or herself to the seller as a member of a group or
 4.2 organization entitled to a price reduction or discount. A "preferred customer" card that is
 4.3 available to any customer does not constitute membership in such a group; or

4.4 (iii) the price reduction or discount is identified as a third-party price reduction or discount
 4.5 on the invoice received by the purchaser or on a coupon, certificate, or other documentation
 4.6 presented by the purchaser.

4.7 **EFFECTIVE DATE.** This section is effective for sales and purchases made after January
 4.8 1, 2019.

4.9 Sec. 3. Minnesota Statutes 2016, section 297A.61, subdivision 24, is amended to read:

4.10 Subd. 24. **Telecommunications services.** (a) "Telecommunications services" means
 4.11 the electronic transmission, conveyance, or routing of voice, data, audio, video, or any other
 4.12 information or signals to a point, or between or among points.

4.13 (b) Telecommunications services include transmission, conveyance, or routing in which
 4.14 computer processing applications are used to act on the form, code, or protocol of the content
 4.15 for purposes of transmission, conveyance, or routing, without regard to whether the service
 4.16 is referred to as Voice over Internet Protocol services or is classified by the Federal
 4.17 Communications Commission as enhanced or value added.

4.18 (c) Telecommunications services do not include:

4.19 ~~(1) data processing and information services that allow data to be generated, acquired,~~
 4.20 ~~stored, processed, or retrieved and delivered by an electronic transmission to a purchaser~~
 4.21 ~~when the purchaser's primary purpose for the underlying transaction is the processed data~~
 4.22 ~~or information;~~

4.23 ~~(2) installation or maintenance of wiring or equipment on a customer's premises;~~

4.24 ~~(3) tangible personal property;~~

4.25 ~~(4) advertising, including, but not limited to, directory advertising;~~

4.26 ~~(5) billing and collection services provided to third parties;~~

4.27 ~~(6) Internet access service;~~

4.28 ~~(7) radio and television audio and video programming services, regardless of the medium,~~
 4.29 ~~including the furnishing of transmission, conveyance, and routing of such services by the~~
 4.30 ~~programming service provider. Radio and television audio and video programming services~~
 4.31 ~~includes, but is not limited to, cable service as defined in United States Code, title 47, section~~

5.1 ~~522(6), and audio and video programming services delivered by commercial mobile radio~~
 5.2 ~~service providers, as defined in Code of Federal Regulations, title 47, section 20.3;~~

5.3 ~~(8) ancillary services; or~~

5.4 ~~(9) digital products delivered electronically, including, but not limited to, software,~~
 5.5 ~~music, video, reading materials, or ring tones.~~

5.6 **EFFECTIVE DATE.** This section is effective for sales and purchases made after January
 5.7 1, 2019.

5.8 Sec. 4. **[297A.611] ADDITIONAL FAIR TAX DEFINITIONS.**

5.9 Subdivision 1. **Applicability.** The following words, terms, and phrases when used in
 5.10 this chapter have the meanings given them in this section, unless the context clearly indicates
 5.11 a different meaning.

5.12 Subd. 2. **Fair tax.** "Fair tax" means the sales and use tax imposed under this chapter and
 5.13 incorporated into the gross sales price of all taxable property and taxable services.

5.14 Subd. 3. **Basic interest rate.** "Basic interest rate" means:

5.15 (1) in the case of a debt instrument, investment, financing lease, or account with a term
 5.16 of not over three years, the applicable interest rate is a short-term rate based on the average
 5.17 market yield during any one month on outstanding marketable obligations of the United
 5.18 States with remaining periods to maturity of three years or fewer;

5.19 (2) in the case of a debt instrument, investment, financing lease, or account with a term
 5.20 of over three years but not over nine years, the applicable interest rate is a mid-term rate
 5.21 based on the average market yield during any one month on outstanding marketable
 5.22 obligations of the United States with remaining periods to maturity of more than three years
 5.23 but not over nine years; or

5.24 (3) in the case of a debt instrument, investment, financing lease, or account with a term
 5.25 over nine years, the applicable interest rate is a long-term rate based on the average market
 5.26 yield during any one month on outstanding marketable obligations of the United States with
 5.27 remaining periods to maturity of over nine years.

5.28 Subd. 4. **Business purpose.** "Business purpose" means a purchase made by a person
 5.29 engaged in a trade or business and used in that trade or business for resale, to produce,
 5.30 provide, render, or sell taxable property or taxable services, or in furtherance of other bona
 5.31 fide business purposes.

6.1 Subd. 5. **Business use conversion.** "Business use conversion" means the use of taxable
6.2 property or taxable services upon which tax was imposed and actually paid that commenced
6.3 to be 95 percent or more used for business purposes.

6.4 Subd. 6. **Dependent.** (a) "Dependent" means a resident of this state with a valid Social
6.5 Security number who is:

6.6 (1) under the age of 18 and is not a legally emancipated minor; or

6.7 (2) 18 years of age or older and a registered student during not fewer than five months
6.8 in a calendar year who receives over 50 percent of their support during a calendar year from
6.9 a family member or legal guardian, regardless of whether the individual lives in a common
6.10 residence with a qualified family.

6.11 (b) For purposes of this subdivision "legally emancipated minor" means a person under
6.12 the age of 18 years who:

6.13 (1) has been married;

6.14 (2) is on active duty in the uniformed services of the United States;

6.15 (3) has been emancipated by a court of competent jurisdiction; or

6.16 (4) is otherwise considered emancipated under Minnesota law, and for whom county
6.17 social services has not determined that a social services case plan is necessary, for reasons
6.18 other than the child has failed or refuses to cooperate with the county agency in developing
6.19 the plan, and a child living on their own pursuant to section 260C.201, subdivision 1,
6.20 paragraph (a), clause (5).

6.21 (c) For purposes of this subdivision, a dependent whose parents are divorced or legally
6.22 separated is treated as a dependent of the custodial parent, and in cases of joint custody, the
6.23 custodial parent is the parent that has custody of the child for more than one-half of the time
6.24 during a given calendar year. A parent entitled to be treated as the custodial parent under
6.25 this paragraph may release the claim to the other parent if the release is in writing.

6.26 Subd. 7. **Education and training costs.** "Education and training costs" includes tuition
6.27 for primary, secondary, or postsecondary level education, and job-related training courses.
6.28 Education and training does not include costs for room, board, sports activities, recreational
6.29 activities, hobbies, games, arts or crafts, or cultural activities.

6.30 Subd. 8. **Explicitly charged fees.** "Explicitly charged fees" means:

6.31 (1) brokerage fees;

7.1 (2) explicitly stated banking, loan origination, processing, documentation, credit check
 7.2 fees, or other similar fees;

7.3 (3) safe deposit box fees;

7.4 (4) trustees' fees; and

7.5 (5) other financial services fees, including mutual fund management, sales, and exit fees.

7.6 Subd. 9. **Financial intermediation services.** The value of "financial intermediation
 7.7 services" means the sum of:

7.8 (1) explicitly charged fees for financial intermediation services; and

7.9 (2) implicitly charged fees for financial intermediation services.

7.10 Subd. 10. **Government enterprise.** "Government enterprise" means an entity owned
 7.11 and operated by a federal, state, or local governmental unit or political subdivision that
 7.12 receives gross payments from private persons, provided that in any quarter in the calendar
 7.13 year it has revenues from selling taxable property or taxable services that exceed \$2,500.

7.14 Subd. 11. **Gross imputed amount.** "Gross imputed amount" means:

7.15 (1) with respect to any underlying interest-bearing investment or account, the product
 7.16 of:

7.17 (i) the excess of the basic interest rate over the rate paid on the investment; and

7.18 (ii) the amount of the investment or account; or

7.19 (2) with respect to any underlying interest-bearing debt, the product of:

7.20 (i) the excess of the rate paid on the debt over the basic interest rate; and

7.21 (ii) the amount of the debt.

7.22 Subd. 12. **Gross payment.** "Gross payment" means the total amount charged for taxable
 7.23 property and taxable services, including the taxes imposed under this chapter.

7.24 Subd. 13. **Implicitly charged fees.** "Implicitly charged fees" means the gross imputed
 7.25 amount in relation to any underlying interest-bearing investment, account, or debt.

7.26 Subd. 14. **Intangible property.** "Intangible property" includes copyrights, trademarks,
 7.27 patents, goodwill, financial instruments, securities, commercial paper, debts, notes and
 7.28 bonds, and other property deemed intangible under state law. Intangible property does not
 7.29 include tangible personal property or rents or a leasehold of any term on the tangible personal

8.1 property, real property or rents or leaseholds of any term on the real property, or computer
 8.2 software.

8.3 Subd. 15. **Investment purpose.** "Investment purpose" means the purchase of property
 8.4 exclusively for the purpose of appreciation or the production of income but not entailing
 8.5 more than minor personal efforts.

8.6 Subd. 16. **Mixed-use property.** "Mixed-use property" means a taxable property or
 8.7 taxable service used for both taxable use or consumption and for a business purpose.

8.8 Subd. 17. **Net payment.** "Net payment" means the total amount charged for taxable
 8.9 property or taxable services, excluding the taxes imposed under this chapter.

8.10 Subd. 18. **Nonprofit organization.** "Nonprofit organization" means any corporation,
 8.11 society, association, foundation, or institution organized and operated exclusively for
 8.12 charitable, religious, fraternal, civic, or educational purposes, and which is exempt from
 8.13 federal income taxation pursuant to section 501(c) of the Internal Revenue Code.

8.14 Subd. 19. **Produce, provide, render, or sell taxable property or taxable services.**
 8.15 "Produce, provide, render, or sell taxable property or taxable services" includes the following:

8.16 (1) a taxable property or taxable service used to produce, provide, render, or sell a taxable
 8.17 property or taxable service if the property or service is purchased by a person engaged in a
 8.18 trade or business for the purpose of employing or using the taxable property or taxable
 8.19 service in the production, provision, rendering, or sale of other taxable property or taxable
 8.20 services in the ordinary course of that trade or business;

8.21 (2) taxable property or taxable services used in a trade or business for the purpose of
 8.22 research, experimentation, testing, and development is treated as used to produce, provide,
 8.23 render, or sell taxable property or taxable services;

8.24 (3) taxable property or taxable services purchased by an insurer on behalf of an insured
 8.25 is treated as used to produce, provide, render, or sell taxable property or taxable services if
 8.26 the premium for the insurance contract giving rise to the insurer's obligation was subject to
 8.27 tax on financial intermediation services under this chapter; and

8.28 (4) education and training are treated as services used to produce, provide, render, or
 8.29 sell taxable property or taxable services.

8.30 Subd. 20. **Qualified family.** "Qualified family" consists of the following persons sharing
 8.31 a common residence:

8.32 (1) a qualified individual;

9.1 (2) the qualified individual's spouse; and

9.2 (3) all dependents of either the qualified individual, their spouse, or both the qualified
 9.3 individual and their spouse, including dependents that are students living away from the
 9.4 common residence for part of the year.

9.5 Subd. 21. **Qualified individual.** "Qualified individual" means a resident of this state
 9.6 with a valid Social Security number who does not meet the definition of dependent.

9.7 Subd. 22. **Taxable employer.** (a) "Taxable employer" includes, but is not limited to,
 9.8 the following:

9.9 (1) any household employing domestic servants; and

9.10 (2) any government except for government enterprises.

9.11 (b) Taxable employer does not include any employer that is:

9.12 (1) engaged in a trade or business;

9.13 (2) a nonprofit organization; or

9.14 (3) a government enterprise.

9.15 Taxable employer does not include the federal government or its agencies, until such time
 9.16 as federal law allows state taxation of the federal government.

9.17 Subd. 23. **Taxable property; taxable service.** (a) "Taxable property" means any tangible
 9.18 personal property and all digital products including, but not limited to, the following:

9.19 (1) property purchased for business use but subsequently converted to personal use,
 9.20 which is subject to the tax imposed by this section at the fair market value of the converted
 9.21 property as of the date of conversion;

9.22 (2) leaseholds of any term;

9.23 (3) rents with respect to the property;

9.24 (4) property exchanged in barter transactions, which must be taxed as if the transaction
 9.25 was made in cash; and

9.26 (5) mixed-use property, to the extent the property is used for a personal and not a business
 9.27 purpose.

9.28 (b) "Taxable service" means any service, including any financial intermediation service,
 9.29 any service performed by an employee for which the employee is paid wages by a taxable

10.1 employer, but shall not include any service performed by an employee for which the
 10.2 employee is paid wages by:

10.3 (1) an employer in the regular course of the employer's trade or business;

10.4 (2) an employer that is a nonprofit organization;

10.5 (3) an employer that is a government enterprise; or

10.6 (4) taxable employers to employees directly providing education and training.

10.7 (c) Taxable property and taxable service do not include any intangible property or used
 10.8 property or property held exclusively for an investment purpose, or any state government
 10.9 functions that do not constitute the final consumption of property or services.

10.10 (d) Taxable property and taxable service include sales of property or services by a
 10.11 nonprofit organization for fund-raising purposes.

10.12 Subd. 24. **Used property.** "Used property" means property for which the tax under this
 10.13 chapter has been collected and for which no credit has been allowed, or property that was
 10.14 held other than for a business purpose on December 31, 2013.

10.15 Subd. 25. **Wages.** "Wages" means all compensation paid for employment service
 10.16 including salaries, cash compensation, employee benefits, disability insurance, wage
 10.17 replacement insurance payments, unemployment compensation insurance, workers'
 10.18 compensation insurance, and the fair market value of any other consideration paid by an
 10.19 employer to an employee in consideration for employment services rendered.

10.20 **EFFECTIVE DATE.** This section is effective for sales and purchases made on or after
 10.21 January 1, 2019.

10.22 Sec. 5. Minnesota Statutes 2016, section 297A.62, subdivision 1, is amended to read:

10.23 Subdivision 1. **Generally.** Except as otherwise provided in ~~subdivision 3 or in this~~
 10.24 chapter, a sales tax of 6.5 percent at the rate calculated under section 13 is imposed on the
 10.25 gross receipts from retail sales as defined in section 297A.61, subdivision 4, net payments
 10.26 on the production, provision, rendering, or selling of taxable property, taxable digital
 10.27 products, and taxable services made in this state or to a destination in this state by a person
 10.28 who is required to have or voluntarily obtains a permit under section 297A.83, subdivision
 10.29 1.

10.30 **EFFECTIVE DATE.** This section is effective for sales and purchases made on or after
 10.31 January 1, 2019.

11.1 Sec. 6. Minnesota Statutes 2016, section 297A.62, subdivision 1a, is amended to read:

11.2 Subd. 1a. **Constitutionally required sales tax increase.** Except as otherwise provided
 11.3 in ~~subdivision 3 or in~~ this chapter, an additional sales tax of 0.375 percent, adjusted as
 11.4 determined under section 13 as required under the Minnesota Constitution, article XI, section
 11.5 15, is imposed on the ~~gross receipts from retail sales as defined in section 297A.61,~~
 11.6 ~~subdivision 4,~~ net payments on the production, provision, rendering, or selling of taxable
 11.7 property, taxable digital products, and taxable services made in this state or to a destination
 11.8 in this state by a person who is required to have or voluntarily obtains a permit under section
 11.9 297A.83, subdivision 1. This additional tax expires July 1, 2034.

11.10 **EFFECTIVE DATE.** This section is effective for sales and purchases made on or after
 11.11 January 1, 2019.

11.12 Sec. 7. **[297A.625] PROHIBITION ON CERTAIN TAXES; IMPOSITION OF THE**
 11.13 **FAIR TAX.**

11.14 (a) For taxable years beginning after December 31, 2018, imposition of the following
 11.15 taxes are prohibited:

11.16 (1) individual income and corporate franchise taxes;

11.17 (2) insurance taxes;

11.18 (3) occupation taxes; and

11.19 (4) sales, excise, and gross receipts taxes other than the taxes under this chapter and
 11.20 chapters 296A and 297B.

11.21 (b) For taxable years beginning after December 31, 2018, all revenues lost as a result
 11.22 of the repeal of the taxes under paragraph (a) shall be replaced by the levy and imposition
 11.23 of a sales tax upon all final use or consumption of taxable property or taxable services in
 11.24 this state. The sales tax under this chapter shall be renamed the "fair tax" and the rates under
 11.25 section 297A.62 shall be modified to the rates determined under section 13. The fair tax
 11.26 shall be incorporated into the gross payment and sales price for all taxable goods and services.

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

11.28 Sec. 8. Minnesota Statutes 2016, section 297A.63, is amended by adding a subdivision to
 11.29 read:

11.30 Subd. 4. **Conversion of business purchases to personal use.** Use tax is owed on property
 11.31 and services purchased exempt from the tax under this chapter as a purchase for business

12.1 use that is subsequently used more than five percent for personal use. The tax is owed on
 12.2 the value of the property or service at the time of conversion. This includes the conversion
 12.3 of housing from rental or other business property to personal use by the owner.

12.4 **EFFECTIVE DATE.** This section is effective for sales and purchases made on or after
 12.5 January 1, 2019.

12.6 Sec. 9. Minnesota Statutes 2016, section 297A.66, subdivision 3, is amended to read:

12.7 Subd. 3. **Retailer not maintaining place of business in this state.** (a) To the extent
 12.8 allowed by the United States Constitution and in accordance with the terms and conditions
 12.9 of federal remote seller law, a retailer making retail sales from outside this state to a
 12.10 destination within this state and not maintaining a place of business in this state shall collect
 12.11 sales and use taxes and remit them to the commissioner under section 297A.77.

12.12 ~~(b) To the extent allowed by the United States Constitution and the laws of the United~~
 12.13 ~~States, a retailer making retail sales from outside this state to a destination within this state~~
 12.14 ~~and not maintaining a place of business in this state shall collect sales and use taxes and~~
 12.15 ~~remit them to the commissioner under section 297A.77, if the retailer engages in the regular~~
 12.16 ~~or systematic soliciting of sales from potential customers in this state by:~~

12.17 ~~(1) distribution, by mail or otherwise, of catalogs, periodicals, advertising flyers, or other~~
 12.18 ~~written solicitations of business to customers in this state;~~

12.19 ~~(2) display of advertisements on billboards or other outdoor advertising in this state;~~

12.20 ~~(3) advertisements in newspapers published in this state;~~

12.21 ~~(4) advertisements in trade journals or other periodicals the circulation of which is~~
 12.22 ~~primarily within this state;~~

12.23 ~~(5) advertisements in a Minnesota edition of a national or regional publication or a~~
 12.24 ~~limited regional edition in which this state is included as part of a broader regional or national~~
 12.25 ~~publication which are not placed in other geographically defined editions of the same issue~~
 12.26 ~~of the same publication;~~

12.27 ~~(6) advertisements in regional or national publications in an edition which is not by its~~
 12.28 ~~contents geographically targeted to Minnesota but which is sold over the counter in Minnesota~~
 12.29 ~~or by subscription to Minnesota residents;~~

12.30 ~~(7) advertisements broadcast on a radio or television station located in Minnesota; or~~

12.31 ~~(8) any other solicitation by telegraphy, telephone, computer database, cable, optic,~~
 12.32 ~~microwave, or other communication system.~~

13.1 ~~This paragraph must be construed without regard to the state from which distribution~~
 13.2 ~~of the materials originated or in which they were prepared.~~

13.3 ~~(c) The location within or without this state of independent vendors that provide products~~
 13.4 ~~or services to the retailer in connection with its solicitation of customers within this state,~~
 13.5 ~~including such products and services as creation of copy, printing, distribution, and recording,~~
 13.6 ~~is not considered in determining whether the retailer is required to collect tax.~~

13.7 ~~(d) A retailer not maintaining a place of business in this state is presumed, subject to~~
 13.8 ~~rebuttal, to be engaged in regular solicitation within this state if it engages in any of the~~
 13.9 ~~activities in paragraph (b) and:~~

13.10 ~~(1) makes 100 or more retail sales from outside this state to destinations in this state~~
 13.11 ~~during a period of 12 consecutive months; or~~

13.12 ~~(2) makes ten or more retail sales totaling more than \$100,000 from outside this state~~
 13.13 ~~to destinations in this state during a period of 12 consecutive months.~~

13.14 (b) A retailer that is not subject to paragraph (a) that does not maintain a place of business
 13.15 in this state but made taxable sales of at least \$1,000,000 in the previous year from outside
 13.16 this state to destinations within this state shall collect sales and use taxes but shall be
 13.17 compensated for the administrative costs related to the collection and remittance of the sales
 13.18 tax. The commissioner shall, after reviewing the recommendations of the advisory task
 13.19 force established in section 12, develop a method for calculating and paying the compensation
 13.20 required under this paragraph. If a retailer subject to this paragraph and the commissioner
 13.21 are unable to agree on the method for calculating compensation and the retailer demands
 13.22 arbitration, the matter must be submitted to binding arbitration in accordance with chapter
 13.23 572B, and the rules of the American Arbitration Association. Retailers subject to this
 13.24 paragraph may choose to combine into a single group and jointly request that their objections
 13.25 be combined and dealt with in a single arbitration. Within 30 days after the demand for
 13.26 arbitration, the parties shall each select an arbitrator or agree upon a single arbitrator. If the
 13.27 parties each select an arbitrator, the two arbitrators shall select a third arbitrator within 45
 13.28 days after the demand for arbitration. Each party shall pay the fees and expenses of the
 13.29 arbitrator it selected and the parties shall share equally the expenses of the third arbitrator
 13.30 or an arbitrator agreed upon mutually by the parties.

13.31 **EFFECTIVE DATE.** This section is effective for sales and purchases made on or after
 13.32 January 1, 2019.

14.1 Sec. 10. [297A.712] EXEMPTIONS.

14.2 Subdivision 1. **Scope.** The net payments from the sale, storage, distribution, use, or
 14.3 consumption of the taxable property and taxable services contained in this section are
 14.4 specifically exempted from the taxes imposed under this chapter.

14.5 Subd. 2. **Purchased for a business purpose.** Taxable property or taxable services
 14.6 purchased by a person engaged in a trade or business are exempt if used in that trade or
 14.7 business:

14.8 (1) for resale;

14.9 (2) to produce, provide, render, or sell taxable property or taxable services; or

14.10 (3) in furtherance of other bona fide business purposes.

14.11 Subd. 3. **Purchased for use outside of the state.** Taxable property or taxable services
 14.12 purchased for export from Minnesota for use or consumption outside of the state are exempt.

14.13 Subd. 4. **Purchased for an investment purpose.** Taxable property purchased exclusively
 14.14 for appreciation or the production of income with minor personal effort are exempt.

14.15 Subd. 5. **Purchases by a government enterprise.** Taxable property and taxable services
 14.16 purchased by a government enterprise are exempt.

14.17 Subd. 6. **Education costs.** Education and training costs paid to an accredited institution
 14.18 of higher education are exempt. Tuition paid to an accredited elementary school or secondary
 14.19 school program is also exempt.

14.20 Subd. 7. **Petroleum and other fuels.** Purchases of petroleum and other fuels subject to
 14.21 the tax under chapter 296A are exempt.

14.22 Subd. 8. **Purchases by and goods and services provided by certain nonprofit**
 14.23 **organizations.** (a) Taxable property and taxable services purchased by a qualifying nonprofit
 14.24 organization are exempt if used for the purposes allowed for that nonprofit under this
 14.25 subdivision.

14.26 (b) Taxable property and taxable services provided to others by a qualifying nonprofit
 14.27 organization are exempt if used for the purposes allowed for that nonprofit organization
 14.28 under this subdivision.

14.29 (c) For purposes of this subdivision "qualifying nonprofit organization" means one of
 14.30 the following:

15.1 (1) a corporation, society, association, foundation, or institution organized and operated
 15.2 exclusively for charitable, religious, or education purposes, including the maintenance of
 15.3 a cemetery owned by a religious organization;

15.4 (2) any senior citizen group or association of groups that:

15.5 (i) in general limits membership to persons who are either age 55 or older, or physically
 15.6 disabled;

15.7 (ii) is organized and operated exclusively for pleasure, recreation, and other nonprofit
 15.8 purposes, not including housing, no part of the net earnings of which inures to the benefit
 15.9 of any private shareholders; and

15.10 (iii) is an exempt organization under section 501(c) of the Internal Revenue Code;

15.11 (3) an organization of military service veterans or an auxiliary unit of an organization
 15.12 of military service veterans are exempt if:

15.13 (i) the organization or auxiliary unit is organized within Minnesota and is exempt from
 15.14 federal taxation under section 501(c), clause (19), of the Internal Revenue Code; and

15.15 (ii) the tangible personal property or services are purchased for charitable, civic,
 15.16 educational, or nonprofit uses and not for social, recreational, pleasure, or profit uses; and

15.17 (4) a nonprofit organization that exists solely for the purpose of providing educational
 15.18 or social activities for young people primarily age 18 and under.

15.19 Subd. 9. **Purchase by the federal government.** Taxable property and taxable services
 15.20 purchased by the United States and its agencies and instrumentalities are exempt. Any state
 15.21 or local government purchases made with funds received from the federal government are
 15.22 also exempt to the extent required under federal law.

15.23 **EFFECTIVE DATE.** This section is effective for sales and purchases made on or after
 15.24 January 1, 2019.

15.25 Sec. 11. **[297A.755] CREDITS AND REFUNDS.**

15.26 Subdivision 1. **Generally.** (a) Each person shall be allowed a credit with respect to the
 15.27 taxes imposed under this chapter for each month equal to the sum of:

15.28 (1) the business use conversion credit under subdivision 2;

15.29 (2) the intermediate and export sales credit under subdivision 3;

15.30 (4) the insurance proceeds credit under subdivision 4;

16.1 (5) the bad debt credit under section 297A.81; or

16.2 (6) any amount paid in excess of the amount due.

16.3 (b) Only one credit paid may be taken with respect to the sale or purchase of any particular
16.4 taxable property or taxable service.

16.5 (c) Each qualified person shall be paid a monthly sales tax rebate, as determined under
16.6 section 14.

16.7 Subd. 2. **Business use conversion credit.** A person is eligible for a credit for the fair
16.8 tax paid on taxable property and taxable services if the property or service is subsequently
16.9 used at least 95 percent for business purposes. The credit is equal to the tax included in the
16.10 gross payment on the taxable property or taxable service.

16.11 Subd. 3. **Intermediate and export credit.** A person is eligible for a credit for the fair
16.12 tax paid on the purchase of any taxable property or taxable service purchased for a business
16.13 purpose in a trade or business or exported from the state for use or consumption outside of
16.14 the state.

16.15 Subd. 4. **Insurance proceeds credit.** (a) Any person receiving a payment from an insurer
16.16 by virtue of an insurance contract, if the insurance premium is subject to the tax under this
16.17 chapter, shall be entitled to a credit in an amount equal to the product of the tax rates imposed
16.18 under section 297A.62 and the amount of the payment made by the insurer, adjusted as
16.19 required in paragraphs (b) and (c). For purposes of this section, "insurance contract" shall
16.20 include the following insurance contracts:

16.21 (1) life;

16.22 (2) health;

16.23 (3) property and casualty loss;

16.24 (4) general liability;

16.25 (5) marine;

16.26 (6) fire;

16.27 (7) accident;

16.28 (8) disability;

16.29 (9) long-term care; or

16.30 (10) any combination of clauses (1) to (9).

17.1 (b) The credit under paragraph (a) shall be paid by the insurer to the insured and the
 17.2 insurer shall be entitled to the credit in lieu of the insured, except that the insurer may elect,
 17.3 in a form prescribed by the commissioner, to not pay the credit and require the insured to
 17.4 apply for the credit. In the event of such election, the insurer must provide the commissioner
 17.5 and the insured the name and tax identification number of the insurer and of the insured
 17.6 and indicate the proper amount of the credit.

17.7 (c) If taxable property or taxable services purchased by an insurer on behalf of the insured
 17.8 are purchased free of tax as a purchase for use in a trade or business, then the credit is not
 17.9 available for that purchase.

17.10 **EFFECTIVE DATE.** This section is effective for sales and purchases made on or after
 17.11 January 1, 2019.

17.12 Sec. 12. **FAIR TAX LEGISLATION; ADVISORY TASK FORCE.**

17.13 Subdivision 1. **Proposed legislation.** No later than February 1, 2018, the commissioner
 17.14 of revenue shall submit legislation to the chairs and ranking minority members of the
 17.15 legislative committees having jurisdiction over taxes in the senate and the house of
 17.16 representatives recommending the modification, repeal, or enactment of any provision of
 17.17 law made necessary by the repeal or modification of state taxes under this act, or to ensure
 17.18 compliance with the intent of this act, and the enactment or to implement the provisions of
 17.19 this act. The commissioner shall consult with the advisory group established in subdivision
 17.20 2 in developing the proposed legislation. The sourcing of sales, the duty to collect and remit
 17.21 the tax, penalties, and other administrative provisions related to the fair tax shall follow as
 17.22 closely as practical the sourcing, collection, remittance, penalties, and administrative
 17.23 provisions of the existing sales tax with the exception that the fair tax must be included in
 17.24 the sales price and not stated separately by the retailer. The legislation shall include, at a
 17.25 minimum, the following:

17.26 (1) the repeal of any provision of law relating to withholding taxes;

17.27 (2) the repeal of any provision of law related to the prohibited taxes under Minnesota
 17.28 Statutes, section 297A.625;

17.29 (3) the repeal of the tax exemptions and deductions and administrative provisions related
 17.30 to the repeal of the taxes prohibited under Minnesota Statutes, section 297A.625;

17.31 (4) the fair tax rate necessary to replace the current sales and use tax revenue and the
 17.32 revenues lost as a result of the repeal of the taxes prohibited under Minnesota Statutes,
 17.33 section 297A.625;

18.1 (5) any modifications necessary to include the fair tax in the reported sale price of all
18.2 taxable property, including reporting and remittance requirements for the fair tax collected
18.3 by sellers;

18.4 (6) the method for collecting the fair tax;

18.5 (7) the percentage of the fair tax that should be dedicated to all special funds currently
18.6 receiving a dedication of revenue under Minnesota Statutes, chapter 297A, or any of the
18.7 taxes prohibited after December 31, 2018, under Minnesota Statutes, section 297A.625;

18.8 (8) record-keeping requirements for all sellers;

18.9 (9) a vendor allowance provision to compensate all sellers and other remitters of the tax
18.10 to offset their costs of complying with the tax;

18.11 (10) the method for providing each qualified taxpayer with a payment to offset the burden
18.12 on taxation of basic necessities as required by section 14;

18.13 (11) any provisions necessary for administering the credits allowed in Minnesota Statutes,
18.14 section 297A.755;

18.15 (12) provisions for reporting wages to the Social Security Administration;

18.16 (13) the statutory language and cross-reference changes necessary to effect the provisions
18.17 of this act, including the repeal of all sections related to the prohibition of the taxes in
18.18 Minnesota Statutes, section 297A.625;

18.19 (14) recommendations for changes in rate or duration for all local sales taxes to reflect
18.20 the expanded tax base under the fair tax;

18.21 (15) recommendations for changes to existing local sales tax laws to allow their
18.22 administration with the fair tax; and

18.23 (16) any other recommendation or provision necessary to effect the provisions of this
18.24 act.

18.25 Subd. 2. **Fair Tax Advisory Task Force.** (a) The Fair Tax Advisory Task Force shall
18.26 provide advice to the commissioner of revenue related to the development of the legislation
18.27 required in subdivision 1.

18.28 (b) The task force shall consist of the following individuals or their designees:

18.29 (1) the commissioner of revenue;

19.1 (2) three senators who serve on the committee having jurisdiction over taxes, chosen by
19.2 the Subcommittee on Committees of the senate Committee on Rules and Administration,
19.3 of which two appointees shall be from the majority party and one from the minority party;

19.4 (3) three representatives who serve on the committee having jurisdiction over taxes,
19.5 chosen by the speaker of the house, of which two appointees shall be from the majority
19.6 party and one from the minority party;

19.7 (4) one representative from the tax section of the Minnesota Bar Association, selected
19.8 by that association;

19.9 (5) one representative from the Minnesota Society of Certified Public Accountants,
19.10 selected by that organization;

19.11 (6) a representative from the Minnesota Retailers Association, selected by the advisory
19.12 task force;

19.13 (7) a representative of the banking and credit union industry, selected by the advisory
19.14 board;

19.15 (8) two private citizens chosen by the speaker of the house; and

19.16 (9) two private citizens chosen by the majority leader of the senate.

19.17 (c) The advisory task force may adopt procedures to govern its conduct and shall select
19.18 a chair from among its members. All members serve at the pleasure of their appointing
19.19 authority.

19.20 (d) The advisory task force shall assist the commissioner in identifying specific statutes
19.21 and issues needed to be addressed in prohibiting the taxes listed in Minnesota Statutes,
19.22 section 297A.655, and replacing the lost revenues with the fair tax. It will also review and
19.23 offer recommendations on drafts of the legislation developed by the commissioner under
19.24 subdivision 1.

19.25 (e) The commissioner may accept lawful grants and in-kind contributions from any
19.26 federal, state, or local source or legal business or individual for general operation support,
19.27 including personnel costs. The staff from the Department of Revenue shall provide the
19.28 primary staffing for the advisory task force, although senate and house of representatives
19.29 legislative staff may also provide assistance at the discretion of the senate and house of
19.30 representatives members.

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

20.1 Sec. 13. **FAIR TAX RATE.**

20.2 The commissioner shall determine a method for setting the fair tax rate for the tax
20.3 required under this act to replace the anticipated state revenue loss due to the prohibition
20.4 of the taxes in Minnesota Statutes, section 297A.655, and the change from the existing sales
20.5 tax to the fair tax under this act. The commissioner shall determine the rate change necessary
20.6 to reduce the heritage tax rate by a revenue neutral amount as allowed under the Minnesota
20.7 Constitution, article XI, section 15. The rates determined under this section shall be the tax
20.8 rates under Minnesota Statutes, section 297A.62, subdivisions 1 and 1a, for all sales and
20.9 purchases made on or after January 1, 2019.

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

20.11 Sec. 14. **MONTHLY SALES TAX REBATE.**

20.12 The commissioner shall determine a method for providing a monthly sales tax rebate
20.13 for each qualified person. The sales tax rebate must be distributed to each qualified family
20.14 on or before the first business day of the month for which the sales tax rebate is being
20.15 provided. The amount of the sales tax rebate must be determined annually and be equal to
20.16 the product of the rate of the sales tax established under Minnesota Statutes, section 297A.62,
20.17 and 1/12 of the annual poverty guidelines updated periodically in the Federal Register by
20.18 the United States Department of Health and Human Services under the authority of United
20.19 States Code, title 42, section 9902(2), as amended. If a qualified family contains two qualified
20.20 individuals, the amount of the sales tax rebate will be based on the annual poverty guidelines
20.21 for a family of one plus the annual poverty guidelines for a family size equal to one less
20.22 than the number of persons in the qualified family.

20.23 **EFFECTIVE DATE.** This section is effective the day following final enactment and
20.24 rebates under this section shall be paid beginning January 1, 2019.

20.25 Sec. 15. **REPEALER.**

20.26 (a) Minnesota Statutes 2016, sections 290.01, subdivisions 1, 1a, 2, 3, 3a, 3b, 4, 4a, 4c,
20.27 5, 5a, 5b, 6, 7, 7a, 7b, 8, 8a, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, as amended by Laws
20.28 2017, chapter 1, section 2, 20, 22, 29, 29a, 30, and 31, as amended by Laws 2017, chapter
20.29 1, section 3; 290.0131, as amended by Laws 2017, chapter 1, section 4; 290.0132; 290.0133,
20.30 as amended by Laws 2017, chapter 1, section 5; 290.0134; 290.0135; 290.0136; 290.014;
20.31 290.015; 290.02; 290.03; 290.032, subdivisions 1, 2, and 3; 290.04; 290.05, subdivisions
20.32 1, 2, 3, 4, and 8; 290.06, subdivisions 1, 2c, 2d, 22, 23, 27, 28, 29, 33, 35, and 36; 290.067,
20.33 subdivisions 1, 2, 2a, 2b, 3, and 4; 290.0671, subdivisions 1, as amended by Laws 2017,

21.1 chapter 1, section 6, 1a, 2, 4, 5, 6, 6a, and 7; 290.0672; 290.0674, subdivisions 1, 2, 4, and
 21.2 5; 290.0675, subdivisions 1, 2, 3, and 4; 290.0677; 290.0679; 290.068, subdivisions 1, 2,
 21.3 3, 4, 5, 6a, and 7; 290.0681; 290.0685; 290.0692; 290.07, subdivisions 1, 2, 4, and 7;
 21.4 290.0802; 290.081; 290.091; 290.0921, subdivisions 1, 2, 3, 3a, 4, 6, and 8; 290.0922;
 21.5 290.093; 290.095, subdivisions 1, 2, 3, 4, 5, 9, and 11; 290.10; 290.17, subdivisions 1, 2,
 21.6 3, 4, 5, and 6; 290.172; 290.191, subdivisions 1, 2, 3, 5, 6, 8, 9, 10, 11, and 12; 290.20;
 21.7 290.21, subdivisions 1 and 4; 290.22; 290.26, subdivision 6; 290.281, subdivision 1; 290.30;
 21.8 290.31, subdivisions 1 and 27; 290.311, subdivision 1; 290.32; 290.34, subdivisions 1 and
 21.9 2; 290.36; 290.371, subdivisions 1, 2, 3, and 4; 290.431; 290.432; 290.48, subdivision 10;
 21.10 290.491; 290.62; 290.92, subdivisions 1, 2a, 3, 4, 4a, 4b, 4c, 5, 5a, 9, 10, 12, 16, 17, 19, 20,
 21.11 21, 24, 25, 26, 27, 28, 29, and 30; 290.9201, subdivisions 1, 2, 6, 7, 8, and 11; 290.923,
 21.12 subdivisions 1, 2, 3, 4, 5, 6, 8, 9, 10, and 11; 290.9705, subdivisions 1, 3, and 4; 290.9725;
 21.13 290.9726, subdivisions 1, 2, and 4; 290.9727; 290.9728; 290.9729; 290.9741; 290.9742;
 21.14 290.9743; 290.9744; 297D.01; 297D.02; 297D.03; 297D.04; 297D.05; 297D.06; 297D.07;
 21.15 297D.08; 297D.085; 297D.09; 297D.10; 297D.11; 297D.12; 297D.13; 297F.01; 297F.02;
 21.16 297F.03; 297F.031; 297F.04; 297F.05; 297F.06; 297F.07; 297F.08, subdivisions 1, 2, 3, 4,
 21.17 5, 6, 7, 8, 8a, 9, 10, 12, and 13; 297F.09, subdivisions 1, 2, 3, 4, 4a, 5, 7, 8, 9, and 10;
 21.18 297F.10; 297F.11; 297F.12; 297F.13; 297F.14; 297F.15, subdivisions 9 and 10; 297F.17;
 21.19 297F.18; 297F.185; 297F.19, subdivisions 1, 2, 3, 5, 6, 7, 8, and 9; 297F.20; 297F.21,
 21.20 subdivisions 1, 2, and 3; 297F.23; 297F.24; 297F.25; 297G.01; 297G.02; 297G.03; 297G.031;
 21.21 297G.032; 297G.04; 297G.05; 297G.06; 297G.07; 297G.08; 297G.09, subdivisions 1, 2,
 21.22 3, 4, 6, 7, 8, 9, and 10; 297G.10; 297G.11; 297G.12; 297G.13; 297G.14, subdivision 9;
 21.23 297G.16; 297G.17; 297G.18, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, and 11; 297G.19; 297G.20,
 21.24 subdivisions 1, 2, 3, and 4; 297G.22; 297H.01; 297H.02; 297H.03; 297H.04; 297H.05;
 21.25 297H.06; 297H.07; 297H.08; 297H.09; 297H.10, subdivision 1; 297H.11; 297H.115;
 21.26 297H.12; 297H.13, subdivisions 1, 2, and 5; 297I.01; 297I.05, subdivisions 1, 2, 3, 4, 5, 7,
 21.27 11, 12, as amended by Laws 2017, chapter 2, article 2, section 14, 13, and 14; 297I.06;
 21.28 297I.10, subdivisions 1, 3, and 4; 297I.11; 297I.15; 297I.20; 297I.25; 297I.30, subdivisions
 21.29 1, 2, 7, 8, 9, and 10; 297I.35; 297I.40; 297I.60; 297I.65; 297I.70; 297I.75; 297I.80; 297I.85;
 21.30 and 297I.90, are repealed.

21.31 (b) Minnesota Statutes 2016, sections 297A.61, subdivisions 3, 4, 10, 12, 13, 16a, 16b,
 21.32 16c, 17, 17a, 17b, 18, 25, 26, 30, 31, 32, 33, 34, 35, 36, 37, 39, 40, 41, 42, 44, 45, 46, and
 21.33 49; 297A.62, subdivision 3; 297A.63, subdivision 2; 297A.64; 297A.65; 297A.67,
 21.34 subdivisions 1, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 13a, 14, 15, 16, 17, 18, 19, 20, 21,
 21.35 23, 25, 26, 27, 28, 29, 30, 31, 32, and 33; 297A.68, subdivisions 1, 2, 3, 3a, 4, 5, 6, 7, 8, 9,
 21.36 10, 11, 12, 13, 14, 16, 17, 19, 20, 22, 23, 24, 25, 28, 29, 30, 31, 32, 33, 34, 35a, 36, 37, 39,

- 22.1 40, 42, 43, and 44; 297A.69, subdivisions 1, 2, 3, 4, 6, and 7; 297A.70; 297A.71, subdivisions
22.2 1, 3, 6, 8, 11, 12, 13, 14, 22, 23, 34, 35, 40, 43, 44, 45, and 48; and 297A.75, are repealed.
- 22.3 **EFFECTIVE DATE.** Paragraph (a) is effective for all taxable years beginning after
22.4 December 31, 2018, and all sales and purchases made after December 31, 2018. Paragraph
22.5 (b) is effective for all sales and purchases made after December 31, 2018.

290.01 DEFINITIONS.

Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly indicates that a different meaning is intended, the following words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them.

Subd. 1a. **Uniform Probate Code.** The definitions set forth in section 524.1-201, wherever appropriate to the administration of the provisions of this chapter, are incorporated by reference herein.

Subd. 2. **Person.** The term "person" includes individuals, fiduciaries, estates, trusts, and partnerships and may, where the context requires, include corporations as herein defined.

Subd. 3. **Partnership; partner.** The terms "partnership" and "partner" have the meanings given in section 7701(a)(2) of the Internal Revenue Code.

Subd. 3a. **Trust.** The term "trust" has the meaning provided under the Internal Revenue Code, and also means designated settlement fund as defined in and taxed federally under section 468B of the Internal Revenue Code.

Subd. 3b. **Limited liability company.** For purposes of this chapter and chapter 289A, a limited liability company that is formed under either the laws of this state or under similar laws of another state, will be treated as an entity similar to its treatment for federal income tax purposes.

Subd. 4. **Corporation.** The term "corporation" shall include every entity which is a corporation under section 7701(a)(3) or is treated as a corporation under section 851(g) or 7704 of the Internal Revenue Code and financial institutions. A corporation's franchise is its authorization to exist and conduct business, whether created by legislation, by executive order, by a governmental agency, by contract or other private action, or by some combination thereof. Every corporation is deemed to have a corporate franchise. An entity described in section 646(b) of the Tax Reform Act of 1986, Public Law 99-514, as amended by section 1006(k) of the Technical and Miscellaneous Revenue Act of 1988, Public Law 100-647, shall be classified in the same manner for purposes of this chapter as it is for federal income tax purposes.

Subd. 4a. **Financial institution.** (a) "Financial institution" means:

- (1) a holding company;
- (2) any regulated financial corporation; or
- (3) any other corporation organized under the laws of the United States or organized under the laws of this state or any other state or country that is carrying on the business of a financial institution.

(b) "Holding company" means any corporation registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended, or a federal savings bank holding company.

(c) "Regulated financial corporation" means an institution, the deposits or accounts of which are insured under the Federal Deposit Insurance Act or by the Federal Savings and Loan Insurance Corporation, any institution which is a member of a Federal Home Loan Bank, any other bank or thrift institution incorporated or organized under the laws of any state or any foreign country which is engaged in the business of receiving deposits, any corporation organized under the provisions of United States Code, title 12, sections 611 to 631 (Edge Act Corporations), and any agency of a foreign depository as defined in United States Code, title 12, section 3101.

(d) "Business of a financial institution" means:

(1) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do which is substantially similar to the business which a corporation may be created to do under chapters 46 to 55 or any business which a corporation is authorized to do by those laws; or

(2) the business that any corporation organized under the authority of the United States or organized under the laws of this state or any other state or country does or has authority to do if the corporation derives more than 50 percent of its gross income from lending activities (including discounting obligations) in substantial competition with the businesses described in clause (1). For purposes of this clause, the computation of the gross income of a corporation does not include income from nonrecurring, extraordinary items.

Subd. 4c. **Mutual insurance holding companies.** A "mutual insurance holding company" is not an insurance company for purposes of this chapter.

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

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

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

Subd. 5a. **Foreign corporation.** The term "foreign," when applied to a corporation, means a corporation other than a domestic corporation.

Subd. 5b. **Insurance company.** The terms "insurance company," "life insurance company," and "insurance company other than life," have the meanings given in the Internal Revenue Code.

Subd. 6. **Taxpayer.** The term "taxpayer" means any person or corporation subject to a tax imposed by this chapter. For purposes of section 290.06, subdivision 23, the term "taxpayer" means an individual eligible to vote in Minnesota under section 201.014.

Subd. 7. **Resident.** (a) The term "resident" means any individual domiciled in Minnesota, except that an individual is not a "resident" for the period of time that the individual is a "qualified individual" as defined in section 911(d)(1) of the Internal Revenue Code, if the qualified individual notifies the county within three months of moving out of the country that homestead status be revoked for the Minnesota residence of the qualified individual, and the property is not classified as a homestead while the individual remains a qualified individual.

(b) "Resident" also means any individual domiciled outside the state who maintains a place of abode in the state and spends in the aggregate more than one-half of the tax year in Minnesota, unless:

(1) the individual or the spouse of the individual is in the armed forces of the United States; or

(2) the individual is covered under the reciprocity provisions in section 290.081.

For purposes of this subdivision, presence within the state for any part of a calendar day constitutes a day spent in the state. Individuals shall keep adequate records to substantiate the days spent outside the state.

The term "abode" means a dwelling maintained by an individual, whether or not owned by the individual and whether or not occupied by the individual, and includes a dwelling place owned or leased by the individual's spouse.

(c) Neither the commissioner nor any court shall consider charitable contributions made by an individual within or without the state in determining if the individual is domiciled in Minnesota.

Subd. 7a. **Resident estate.** Resident estate means the estate of a deceased person where (1) the decedent was domiciled in Minnesota at the date of death, or (2) the personal representative or fiduciary was appointed by a Minnesota court in a proceeding other than an ancillary proceeding, or (3) the administration of the estate is carried on in Minnesota in a proceeding other than an ancillary proceeding.

Subd. 7b. **Resident trust.** (a) Resident trust means a trust, except a grantor type trust, which either (1) was created by a will of a decedent who at death was domiciled in this state or (2) is an irrevocable trust, the grantor of which was domiciled in this state at the time the trust became irrevocable. For the purpose of this subdivision, a trust is considered irrevocable to the extent the grantor is not treated as the owner thereof under sections 671 to 678 of the Internal Revenue Code. The term "grantor type trust" means a trust where the income or gains of the trust are taxable to the grantor or others treated as substantial owners under sections 671 to 678 of the Internal Revenue Code. This paragraph applies to trusts, except grantor type trusts, that became irrevocable after December 31, 1995, or are first administered in Minnesota after December 31, 1995.

(b) This paragraph applies to trusts, except grantor type trusts, that are not governed under paragraph (a). A trust, except a grantor type trust, is a resident trust only if two or more of the following conditions are satisfied:

(1) a majority of the discretionary decisions of the trustees relative to the investment of trust assets are made in Minnesota;

(2) a majority of the discretionary decisions of the trustees relative to the distributions of trust income and principal are made in Minnesota;

(3) the official books and records of the trust, consisting of the original minutes of trustee meetings and the original trust instruments, are located in Minnesota.

(c) For purposes of paragraph (b), if the trustees delegate decisions and actions to an agent or custodian, the actions and decisions of the agent or custodian must not be taken into account in determining whether the trust is administered in Minnesota, if:

(1) the delegation was permitted under the trust agreement;

(2) the trustees retain the power to revoke the delegation on reasonable notice; and

(3) the trustees monitor and evaluate the performance of the agent or custodian on a regular basis as is reasonably determined by the trustees.

Subd. 8. **Fiduciary.** The term "fiduciary" means a guardian, trustee, receiver, conservator, personal representative, or any person acting in any fiduciary capacity for any person or corporation.

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Subd. 8a. **Personal representative.** The term "personal representative" includes executor, administrator, successor personal representative, special administrator, and persons who perform substantially the same function under the law governing their status.

Subd. 9. **Taxable year.** The term "taxable year" means the period for which the taxes levied by this chapter are imposed. It shall be a calendar year, a fiscal year, or, in cases where returns for a fractional part of a year are permitted or required, the period for which such return is made.

Subd. 10. **Fiscal year.** The term "fiscal year" means an accounting period of 12 months ending on the last day of any month other than December. In the case of any taxpayer who has made the election provided by section 289A.08, subdivision 5, the term means the annual period (varying from 52 to 53 weeks) so elected.

Subd. 11. **Paid or incurred, paid or accrued, received, or received or accrued.** The terms "paid or incurred" and "paid or accrued" shall be construed according to the method of accounting upon the basis of which net income is computed for the purposes of the taxes imposed by this chapter; and the terms "received" and "received or accrued" shall be similarly construed.

Subd. 12. **Stock or share.** The term "stock" or "share" means the interest of a member in a corporation however evidenced.

Subd. 13. **Stockholder or shareholder.** The term "stockholder" or "shareholder" means the owner of any such "stock" or "share."

Subd. 14. **State or this state.** The term "state" or "this state" means the state of Minnesota.

Subd. 15. **Includes.** The term "includes" and its derivatives, when used in a definition contained in this chapter, shall not exclude other things otherwise within the meaning of the term defined.

Subd. 16. **Commissioner.** The term "commissioner" means the commissioner of revenue of the state of Minnesota.

Subd. 17. **Property.** The term "property" includes every form of property, real, personal, or mixed, tangible or intangible, and every interest therein, legal or equitable, irrespective of how created or arising. Property pledged or mortgaged shall be treated as owned by the pledgor or mortgagor.

Subd. 18. **Duty on estate or trust.** When, in this chapter, the estate of a decedent or a trust is referred to as a taxable person, or a duty is imposed on such estate or trust, the reference may be construed as meaning the fiduciary in charge of the property of such estate or trust, and the duty shall be treated as imposed on such fiduciary.

Subd. 19. **Net income.** The term "net income" means the federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended through the date named in this subdivision, incorporating the federal effective dates of changes to the Internal Revenue Code and any elections made by the taxpayer in accordance with the Internal Revenue Code in determining federal taxable income for federal income tax purposes, and with the modifications provided in sections 290.0131 to 290.0136.

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

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

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

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

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

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

The Internal Revenue Code of 1986, as amended through December 31, 2014, shall be in effect for taxable years beginning after December 31, 1996.

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Except as otherwise provided, references to the Internal Revenue Code in this subdivision and sections 290.0131 to 290.0136 mean the code in effect for purposes of determining net income for the applicable year.

297A.61 DEFINITIONS.

Subd. 3. **Sale and purchase.** (a) "Sale" and "purchase" include, but are not limited to, each of the transactions listed in this subdivision. In applying the provisions of this chapter, the terms "tangible personal property" and "retail sale" include the taxable services listed in paragraph (g), clause (6), items (i) to (vi) and (viii), and the provision of these taxable services, unless specifically provided otherwise. Services performed by an employee for an employer are not taxable. Services performed by a partnership or association for another partnership or association are not taxable if one of the entities owns or controls more than 80 percent of the voting power of the equity interest in the other entity. Services performed between members of an affiliated group of corporations are not taxable. For purposes of the preceding sentence, "affiliated group of corporations" means those entities that would be classified as members of an affiliated group as defined under United States Code, title 26, section 1504, disregarding the exclusions in section 1504(b).

(b) Sale and purchase include:

- (1) any transfer of title or possession, or both, of tangible personal property, whether absolutely or conditionally, for a consideration in money or by exchange or barter; and
- (2) the leasing of or the granting of a license to use or consume, for a consideration in money or by exchange or barter, tangible personal property, other than a manufactured home used for residential purposes for a continuous period of 30 days or more.

(c) Sale and purchase include the production, fabrication, printing, or processing of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the production, fabrication, printing, or processing.

(d) Sale and purchase include the preparing for a consideration of food. Notwithstanding section 297A.67, subdivision 2, taxable food includes, but is not limited to, the following:

- (1) prepared food sold by the retailer;
- (2) soft drinks;
- (3) candy;
- (4) dietary supplements; and
- (5) all food sold through vending machines.

(e) A sale and a purchase includes the furnishing for a consideration of electricity, gas, water, or steam for use or consumption within this state.

(f) A sale and a purchase includes the transfer for a consideration of prewritten computer software whether delivered electronically, by load and leave, or otherwise.

(g) A sale and a purchase includes the furnishing for a consideration of the following services:

(1) the privilege of admission to places of amusement, recreational areas, or athletic events, and the making available of amusement devices, tanning facilities, reducing salons, steam baths, health clubs, and spas or athletic facilities;

(2) lodging and related services by a hotel, rooming house, resort, campground, motel, or trailer camp, including furnishing the guest of the facility with access to telecommunication services, and the granting of any similar license to use real property in a specific facility, other than the renting or leasing of it for a continuous period of 30 days or more under an enforceable written agreement that may not be terminated without prior notice and including accommodations intermediary services provided in connection with other services provided under this clause;

(3) nonresidential parking services, whether on a contractual, hourly, or other periodic basis, except for parking at a meter;

(4) the granting of membership in a club, association, or other organization if:

(i) the club, association, or other organization makes available for the use of its members sports and athletic facilities, without regard to whether a separate charge is assessed for use of the facilities; and

(ii) use of the sports and athletic facility is not made available to the general public on the same basis as it is made available to members.

Granting of membership means both onetime initiation fees and periodic membership dues. Sports and athletic facilities include golf courses; tennis, racquetball, handball, and squash courts; basketball and volleyball facilities; running tracks; exercise equipment; swimming pools; and other similar athletic or sports facilities;

(5) delivery of aggregate materials by a third party, excluding delivery of aggregate material used in road construction; and delivery of concrete block by a third party if the delivery

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would be subject to the sales tax if provided by the seller of the concrete block. For purposes of this clause, "road construction" means construction of:

- (i) public roads;
- (ii) cartways; and
- (iii) private roads in townships located outside of the seven-county metropolitan area up to the point of the emergency response location sign; and
- (6) services as provided in this clause:
 - (i) laundry and dry cleaning services including cleaning, pressing, repairing, altering, and storing clothes, linen services and supply, cleaning and blocking hats, and carpet, drapery, upholstery, and industrial cleaning. Laundry and dry cleaning services do not include services provided by coin operated facilities operated by the customer;
 - (ii) motor vehicle washing, waxing, and cleaning services, including services provided by coin operated facilities operated by the customer, and rustproofing, undercoating, and towing of motor vehicles;
 - (iii) building and residential cleaning, maintenance, and disinfecting services and pest control and exterminating services;
 - (iv) detective, security, burglar, fire alarm, and armored car services; but not including services performed within the jurisdiction they serve by off-duty licensed peace officers as defined in section 626.84, subdivision 1, or services provided by a nonprofit organization or any organization at the direction of a county for monitoring and electronic surveillance of persons placed on in-home detention pursuant to court order or under the direction of the Minnesota Department of Corrections;
 - (v) pet grooming services;
 - (vi) lawn care, fertilizing, mowing, spraying and sprigging services; garden planting and maintenance; tree, bush, and shrub pruning, bracing, spraying, and surgery; indoor plant care; tree, bush, shrub, and stump removal, except when performed as part of a land clearing contract as defined in section 297A.68, subdivision 40; and tree trimming for public utility lines. Services performed under a construction contract for the installation of shrubbery, plants, sod, trees, bushes, and similar items are not taxable;
 - (vii) massages, except when provided by a licensed health care facility or professional or upon written referral from a licensed health care facility or professional for treatment of illness, injury, or disease; and
 - (viii) the furnishing of lodging, board, and care services for animals in kennels and other similar arrangements, but excluding veterinary and horse boarding services.
- (h) A sale and a purchase includes the furnishing for a consideration of tangible personal property or taxable services by the United States or any of its agencies or instrumentalities, or the state of Minnesota, its agencies, instrumentalities, or political subdivisions.
- (i) A sale and a purchase includes the furnishing for a consideration of telecommunications services, ancillary services associated with telecommunication services, and pay television services. Telecommunication services include, but are not limited to, the following services, as defined in section 297A.669: air-to-ground radiotelephone service, mobile telecommunication service, postpaid calling service, prepaid calling service, prepaid wireless calling service, and private communication services. The services in this paragraph are taxed to the extent allowed under federal law.
- (j) A sale and a purchase includes the furnishing for a consideration of installation if the installation charges would be subject to the sales tax if the installation were provided by the seller of the item being installed.
- (k) A sale and a purchase includes the rental of a vehicle by a motor vehicle dealer to a customer when (1) the vehicle is rented by the customer for a consideration, or (2) the motor vehicle dealer is reimbursed pursuant to a service contract as defined in section 59B.02, subdivision 11.
- (l) A sale and a purchase includes furnishing for a consideration of specified digital products or other digital products or granting the right for a consideration to use specified digital products or other digital products on a temporary or permanent basis and regardless of whether the purchaser is required to make continued payments for such right. Wherever the term "tangible personal property" is used in this chapter, other than in subdivisions 10 and 38, the provisions also apply to specified digital products, or other digital products, unless specifically provided otherwise or the context indicates otherwise.

Subd. 4. **Retail sale.** (a) A "retail sale" means:

- (1) any sale, lease, or rental of tangible personal property for any purpose, other than resale, sublease, or subrent of items by the purchaser in the normal course of business as defined in subdivision 21; and

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(2) any sale of a service enumerated in subdivision 3, for any purpose other than resale by the purchaser in the normal course of business as defined in subdivision 21.

(b) A sale of property used by the owner only by leasing it to others or by holding it in an effort to lease it, and put to no use by the owner other than resale after the lease or effort to lease, is a sale of property for resale.

(c) A sale of master computer software that is purchased and used to make copies for sale or lease is a sale of property for resale.

(d) A sale of building materials, supplies, and equipment to owners, contractors, subcontractors, or builders for the erection of buildings or the alteration, repair, or improvement of real property is a retail sale in whatever quantity sold, whether the sale is for purposes of resale in the form of real property or otherwise.

(e) A sale of carpeting, linoleum, or similar floor covering to a person who provides for installation of the floor covering is a retail sale and not a sale for resale since a sale of floor covering which includes installation is a contract for the improvement of real property.

(f) A sale of shrubbery, plants, sod, trees, and similar items to a person who provides for installation of the items is a retail sale and not a sale for resale since a sale of shrubbery, plants, sod, trees, and similar items that includes installation is a contract for the improvement of real property.

(g) A sale of tangible personal property that is awarded as prizes is a retail sale and is not considered a sale of property for resale.

(h) A sale of tangible personal property utilized or employed in the furnishing or providing of services under subdivision 3, paragraph (g), clause (1), including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(i) A sale of tangible personal property used in conducting lawful gambling under chapter 349 or the State Lottery under chapter 349A, including, but not limited to, property given as promotional items, is a retail sale and is not considered a sale of property for resale.

(j) a sale of machines, equipment, or devices that are used to furnish, provide, or dispense goods or services, including, but not limited to, coin-operated devices, is a retail sale and is not considered a sale of property for resale.

(k) In the case of a lease, a retail sale occurs (1) when an obligation to make a lease payment becomes due under the terms of the agreement or the trade practices of the lessor or (2) in the case of a lease of a motor vehicle, as defined in section 297B.01, subdivision 11, but excluding vehicles with a manufacturer's gross vehicle weight rating greater than 10,000 pounds and rentals of vehicles for not more than 28 days, at the time the lease is executed.

(l) In the case of a conditional sales contract, a retail sale occurs upon the transfer of title or possession of the tangible personal property.

(m) A sale of a bundled transaction in which one or more of the products included in the bundle is a taxable product is a retail sale, except that if one of the products is a telecommunication service, ancillary service, Internet access, or audio or video programming service, and the seller has maintained books and records identifying through reasonable and verifiable standards the portions of the price that are attributable to the distinct and separately identifiable products, then the products are not considered part of a bundled transaction. For purposes of this paragraph:

(1) the books and records maintained by the seller must be maintained in the regular course of business, and do not include books and records created and maintained by the seller primarily for tax purposes;

(2) books and records maintained in the regular course of business include, but are not limited to, financial statements, general ledgers, invoicing and billing systems and reports, and reports for regulatory tariffs and other regulatory matters; and

(3) books and records are maintained primarily for tax purposes when the books and records identify taxable and nontaxable portions of the price, but the seller maintains other books and records that identify different prices attributable to the distinct products included in the same bundled transaction.

(n) A sale of motor vehicle repair paint and materials by a motor vehicle repair or body shop business is a retail sale and the sales tax is imposed on the gross receipts from the retail sale of the paint and materials. The motor vehicle repair or body shop that purchases motor vehicle repair paint and motor vehicle repair materials for resale must either:

(1) separately state each item of paint and each item of materials, and the sales price of each, on the invoice to the purchaser; or

(2) in order to calculate the sales price of the paint and materials, use a method which estimates the amount and monetary value of the paint and materials used in the repair of the motor vehicle by multiplying the number of labor hours by a rate of consideration for the paint and materials used in the repair of the motor vehicle following industry standard practices that fairly calculate the gross receipts from the retail sale of the motor vehicle repair paint and motor

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vehicle repair materials. An industry standard practice fairly calculates the gross receipts if the sales price of the paint and materials used or consumed in the repair of a motor vehicle equals or exceeds the purchase price paid by the motor vehicle repair or body shop business. Under this clause, the invoice must either separately state the "paint and materials" as a single taxable item, or separately state "paint" as a taxable item and "materials" as a taxable item. This clause does not apply to wholesale transactions at an auto auction facility.

(o) A sale of specified digital products or other digital products to an end user with or without rights of permanent use and regardless of whether rights of use are conditioned upon payment by the purchaser is a retail sale. When a digital code has been purchased that relates to specified digital products or other digital products, the subsequent receipt of or access to the related specified digital products or other digital products is not a retail sale.

(p) A payment made to a cooperative electric association or public utility as a contribution in aid of construction is a contract for improvement to real property and is not a retail sale.

Subd. 10. **Tangible personal property.** (a) "Tangible personal property" means personal property that can be seen, weighed, measured, felt, or touched, or that is in any other manner perceptible to the senses. "Tangible personal property" includes, but is not limited to, electricity, water, gas, steam, and prewritten computer software.

(b) Tangible personal property does not include:

(1) large ponderous machinery and equipment used in a business or production activity which at common law would be considered to be real property;

(2) property which is subject to an ad valorem property tax;

(3) property described in section 272.02, subdivision 9, clauses (a) to (d);

(4) property described in section 272.03, subdivision 2, clauses (3) and (5); and

(5) specified digital products, or other digital products, transferred electronically.

Subd. 12. **Farm machinery.** (a) "Farm machinery" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in agricultural production of tangible personal property intended to be sold ultimately at retail including, but not limited to:

(1) machinery for the preparation, seeding, or cultivation of soil for growing agricultural crops;

(2) barn cleaners, milking systems, grain dryers, feeding systems including stationary feed bunks, and similar installations, whether or not the equipment is installed by the seller and becomes part of the real property; and

(3) irrigation equipment sold for exclusively agricultural use, including pumps, pipe fittings, valves, sprinklers, and other equipment necessary to the operation of an irrigation system when sold as part of an irrigation system, whether or not the equipment is installed by the seller and becomes part of the real property.

(b) Farm machinery does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, grain bins, fencing material, communication equipment, and other farm supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles or snow blowers;

(5) lawn mowers except those used in the production of sod for sale, or garden-type tractors or garden tillers; or

(6) machinery, equipment, implements, accessories, and contrivances used directly in the production of horses not raised for slaughter, fur-bearing animals, or research animals.

Subd. 13. **Aquaculture production equipment.** (a) "Aquaculture production equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in aquaculture production.

(b) Aquaculture production equipment includes augers and blowers, automatic feed systems, manual feeding equipment, shockers, gill nets, trap nets, seines, box traps, round nets and traps, net pens, dip nets, net washers, floating net supports, floating access walkways, net supports and walkways, growing tanks, holding tanks, troughs, raceways, transport tanks, egg taking equipment, egg hatcheries, egg incubators, egg baskets and troughs, egg graders, egg counting equipment, fish counting equipment, fish graders, fish pumps and loaders, fish elevators, air blowers, air compressors, oxygen generators, oxygen regulators, diffusers and injectors, air supply equipment, oxygenation columns, water coolers and heaters, heat exchangers, water filter systems, water purification systems, waste collection equipment, feed mills, portable scales, feed grinders, feed mixers, feed carts and trucks, power feed wagons, fertilizer spreaders, fertilizer tanks, forage collection equipment, land levelers, loaders, post hole diggers, disc, harrow, plow, and water diversion devices.

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(c) Aquaculture production equipment does not include repair or replacement parts for aquaculture production equipment.

Subd. 16a. **Computer.** "Computer" means an electronic device that accepts information in digital or similar form and manipulates it for a result based on a sequence of instructions.

Subd. 16b. **Electronic.** "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

Subd. 16c. **Computer software.** "Computer software" means a set of coded instructions designed to cause a computer or automatic data processing equipment to perform a task.

Subd. 17. **Prewritten computer software.** "Prewritten computer software" means computer software, including prewritten upgrades, that is not designed and developed by the author or other creator to the specifications of a specific purchaser. The combining of two or more "prewritten computer software" programs or prewritten portions of the programs does not cause the combination to be other than "prewritten computer software." "Prewritten computer software" includes software designed and developed by the author or other creator to the specifications of a specific purchaser when it is sold to a person other than the specific purchaser. If a person modifies or enhances computer software of which the person is not the author or creator, the person is deemed to be the author or creator only of such person's modifications or enhancements. "Prewritten computer software" or a prewritten portion of it that is modified or enhanced to any degree, if the modification or enhancement is designed and developed to the specifications of a specific purchaser, remains "prewritten computer software"; provided, however, that if there is a reasonable, separately stated charge or an invoice or other statement of the price given to the purchaser for such modification or enhancement, the modification or enhancement does not constitute "prewritten computer software."

Subd. 17a. **Delivered electronically.** "Delivered electronically" means delivered to the purchaser by means other than tangible storage media.

Subd. 17b. **Load and leave.** "Load and leave" means delivered to the purchaser by use of a tangible storage media where the tangible storage media is not physically transferred to the purchaser.

Subd. 18. **Disabled.** "Disabled" means an individual who has a permanent and total disability as defined in section 273.13, subdivision 22.

Subd. 25. **Pay television service.** "Pay television service" means the transmission of video, audio, or other programming service to purchasers, and the subscriber interaction, if any, required for the selection or use of the programming service, regardless of whether the programming is transmitted over facilities owned or operated by the cable service provider or over facilities owned or operated by one or more dealers of communications services. The term includes point-to-multipoint distribution direct to home satellite services by which programming is transmitted or broadcast by microwave or other equipment directly to the subscriber's premises, or any similar or comparable method of service. The term includes all programming services, including subscriptions, digital video recorders, pay-per-view, and music services.

Subd. 26. **Private communication service.** "Private communication service" means a telecommunication service that entitles the customer to exclusive or priority use of a communication channel or group of channels between or among termination points, regardless of the manner in which the channel or channels are connected, and includes switching capacity, extension lines, stations, and any other associated services that are provided in connection with the use of the channel or channels.

Subd. 30. **Delivery charges.** "Delivery charges" means charges by the seller of personal property or services for preparation and delivery to a location designated by the purchaser of personal property or services including, but not limited to, transportation, shipping, postage, handling, crating, and packing.

Subd. 31. **Prepared food.** "Prepared food" means food that meets either of the following conditions:

(1) the food is sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws; or

(2) the food is sold in a heated state or heated by the seller or two or more food ingredients are mixed or combined by the seller for sale as a single item, except for:

(i) bakery items, including, but not limited to, bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas;

(ii) ready-to-eat meat and seafood in an unheated state sold by weight;

(iii) eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in chapter 3, part 401.11 of its food code so as to prevent food borne illnesses; or

(iv) food that is only sliced, repackaged, or pasteurized by the seller.

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Subd. 32. **Soft drinks.** "Soft drinks" means nonalcoholic beverages that contain natural or artificial sweeteners. Soft drinks do not include beverages that contain milk or milk products; soy, rice, or similar milk substitutes; or greater than 50 percent vegetable or fruit juice by volume.

Subd. 33. **Candy.** "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy does not include any preparation containing flour and must require no refrigeration.

Subd. 34. **Food sold through vending machines.** "Food sold through vending machines" means food dispensed from a machine or other device that accepts payment including honor payments.

Subd. 35. **Direct mail.** "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items is not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material. "Direct mail" does not include multiple items of printed material delivered to a single address.

Subd. 36. **Agricultural production.** "Agricultural production" includes, but is not limited to, horticulture, silviculture, floriculture, maple syrup harvesting, and the raising of pets, livestock as defined in section 17A.03, subdivision 5, poultry, dairy and poultry products, bees and apiary products, the raising and harvesting of agricultural crops, sod, fur-bearing animals, research animals, and horses.

Subd. 37. **Logging equipment.** (a) "Logging equipment" means new or used machinery, equipment, implements, accessories, and contrivances used directly and principally in the commercial cutting or removal or both of timber or other solid wood forest products intended to be sold ultimately at retail, including, but not limited to:

(1) machinery used for bucking, bunching, debarking, delimiting, felling, forwarding, loading, piling, skidding, topping, and yarding operations performed on timber; and

(2) chain saws.

(b) Logging equipment does not include:

(1) repair or replacement parts;

(2) tools, shop equipment, communication equipment, and other logging supplies;

(3) motor vehicles taxed under chapter 297B;

(4) snowmobiles, snow blowers, or recreational all-terrain vehicles; or

(5) machinery, equipment, implements, accessories, and contrivances used in the creation of other commercial wood products for sale to others, including, but not limited to, milling, planing, carving, wood chipping, or paper manufacturing.

Subd. 39. **Ancillary services.** "Ancillary services" means services that are associated with or incidental to the provision of telecommunications services, including, but not limited to, conference bridging service, detailed telecommunications billing, directory assistance, vertical service, and voice mail services.

Subd. 40. **Conference bridging service.** "Conference bridging service" means an ancillary service that links two or more participants of an audio or video conference call and may include the provision of a telephone number. Conference bridging service does not include the telecommunications services used to reach the conference bridge.

Subd. 41. **Detailed telecommunications billing service.** "Detailed telecommunications billing service" means an ancillary service of separately stating information pertaining to individual calls on a customer's billing statement.

Subd. 42. **Directory assistance.** "Directory assistance" means an ancillary service of providing telephone number information or address information, or both.

Subd. 44. **Voice mail service.** "Voice mail service" means an ancillary service that enables the customer to store, send, or receive recorded messages. Voice mail service does not include any vertical services that the customer may be required to have in order to utilize the voice mail service.

Subd. 45. **Ring tone.** "Ring tone" means a digitized sound file that is downloaded onto a device and that may be used to alert the customer with respect to a communication. A ring tone does not include ring back tones or other digital audio files that are not stored on the purchaser's communication device.

Subd. 46. **Fur clothing.** "Fur clothing" means human wearing apparel that is required by the Federal Fur Products Labeling Act, United States Code, title 15, section 69, to be labeled as a fur product, and the value of the fur components in the product is more than three times the value of the next most valuable tangible component. For purposes of this subdivision, "fur" means any

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animal skin or part of an animal skin with hair, fleece, or fur fibers attached to it, either in its raw or processed state, but does not include animal skins that have been converted into leather or suede, or from which the hair, fleece, or fur fiber has been completely removed in processing the skins.

Subd. 49. **Motor vehicle repair paint and motor vehicle repair materials.** "Motor vehicle repair paint" means a substance composed of solid matter suspended in a liquid medium and applied as a protective or decorative coating to the surface of a motor vehicle in order to restore the motor vehicle to its original condition, and includes primer, body paint, clear coat, and paint thinner used to paint motor vehicles, as defined in section 297B.01.

"Motor vehicle repair materials" means items, other than motor vehicle repair paint or motor vehicle parts, that become a part of a repaired motor vehicle or are consumed in repairing the motor vehicle at retail, and include abrasives, battery water, body filler or putty, bolts and nuts, brake fluid, buffing pads, chamois, cleaning compounds, degreasing compounds, glaze, grease, grinding discs, hydraulic jack oil, lubricants, masking tape, oxygen and acetylene, polishes, rags, razor blades, sandpaper, sanding discs, scuff pads, sealer, solder, solvents, striping tape, tack cloth, thinner, waxes, and welding rods. Motor vehicle repair materials do not include items that are not used directly on the motor vehicle, such as floor dry that is used to clean the shop, or cleaning compounds and rags that are used to clean tools, equipment, or the shop and are not used to clean the motor vehicle.

297A.62 SALES TAX IMPOSED; RATES.

Subd. 3. **Manufactured housing and park trailers; modular housing.** (a) For retail sales of manufactured homes as defined in section 327.31, subdivision 6, for residential uses, the sales tax under subdivisions 1 and 1a is imposed on 65 percent of the dealer's cost of the manufactured home. For retail sales of new or used park trailers, as defined in section 168.002, subdivision 23, the sales tax under subdivisions 1 and 1a is imposed on 65 percent of the sales price of the park trailer.

(b) For retail sales of a modular home as defined in section 297A.668, subdivision 8, paragraph (b), for residential uses, the sales tax under subdivisions 1 and 1a is imposed on 65 percent of the modular home manufacturer's sales price of the modular home.

297A.63 USE TAXES IMPOSED; RATES.

Subd. 2. **Use of tangible personal property made from materials.** (a) A use tax is imposed on a person who manufactures, fabricates, or assembles tangible personal property from materials, either within or outside this state and who uses, stores, distributes, or consumes the tangible personal property in Minnesota. The tax is imposed on the purchase price of retail sales of the materials contained in the tangible personal property at the rate of tax imposed under section 297A.62.

(b) No tax is imposed under paragraph (a) if the tax imposed by section 297A.62 was paid on the sales price of materials contained in the tangible personal property.

297A.64 RENTAL MOTOR VEHICLE TAX IMPOSED; RATE.

Subdivision 1. **Tax imposed.** A tax is imposed on the lease or rental in this state for not more than 28 days of a passenger automobile as defined in section 168.002, subdivision 24, a van as defined in section 168.002, subdivision 40, or a pickup truck as defined in section 168.002, subdivision 26. The rate of tax is 9.2 percent of the sales price. The tax applies whether or not the vehicle is licensed in the state.

Subd. 2. **Fee imposed.** (a) A fee equal to five percent of the sales price is imposed on leases or rentals of vehicles subject to the tax under subdivision 1. The lessor on the invoice to the customer may designate the fee as "a fee imposed by the State of Minnesota for the registration of rental cars."

(b) The provisions of this subdivision do not apply to the vehicles of a nonprofit corporation or similar entity, consisting of individual or group members who pay the organization for the use of a motor vehicle, if the organization:

(1) owns or leases a fleet of vehicles of the type subject to the tax under subdivision 1 that are available to its members for use, priced on the basis of intervals of one hour or less;

(2) parks its vehicles at unstaffed, self-service locations that are accessible at any time of the day;

(3) maintains its vehicles, insures its vehicles on behalf of its members, and purchases fuel for its fleet; and

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(4) does not charge usage rates that decline on a per unit basis, whether specified based on distance or time.

Subd. 3. **Administration.** The retailer shall report and pay the tax imposed in subdivision 1 to the commissioner of revenue with the taxes imposed in this chapter. The tax imposed in subdivision 1 and the fee imposed in subdivision 2 are subject to the same interest, penalty, and other provisions provided for sales and use taxes under this chapter and chapter 289A. The audit, assessment, appeal, collection, enforcement, and administrative provisions of this chapter and chapters 270C and 289A, that apply to sales and use taxes, apply to the tax and fee.

Subd. 4. **Exemptions.** (a) The tax and the fee imposed by this section do not apply to a lease or rental of (1) a vehicle to be used by the lessee to provide a licensed taxi service; (2) a hearse or limousine used in connection with a burial or funeral service; or (3) a van designed or adapted primarily for transporting property rather than passengers. The tax and the fee imposed under this section do not apply when the lease or rental of a vehicle is exempt from the tax imposed under section 297A.62, subdivision 1.

(b) The lessor may elect not to charge the fee imposed in subdivision 2 if in the previous calendar year the lessor had no more than 20 vehicles available for lease that would have been subject to tax under this section, or no more than \$50,000 in gross receipts that would have been subject to tax under this section.

Subd. 5. **Payment of excess fees.** On the first sales tax return due following the end of a calendar year during which a lessor has imposed a fee under subdivision 2, the lessor shall report to the commissioner of revenue, in the form required by the commissioner, the amount of the fee collected during the previous year and the amount of motor vehicle registration taxes paid during the previous year by the lessor under chapter 168 on vehicles subject to the fee under this section. If the amount of the fees collected exceeds the amount of motor vehicle registration taxes paid, the lessor shall remit the excess to the commissioner of revenue at the time the report is submitted.

297A.65 LOTTERY TICKETS; IN LIEU TAX.

Sales of State Lottery tickets are exempt from the tax imposed under section 297A.62. The State Lottery must on or before the 20th day of each month transmit to the commissioner of revenue an amount equal to the gross receipts from the sale of lottery tickets for the previous month multiplied by the tax rate under section 297A.62, subdivision 1. The resulting payment is in lieu of the sales tax that otherwise would be imposed by this chapter. The commissioner shall deposit the money transmitted as provided by section 297A.94 and the money must be treated as other proceeds of the sales tax. For purposes of this section, "gross receipts" means the proceeds of the sale of tickets before deduction of a commission or other compensation paid to the vendor or retailer for selling tickets.

297A.67 GENERAL EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale and purchase of, and storage, distribution, use, or consumption of the items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Food and food ingredients.** Except as otherwise provided in this subdivision, food and food ingredients are exempt. For purposes of this subdivision, "food" and "food ingredients" mean substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. Food and food ingredients exempt under this subdivision do not include candy, soft drinks, food sold through vending machines, dietary supplements, and prepared foods. Food and food ingredients do not include alcoholic beverages and tobacco. For purposes of this subdivision, "alcoholic beverages" means beverages that are suitable for human consumption and contain one-half of one percent or more of alcohol by volume. For purposes of this subdivision, "tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco. For purposes of this subdivision, "dietary supplements" means any product, other than tobacco, intended to supplement the diet that:

(1) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; and

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(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in items (i) to (v);

(2) is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(3) is required to be labeled as a dietary supplement, identifiable by the supplement facts box found on the label and as required pursuant to Code of Federal Regulations, title 21, section 101.36.

Subd. 3. **Food stamps.** Tangible personal property purchased with food stamps, coupons, or vouchers issued by the federal government under the Food Stamp Program is exempt. This exemption also applies to food purchased under the Special Supplemental Food Program for Women, Infants, and Children. The exemption provided by this subdivision is effective and applies only to the extent required by federal law.

Subd. 4. **Exempt meals at residential facilities.** Prepared food, candy, and soft drinks served to patients, inmates, or persons residing at hospitals, sanitariums, nursing homes, senior citizen homes, and correctional, detention, and detoxification facilities are exempt. Food sold through vending machines is not exempt.

Subd. 5. **Exempt meals at schools.** Prepared food, candy, and soft drinks served at public and private elementary, middle, or secondary schools as defined in section 120A.05 are exempt. Prepared food, candy, and soft drinks served to students at a college, university, or private career school under a board contract are exempt. Food sold through vending machines is not exempt.

Subd. 6. **Other exempt meals.** (a) Prepared food, candy, and soft drinks purchased for and served exclusively to individuals who are 60 years of age or over and their spouses or to disabled persons and their spouses by governmental agencies, nonprofit organizations, or churches, or pursuant to any program funded in whole or in part through United States Code, title 42, sections 3001 through 3045, wherever delivered, prepared, or served, are exempt. Food sold through vending machines is not exempt.

(b) Prepared food, candy, and soft drinks purchased for and served exclusively to children who are less than 14 years of age or disabled children who are less than 16 years of age and who are attending a child care or early childhood education program, are exempt if they are:

(1) purchased by a nonprofit child care facility that is exempt under section 297A.70, subdivision 4, and that primarily serves families with income of 250 percent or less of federal poverty guidelines; and

(2) prepared at the site of the child care facility.

Subd. 7. **Drugs; medical devices.** (a) Sales of the following drugs and medical devices for human use are exempt:

(1) drugs, including over-the-counter drugs;

(2) single-use finger-pricking devices for the extraction of blood and other single-use devices and single-use diagnostic agents used in diagnosing, monitoring, or treating diabetes;

(3) insulin and medical oxygen for human use, regardless of whether prescribed or sold over the counter;

(4) prosthetic devices;

(5) durable medical equipment for home use only;

(6) mobility enhancing equipment;

(7) prescription corrective eyeglasses; and

(8) kidney dialysis equipment, including repair and replacement parts.

(b) Items purchased in transactions covered by:

(1) Medicare as defined under title XVIII of the Social Security Act, United States Code, title 42, section 1395, et seq.; or

(2) Medicaid as defined under title XIX of the Social Security Act, United States Code, title 42, section 1396, et seq.

(c) For purposes of this subdivision:

(1) "Drug" means a compound, substance, or preparation, and any component of a compound, substance, or preparation, other than food and food ingredients, dietary supplements, or alcoholic beverages that is:

(i) recognized in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;

(ii) intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease;

or

(iii) intended to affect the structure or any function of the body.

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(2) "Durable medical equipment" means equipment, including repair and replacement parts, including single-patient use items, but not including mobility enhancing equipment, that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury; and
- (iv) is not worn in or on the body.

For purposes of this clause, "repair and replacement parts" includes all components or attachments used in conjunction with the durable medical equipment, including repair and replacement parts which are for single patient use only.

(3) "Mobility enhancing equipment" means equipment, including repair and replacement parts, but not including durable medical equipment, that:

- (i) is primarily and customarily used to provide or increase the ability to move from one place to another and that is appropriate for use either in a home or a motor vehicle;
- (ii) is not generally used by persons with normal mobility; and
- (iii) does not include any motor vehicle or equipment on a motor vehicle normally provided by a motor vehicle manufacturer.

(4) "Over-the-counter drug" means a drug that contains a label that identifies the product as a drug as required by Code of Federal Regulations, title 21, section 201.66. The label must include a "drug facts" panel or a statement of the active ingredients with a list of those ingredients contained in the compound, substance, or preparation. Over-the-counter drugs do not include grooming and hygiene products, regardless of whether they otherwise meet the definition. "Grooming and hygiene products" are soaps, cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and suntan lotions and sunscreens.

(5) "Prescribed" and "prescription" means a direction in the form of an order, formula, or recipe issued in any form of oral, written, electronic, or other means of transmission by a duly licensed health care professional.

(6) "Prosthetic device" means a replacement, corrective, or supportive device, including repair and replacement parts, worn on or in the body to:

- (i) artificially replace a missing portion of the body;
- (ii) prevent or correct physical deformity or malfunction; or
- (iii) support a weak or deformed portion of the body.

Prosthetic device does not include corrective eyeglasses.

(7) "Kidney dialysis equipment" means equipment that:

- (i) is used to remove waste products that build up in the blood when the kidneys are not able to do so on their own; and
- (ii) can withstand repeated use, including multiple use by a single patient, notwithstanding the provisions of clause (2).

(8) A transaction is covered by Medicare or Medicaid if any portion of the cost of the item purchased in the transaction is paid for or reimbursed by the federal government or the state of Minnesota pursuant to the Medicare or Medicaid program, by a private insurance company administering the Medicare or Medicaid program on behalf of the federal government or the state of Minnesota, or by a managed care organization for the benefit of a patient enrolled in a prepaid program that furnishes medical services in lieu of conventional Medicare or Medicaid coverage pursuant to agreement with the federal government or the state of Minnesota.

Subd. 7a. **Accessories and supplies.** Accessories and supplies required for the effective use of durable medical equipment for home use only or purchased in a transaction covered by Medicare or Medicaid, that are not already exempt under subdivision 7, are exempt. Accessories and supplies for the effective use of a prosthetic device, that are not already exempt under subdivision 7, are exempt. For purposes of this subdivision "durable medical equipment," "prosthetic device," "Medicare," and "Medicaid" have the definitions given in subdivision 7.

Subd. 8. **Clothing.** (a) Clothing is exempt. For purposes of this subdivision, "clothing" means all human wearing apparel suitable for general use.

(b) Clothing includes, but is not limited to, aprons, household and shop; athletic supporters; baby receiving blankets; bathing suits and caps; beach capes and coats; belts and suspenders; boots; coats and jackets; costumes; children and adult diapers, including disposable; ear muffs; footlets; formal wear; garters and garter belts; girdles; gloves and mittens for general use; hats and caps; hosiery; insoles for shoes; lab coats; neckties; overshoes; pantyhose; rainwear; rubber pants; sandals; scarves; shoes and shoe laces; slippers; sneakers; socks and stockings; steel-toed boots; underwear; uniforms, athletic and nonathletic; and wedding apparel.

(c) Clothing does not include the following:

- (1) belt buckles sold separately;
- (2) costume masks sold separately;

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- (3) patches and emblems sold separately;
- (4) sewing equipment and supplies, including but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles;
- (5) sewing materials that become part of clothing, including but not limited to, buttons, fabric, lace, thread, yarn, and zippers;
- (6) clothing accessories or equipment;
- (7) sports or recreational equipment;
- (8) protective equipment; and
- (9) fur clothing as defined in section 297A.61, subdivision 46.

For purposes of this subdivision, "clothing accessories or equipment" means incidental items worn on the person or in conjunction with clothing. Clothing accessories and equipment include, but are not limited to, briefcases; cosmetics; hair notions, including barrettes, hair bows, and hairnets; handbags; handkerchiefs; jewelry; nonprescription sunglasses; umbrellas; wallets; watches; and wigs and hairpieces. "Sports or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. Sports and recreational equipment includes, but is not limited to, ballet and tap shoes; cleated or spiked athletic shoes; gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf gloves; goggles; hand and elbow guards; life preservers and vests; mouth guards; roller and ice skates; shin guards; shoulder pads; ski boots; waders; and wetsuits and fins. "Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons or property but not suitable for general use. Protective equipment includes, but is not limited to, breathing masks; clean room apparel and equipment; ear and hearing protectors; face shields; finger guards; hard hats; helmets; paint or dust respirators; protective gloves; safety glasses and goggles; safety belts; tool belts; and welders gloves and masks.

Subd. 9. **Baby products.** Breast pumps, baby bottles and nipples, pacifiers, teething rings, and infant syringes are exempt.

Subd. 10. **Caskets; vaults.** Caskets and burial vaults for human burial are exempt.

Subd. 11. **Automobiles; disabled veterans.** Automobiles or other conveyances are exempt if the purchaser is assisted by a grant from the United States in accordance with United States Code, title 38, section 3902.

Subd. 12. **Parts and accessories used to make a motor vehicle disabled accessible.** Parts, accessories, and labor charges that are used solely to modify a motor vehicle to make it disabled accessible are exempt.

Subd. 13. **Textbooks.** Textbooks, including digital books, that are prescribed for use in conjunction with a course of study in a school, college, university, and private career school to students who are regularly enrolled at such institutions are exempt. For purposes of this subdivision (1) a "school" is as defined in section 120A.22, subdivision 4; and (2) "private career school" means a school licensed under section 136A.822.

Subd. 13a. **Instructional materials.** Instructional materials, other than textbooks, that are prescribed for use in conjunction with a course of study in a postsecondary school, college, university, or private career school to students who are regularly enrolled at such institutions are exempt. For purposes of this subdivision, "instructional materials" means materials required to be used directly in the completion of the course of study, including, but not limited to, interactive CDs, tapes, digital audio works, digital audiovisual works, and computer software.

Instructional materials do not include general reference works or other items incidental to the instructional process such as pens, pencils, paper, folders, or computers. For purposes of this subdivision, "school" and "private career school" have the meanings given in subdivision 13.

Subd. 14. **Computers prescribed for use by school.** Computers and related computer software sold by a school, college, university, or private career school to students who are enrolled at the institutions are exempt if:

- (1) the use of the computer, or of a substantially similar model of computer, and the related computer software is prescribed by the institution in conjunction with a course of study; and
- (2) each student of the institution, or of a unit of the institution in which the student is enrolled, is required by the institution to have such a computer and related software as a condition of enrollment.

For the purposes of this subdivision, "school" and "private career school" have the meanings given in subdivision 13.

Subd. 15. **Residential heating fuels.** Residential heating fuels are exempt as follows:

- (1) all fuel oil, coal, wood, steam, hot water, propane gas, and L.P. gas sold to residential customers for residential use;

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(2) for the billing months of November, December, January, February, March, and April, natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat; and

(3) for the billing months of November, December, January, February, March, and April, electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat.

Subd. 16. **Residential water services.** Water services for residential use are exempt regardless of how the services are billed.

Subd. 17. **Feminine hygiene products.** Sanitary napkins, tampons, or similar items used for feminine hygiene are exempt.

Subd. 18. **Used motor oils.** Used motor oils are exempt.

Subd. 19. **Cross-country ski passes.** Cross-country ski passes issued under sections 85.40 to 85.43 are exempt.

Subd. 20. **Manufactured homes.** Manufactured homes, as defined in section 327.31, subdivision 6, to be used by the purchaser for residential purposes are exempt, unless the sale is the first retail sale of the manufactured home in this state.

Subd. 21. **De minimis exemption.** A purchase subject to use tax under section 297A.63 is exempt if (1) the purchase is made by an individual for personal use, and (2) the total purchases that are subject to the use tax do not exceed \$770 in the calendar year. For purposes of this subdivision, "personal use" includes purchases for gifts. If an individual makes purchases subject to use tax of more than \$770 in the calendar year, the individual must pay the use tax on the entire amount. This exemption does not apply to purchases made from retailers who are required or registered to collect taxes under this chapter.

Subd. 23. **Occasional sales.** Isolated and occasional sales in Minnesota not made in the normal course of business of selling that kind of property or service are exempt. The storage, use, or consumption of property or services acquired as a result of such a sale is exempt. This exemption does not apply to sales of tangible personal property primarily used in a trade or business.

Subd. 25. **Maintenance of cemetery grounds.** Lawn care and related services used in the maintenance of cemetery grounds are exempt. For purposes of this subdivision, "lawn care and related services" means the services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), item (vi), and "cemetery" means a cemetery for human burial.

Subd. 26. **Trade allowance.** The amount allowed as a credit against the sales price for tangible personal property taken in trade for resale is exempt.

Subd. 27. **Sewing materials.** Sewing materials are exempt. For purposes of this subdivision "sewing materials" mean fabric, thread, zippers, interfacing, buttons, trim, and other items that are usually directly incorporated into the construction of clothing, as defined in subdivision 8, regardless of whether it is actually used for making clothing. It does not include batting, foam, or fabric specifically manufactured for arts and craft projects, or other materials for craft projects.

Subd. 28. **Ambulance supplies, parts, and equipment.** The following sales to or use by an ambulance service licensed under section 144E.10 are exempt:

(1) supplies and equipment used to provide medical care; and

(2) repair and replacement parts for ambulances and vehicles equipped and specifically intended for emergency response.

Subd. 29. **Solar energy products.** A solar energy system, as defined in section 216C.06, subdivision 17, is exempt.

Subd. 30. **Motor vehicles.** Motor vehicles taxable under the provisions of chapter 297B are exempt.

Subd. 31. **Service loaner vehicle covered by warranty.** The loan of a vehicle by a motor vehicle dealer to a customer as a replacement for a vehicle being serviced or repaired is exempt if the vehicle is loaned pursuant to a warranty included in the original purchase price of the vehicle being serviced or repaired.

Subd. 32. **Cigarettes.** Cigarettes upon which a tax has been imposed under section 297F.25 are exempt.

Subd. 33. **Presentations accessed as digital audio and audiovisual works.** The charge for a live or prerecorded presentation, such as a lecture, seminar, workshop, or course, where participants access the presentation as a digital audio work or digital audiovisual work, and are connected to the presentation via the Internet, telecommunications equipment, or other device that transfers the presentation electronically, is exempt if:

(1) participants and the presenter, during the time that participants access the presentation, are able to give, receive, and discuss the presentation with each other, although the amount of interaction and when in the presentation the interaction occurs may be limited by the presenter; and

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(2) for those presentations where participants are given the option to attend the same presentation in person:

(i) any limitations on the amount of interaction and when it occurs during the presentation are the same for those participants accessing the presentation electronically as those attending in person; and

(ii) the admission to the in-person presentation is not subject to tax under this chapter.

297A.68 BUSINESS EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale of, and storage, distribution, use, or consumption of the items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Materials consumed in industrial production.** (a) Materials stored, used, or consumed in industrial production of tangible personal property intended to be sold ultimately at retail, are exempt, whether or not the item so used becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

(1) chemicals, including chemicals used for cleaning food processing machinery and equipment;

(2) materials, including chemicals, fuels, and electricity purchased by persons engaged in industrial production to treat waste generated as a result of the production process;

(3) fuels, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of the average climate control or lighting for the production area, and (ii) it is necessary to produce that particular product;

(4) petroleum products and lubricants;

(5) packaging materials, including returnable containers used in packaging food and beverage products;

(6) accessory tools, equipment, and other items that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product; and

(7) the following materials, tools, and equipment used in metal-casting: crucibles, thermocouple protection sheaths and tubes, stalk tubes, refractory materials, molten metal filters and filter boxes, degassing lances, and base blocks.

(b) This exemption does not include:

(1) machinery, equipment, implements, tools, accessories, appliances, contrivances and furniture and fixtures, except those listed in paragraph (a), clause (6); and

(2) petroleum and special fuels used in producing or generating power for propelling ready-mixed concrete trucks on the public highways of this state.

(c) Industrial production includes, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products (whether vegetable or animal), commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity, the production of road building materials, and the research, development, design, or production of computer software. Industrial production does not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process.

(d) Industrial production does not include:

(1) the furnishing of services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii); or

(2) the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products. For purposes of this paragraph, "transportation, transmission, or distribution" does not include blending of petroleum or biodiesel fuel as defined in section 239.77.

Subd. 3. **Materials used in providing certain taxable services.** (a) Materials stored, used, or consumed in providing a taxable service listed in section 297A.61, subdivision 3, paragraph (g), clause (6), intended to be sold ultimately at retail are exempt.

(b) This exemption includes, but is not limited to:

(1) chemicals, lubricants, packaging materials, seeds, trees, fertilizers, and herbicides, if these items are used or consumed in providing the taxable service;

(2) chemicals used to treat waste generated as a result of providing the taxable service;

(3) accessory tools, equipment, and other items that are separate detachable units used in providing the service and that have an ordinary useful life of less than 12 months; and

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(4) fuel, electricity, gas, and steam used or consumed in the production process, except that electricity, gas, or steam used for space heating, cooling, or lighting is exempt if (i) it is in excess of average climate control or lighting, and (ii) it is necessary to produce that particular service.

(c) This exemption does not include machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in providing the taxable service.

Subd. 3a. **Coin-operated entertainment and amusement devices.** Coin-operated entertainment and amusement devices including, but not limited to, fortune-telling machines, cranes, foosball and pool tables, video and pinball games, batting cages, rides, photo or video booths, and jukeboxes are exempt when purchased by retailers selling admission to places of amusement and making available amusement devices as provided in section 297A.61, subdivision 3, paragraph (g), clause (1). Coin-operated entertainment and amusement devices do not include vending machines, lottery devices, or gaming devices as described in chapters 297E and 349.

Subd. 4. **Taconite, other ores, metals, or minerals; production materials.** Mill liners, grinding rods, and grinding balls that are substantially consumed in the production of taconite or other ores, metals, or minerals are exempt when sold to or stored, used, or consumed by persons taxed under the in-lieu or net proceeds provisions of chapter 298.

Subd. 5. **Capital equipment.** (a) Capital equipment is exempt.

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

(b) Capital equipment includes, but is not limited to:

(1) machinery and equipment used to operate, control, or regulate the production equipment;

(2) machinery and equipment used for research and development, design, quality control, and testing activities;

(3) environmental control devices that are used to maintain conditions such as temperature, humidity, light, or air pressure when those conditions are essential to and are part of the production process;

(4) materials and supplies used to construct and install machinery or equipment;

(5) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to machinery or equipment;

(6) materials used for foundations that support machinery or equipment;

(7) materials used to construct and install special purpose buildings used in the production process;

(8) ready-mixed concrete equipment in which the ready-mixed concrete is mixed as part of the delivery process regardless if mounted on a chassis, repair parts for ready-mixed concrete trucks, and leases of ready-mixed concrete trucks; and

(9) machinery or equipment used for research, development, design, or production of computer software.

(c) Capital equipment does not include the following:

(1) motor vehicles taxed under chapter 297B;

(2) machinery or equipment used to receive or store raw materials;

(3) building materials, except for materials included in paragraph (b), clauses (6) and (7);

(4) machinery or equipment used for nonproduction purposes, including, but not limited to, the following: plant security, fire prevention, first aid, and hospital stations; support operations or administration; pollution control; and plant cleaning, disposal of scrap and waste, plant communications, space heating, cooling, lighting, or safety;

(5) farm machinery and aquaculture production equipment as defined by section 297A.61, subdivisions 12 and 13;

(6) machinery or equipment purchased and installed by a contractor as part of an improvement to real property;

(7) machinery and equipment used by restaurants in the furnishing, preparing, or serving of prepared foods as defined in section 297A.61, subdivision 31;

(8) machinery and equipment used to furnish the services listed in section 297A.61, subdivision 3, paragraph (g), clause (6), items (i) to (vi) and (viii);

(9) machinery or equipment used in the transportation, transmission, or distribution of petroleum, liquefied gas, natural gas, water, or steam, in, by, or through pipes, lines, tanks, mains, or other means of transporting those products. This clause does not apply to machinery or equipment used to blend petroleum or biodiesel fuel as defined in section 239.77; or

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(10) any other item that is not essential to the integrated process of manufacturing, fabricating, mining, or refining.

(d) For purposes of this subdivision:

(1) "Equipment" means independent devices or tools separate from machinery but essential to an integrated production process, including computers and computer software, used in operating, controlling, or regulating machinery and equipment; and any subunit or assembly comprising a component of any machinery or accessory or attachment parts of machinery, such as tools, dies, jigs, patterns, and molds.

(2) "Fabricating" means to make, build, create, produce, or assemble components or property to work in a new or different manner.

(3) "Integrated production process" means a process or series of operations through which tangible personal property is manufactured, fabricated, mined, or refined. For purposes of this clause, (i) manufacturing begins with the removal of raw materials from inventory and ends when the last process prior to loading for shipment has been completed; (ii) fabricating begins with the removal from storage or inventory of the property to be assembled, processed, altered, or modified and ends with the creation or production of the new or changed product; (iii) mining begins with the removal of overburden from the site of the ores, minerals, stone, peat deposit, or surface materials and ends when the last process before stockpiling is completed; and (iv) refining begins with the removal from inventory or storage of a natural resource and ends with the conversion of the item to its completed form.

(4) "Machinery" means mechanical, electronic, or electrical devices, including computers and computer software, that are purchased or constructed to be used for the activities set forth in paragraph (a), beginning with the removal of raw materials from inventory through completion of the product, including packaging of the product.

(5) "Machinery and equipment used for pollution control" means machinery and equipment used solely to eliminate, prevent, or reduce pollution resulting from an activity described in paragraph (a).

(6) "Manufacturing" means an operation or series of operations where raw materials are changed in form, composition, or condition by machinery and equipment and which results in the production of a new article of tangible personal property. For purposes of this subdivision, "manufacturing" includes the generation of electricity or steam to be sold at retail.

(7) "Mining" means the extraction of minerals, ores, stone, or peat.

(8) "Online data retrieval system" means a system whose cumulation of information is equally available and accessible to all its customers.

(9) "Primarily" means machinery and equipment used 50 percent or more of the time in an activity described in paragraph (a).

(10) "Refining" means the process of converting a natural resource to an intermediate or finished product, including the treatment of water to be sold at retail.

(11) This subdivision does not apply to telecommunications equipment as provided in subdivision 35a, and does not apply to wire, cable, fiber, poles, or conduit for telecommunications services.

Subd. 6. Special tooling. Special tooling is exempt. "Special tooling" means tools, dies, jigs, patterns, gauges, and other special tools that have value and use only for the buyer and for the use for which they are made. An item has value and use only to the buyer if the item is not standard enough to be stocked or ordered from a catalog or other sales literature, but must be produced in accordance with special requirements peculiar to the buyer and not common to someone else whose conditions for possible use of the material are reasonably similar to the buyer's.

Subd. 7. Air cooling equipment. Equipment used for air cooling is exempt, if the equipment is purchased for conversion or replacement of an existing groundwater-based once-through cooling system as required under section 103G.271, subdivision 5.

Subd. 8. Pollution control equipment; steel reprocessing. Pollution control equipment purchased by a steel reprocessing firm is exempt if the equipment is necessary to meet state or federal emission standards. For purposes of this subdivision:

(1) "pollution control equipment" means equipment used for the purpose of eliminating, preventing, or reducing air, land, or water pollution during or as a result of the manufacturing process; and

(2) "steel reprocessing firm" means a firm whose primary business is the recovery of steel from automobiles, appliances, and other steel products and the rerefining of this recovered metal into new steel products.

Subd. 9. Super Bowl admissions. The granting of the privilege of admission to a world championship football game sponsored by the National Football League is exempt.

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Subd. 10. **Publications; publication materials.** Tangible personal property that is used or consumed in producing any publication regularly issued at average intervals not exceeding three months is exempt, and any such publication is exempt. "Publication" includes, but is not limited to, a qualified newspaper as defined by section 331A.02, together with any supplements or enclosures. "Publication" does not include magazines and periodicals sold over the counter. Tangible personal property that is used or consumed in producing a publication does not include machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture, and fixtures used in the publication, or fuel, electricity, gas, or steam used for space heating or lighting.

Advertising contained in a publication is a nontaxable service and is exempt. Persons who publish or sell newspapers are engaging in a nontaxable service with respect to gross receipts realized from such news-gathering or news-publishing activities, including the sale of advertising.

Subd. 11. **Advertising materials.** Materials designed to advertise and promote the sale of merchandise or services are exempt if these materials are mailed or transferred to a person outside the state for use solely outside the state. Mailing and reply envelopes and cards and other shipping materials including, but not limited to, boxes, labels, containers, and banding, used exclusively in connection with these advertising and promotional materials are included in this exemption. The exemption applies regardless of where the mailing occurs. The storage of these materials in the state for the purpose of subsequently shipping or otherwise transferring the material out of state is also exempt if the other conditions in this subdivision are met. For purposes of this subdivision, materials that have a primary purpose other than advertising, such as fulfilling a legal obligation or furnishing nonadvertising information, are not materials designed to advertise and promote the sale of merchandise or services even if they do include advertising content.

Subd. 12. **Wind energy conversion systems.** Wind energy conversion systems, as defined in section 216C.06, subdivision 19, that are used as an electric power source are exempt, and the materials used to manufacture, install, construct, repair, or replace them are exempt.

Subd. 13. **Outstate transport or delivery.** (a) Tangible personal property is exempt if all of the following conditions are met:

(1) the property, without intermediate use, is shipped or transported outside Minnesota by the purchaser or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property that is transported or shipped outside Minnesota; and

(2) the property is used in a trade or business outside Minnesota after being shipped or transported outside of Minnesota, and is not returned to Minnesota, except in the course of interstate commerce; and

(3) the property is either (i) not subject to tax in the state or country to which it is transported for storage or use, or (ii) to be used in other states or countries as part of a maintenance contract.

(b) For purposes of this subdivision, storage or processing, fabricating, manufacturing, attaching to, or incorporating into other property is not intermediate use.

Subd. 14. **Property in transit.** Tangible personal property is exempt if all of the following conditions are met:

(1) it is shipped or brought into Minnesota by a for-hire carrier;

(2) without use, it is kept in a public warehouse;

(3) it is kept for the purpose of being later transported outside Minnesota; and

(4) after storage, it is used solely outside Minnesota, except in the course of interstate commerce.

Subd. 16. **Packing materials.** Packing materials used to pack and ship household goods and that are provided to and remain with the customer of a for-hire carrier are exempt if the ultimate destination of the goods is outside Minnesota and if the packing materials are not later returned to a point within Minnesota, except in the course of interstate commerce. This exemption does not apply to tools, equipment, pads, or accessories owned or leased by the for-hire carrier.

Subd. 17. **Ships used in interstate commerce.** Repair, replacement, and rebuilding parts and materials, and lubricants, for ships or vessels used or to be used principally in interstate or foreign commerce are exempt. Vessels with a gross registered tonnage of at least 3,000 tons are exempt.

Subd. 19. **Petroleum products.** The following petroleum products are exempt:

(1) products upon which a tax has been imposed and paid under chapter 296A, and for which no refund has been or will be allowed because the buyer used the fuel for nonhighway use;

(2) products that are used in the improvement of agricultural land by constructing, maintaining, and repairing drainage ditches, tile drainage systems, grass waterways, water impoundment, and other erosion control structures;

(3) products purchased by a transit system receiving financial assistance under section 174.24, 256B.0625, subdivision 17, or 473.384;

(4) products purchased by an ambulance service licensed under chapter 144E;

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(5) products used in a passenger snowmobile, as defined in section 296A.01, subdivision 39, for off-highway business use as part of the operations of a resort as provided under section 296A.16, subdivision 2, clause (2);

(6) products purchased by a state or a political subdivision of a state for use in motor vehicles exempt from registration under section 168.012, subdivision 1, paragraph (b);

(7) products purchased by providers of transportation to recipients of medical assistance home and community-based services waivers enrolled in day programs, including adult day care, family adult day care, day treatment and habilitation, prevocational services, and structured day services; or

(8) products used in a motor vehicle used exclusively as a mobile medical unit for the provision of medical or dental services by a federally qualified health center, as defined under title 19 of the federal Social Security Act, as amended by Section 4161 of the Omnibus Budget Reconciliation Act of 1990.

Subd. 20. **Natural gas in vehicles.** Natural gas to be used as a fuel in vehicles propelled by natural gas is exempt.

Subd. 22. **Copies of court reporter documents.** Transcripts or copies of transcripts of verbatim testimony are exempt if produced and sold by court reporters or other transcribers of legal proceedings to individuals or entities that are parties to or representatives of parties to the proceeding to which the transcript relates.

Subd. 23. **Automatic fire-safety sprinkler systems.** Automatic fire-safety sprinkler systems described in section 273.11, subdivision 6a, are exempt.

Subd. 24. **Waste processing equipment.** Equipment used for processing solid or hazardous waste at a resource recovery facility, as defined in section 115A.03, subdivision 28, is exempt, including pollution control equipment at a resource recovery facility that burns refuse-derived fuel or mixed municipal solid waste as its primary fuel. An electric generation facility that processes and utilizes waste tires as its primary fuel is a resource recovery facility for the purposes of this section.

Subd. 25. **Sale of property used in a trade or business.** (a) The sale of tangible personal property primarily used in a trade or business is exempt if the sale is not made in the normal course of business of selling that kind of property and if one of the following conditions is satisfied:

(1) the sale occurs in a transaction subject to or described in section 118, 331, 332, 336, 337, 338, 351, 355, 368, 721, 731, 1031, or 1033 of the Internal Revenue Code;

(2) the sale is between members of a controlled group as defined in section 1563(a) of the Internal Revenue Code;

(3) the sale is a sale of farm machinery;

(4) the sale is a farm auction sale;

(5) the sale is a sale of substantially all of the assets of a trade or business; or

(6) the total amount of gross receipts from the sale of trade or business property made during the calendar month of the sale and the preceding 11 calendar months does not exceed \$1,000.

The use, storage, distribution, or consumption of tangible personal property acquired as a result of a sale exempt under this subdivision is also exempt.

(b) For purposes of this subdivision, the following terms have the meanings given.

(1) A "farm auction" is a public auction conducted by a licensed auctioneer if substantially all of the property sold consists of property used in the trade or business of farming and property not used primarily in a trade or business.

(2) "Trade or business" includes the assets of a separate division, branch, or identifiable segment of a trade or business if, before the sale, the income and expenses attributable to the separate division, branch, or identifiable segment could be separately ascertained from the books of account or record (the lease or rental of an identifiable segment does not qualify for the exemption).

(3) A "sale of substantially all of the assets of a trade or business" must occur as a single transaction or a series of related transactions within the 12-month period beginning on the date of the first sale of assets intended to qualify for the exemption provided in paragraph (a), clause (5).

Subd. 28. **Medical supplies.** Medical supplies purchased by a licensed health care facility or licensed health care professional to provide medical treatment to residents or patients are exempt. The exemption does not apply to durable medical equipment or components of durable medical equipment, laboratory supplies, radiological supplies, and other items used in providing medical services. For purposes of this subdivision, "medical supplies" means adhesive and nonadhesive bandages, gauze pads and strips, cotton applicators, antiseptics, eye solution, and other similar supplies used directly on the resident or patient in providing medical services.

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Subd. 29. **Prizes.** Tangible personal property that will be given as prizes to players in games of skill or chance is exempt if the games are conducted at events such as community festivals, fairs, and carnivals and if the events last less than six days. This exemption does not apply to property awarded as prizes in connection with lawful gambling as defined in section 349.12 or the State Lottery.

Subd. 30. **Television commercials.** Tangible personal property primarily used or consumed in the preproduction, production, or postproduction of a television commercial is exempt. Any such commercial, regardless of the medium in which it is transferred, is exempt. "Preproduction" and "production" include, but are not limited to, all activities related to the preparation for shooting and the shooting of television commercials, including film processing. Equipment rented for the preproduction and production activities is exempt. "Postproduction" includes, but is not limited to, all activities related to the finishing and duplication of television commercials. This exemption does not apply to tangible personal property used primarily in administration, general management, or marketing. Machinery and equipment purchased for use in producing such commercials and fuel, electricity, gas, or steam used for space heating or lighting are not exempt under this subdivision.

Subd. 31. **Waste management containers and compactors.** Compactors and waste collection containers are exempt if they are purchased by a waste management service provider and are used in providing waste management services as defined in section 297H.01, subdivision 12. A waste management service provider that does not remit tax on customer charges or lease or rental payments for compactors and waste collection containers under chapter 297H is ineligible for this exemption.

Subd. 32. **Events located outside Minnesota.** Tickets or admissions to places of amusement located outside Minnesota or to athletic events to be held outside Minnesota are exempt.

Subd. 33. **Patent, trademark, and copyright drawings and documents.** A drawing, diagram, or similar or related document or a copy of such a document is exempt if the document:

- (1) is produced and sold by a patent drafter; and
- (2) is for use in:
 - (i) a patent, trademark, or copyright application to be filed with government agencies;
 - (ii) an application to the federal Food and Drug Administration for approval of a medical device; or
 - (iii) a judicial or quasi-judicial proceeding, including mediation and arbitration, relating to the validity of or legal rights under a patent, trademark, or copyright.

For purposes of this subdivision, a "patent drafter" is a person who prepares illustrative documents required in the preparation of intellectual property applications.

Subd. 34. **Machinery and equipment for ski areas.** Tangible personal property used or consumed primarily and directly for tramways at ski areas or in snowmaking and snow-grooming operations at ski hills, ski slopes, or ski trails, including machinery, equipment, fuel, electricity, and water additives used in the production and maintenance of machine-made snow, is exempt.

Subd. 35a. **Telecommunications or pay television services machinery and equipment.** (a) Telecommunications or pay television services machinery and equipment purchased or leased for use directly by a telecommunications or pay television services provider primarily in the provision of telecommunications or pay television services that are ultimately to be sold at retail are exempt, regardless of whether purchased by the owner, a contractor, or a subcontractor.

(b) For purposes of this subdivision, "telecommunications or pay television machinery and equipment" includes, but is not limited to:

- (1) machinery, equipment, and fixtures utilized in receiving, initiating, amplifying, processing, transmitting, retransmitting, recording, switching, or monitoring telecommunications or pay television services, such as computers, transformers, amplifiers, routers, bridges, repeaters, multiplexers, and other items performing comparable functions;
- (2) machinery, equipment, and fixtures used in the transportation of telecommunications or pay television services, such as radio transmitters and receivers, satellite equipment, microwave equipment, and other transporting media, but not wire, cable, fiber, poles, or conduit;
- (3) ancillary machinery, equipment, and fixtures that regulate, control, protect, or enable the machinery in clauses (1) and (2) to accomplish its intended function, such as auxiliary power supply, test equipment, towers, heating, ventilating, and air conditioning equipment necessary to the operation of the telecommunications or pay television equipment; and software necessary to the operation of the telecommunications or pay television equipment; and
- (4) repair and replacement parts, including accessories, whether purchased as spare parts, repair parts, or as upgrades or modifications to qualified machinery or equipment.

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Subd. 36. **Delivery or distribution charges; direct mail.** Charges for the delivery or distribution of direct mail are exempt if the charges are separately stated on an invoice or similar billing document given to the purchaser.

Subd. 37. **Job opportunity building zones.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.310, are exempt if the property or services are primarily used or consumed in a job opportunity building zone designated under section 469.314. For purposes of this subdivision, an aerial camera package, including any camera, computer, and navigation device contained in the package, that is used in an aircraft that is operated under a Federal Aviation Administration Restricted Airworthiness Certificate according to Code of Federal Regulations, title 14, part 21, section 21.25(b)(3), relating to aerial surveying, and that is based, maintained, and dispatched from a job opportunity building zone, qualifies as primarily used or consumed in a job opportunity building zone if the imagery acquired from the aerial camera package is returned to the job opportunity building zone for processing. The exemption for an aerial camera package is limited as provided in this subdivision and the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75. The total amount of the aerial camera package exemption refunded for all taxpayers for all fiscal years is limited to \$50,000 in taxes.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property in a job opportunity building zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.310. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax regardless of whether the local sales tax is imposed on the sales taxable as defined under this chapter.

(d) This subdivision applies to sales, if the purchase was made and delivery received during the duration of the zone.

(e) Notwithstanding the restriction in paragraph (a), which requires items purchased to be primarily used or consumed in the zone, purchases by a qualified business that is an electrical cooperative located in Meeker County of equipment and materials used for the generation, transmission, and distribution of electrical energy are exempt under this subdivision, except that:

(1) the exemption for materials and equipment used or consumed outside the zone must not exceed \$200,000 in taxes for all taxpayers for all fiscal years; and

(2) no sales and use tax exemption is allowed for equipment purchased for resale.

For purposes of this paragraph, the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 39. **Preexisting bids or contracts.** (a) The sale of tangible personal property or services is exempt from tax or a tax rate increase for a period of six months from the effective date of the law change that results in the imposition of the tax or the tax rate increase under this chapter if:

(1) the act imposing the tax or increasing the tax rate does not have transitional effective date language for existing construction contracts and construction bids; and

(2) the requirements of paragraph (b) are met.

(b) A sale is tax exempt under paragraph (a) if it meets the requirements of either clause (1) or (2):

(1) For a construction contract:

(i) the goods or services sold must be used for the performance of a bona fide written lump sum or fixed price construction contract;

(ii) the contract must be entered into before the date the goods or services become subject to the sales tax or the tax rate was increased;

(iii) the contract must not provide for allocation of future taxes; and

(iv) for each qualifying contract the contractor must keep documentation of the contract on which an exemption is to be claimed.

(2) For a construction bid:

(i) the goods or services sold must be used pursuant to an obligation of a bid or bids;

(ii) the bid or bids must be submitted and accepted before the date the goods or services became subject to the sales tax or the tax rate was increased;

(iii) the bid or bids must not be able to be withdrawn, modified, or changed without forfeiting a bond; and

(iv) for each qualifying bid, the contractor must keep documentation of the bid on which an exemption is to be claimed.

Subd. 40. **Land clearing.** Tree, bush, shrub, and stump removal are exempt when sold to contractors or subcontractors as part of a land clearing contract. For purposes of this subdivision,

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"land clearing contract" means a contract for the removal of trees, bushes, and shrubs, including the removal of roots and stumps, to develop a site. This exemption does not apply to land clearing of a portion of a site to allow for remodeling, improvement, or expansion of an existing structure.

Subd. 42. **Qualified data centers.** (a) Purchases of enterprise information technology equipment and computer software for use in a qualified data center, or a qualified refurbished data center, are exempt, except that computer software maintenance agreements are exempt for purchases made after June 30, 2013. The tax on purchases exempt under this paragraph must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded after June 30, 2013, in the manner provided in section 297A.75. This exemption includes enterprise information technology equipment and computer software purchased to replace or upgrade enterprise information technology equipment and computer software in a qualified data center, or a qualified refurbished data center.

(b) Electricity used or consumed in the operation of a qualified data center or qualified refurbished data center is exempt.

(c) For purposes of this subdivision, "qualified data center" means a facility in Minnesota:

(1) that is comprised of one or more buildings that consist in the aggregate of at least 25,000 square feet, and that are located on a single parcel or on contiguous parcels, where the total cost of construction or refurbishment, investment in enterprise information technology equipment, and computer software is at least \$30,000,000 within a 48-month period. The 48-month period begins no sooner than July 1, 2012, except that costs for computer software maintenance agreements purchased before July 1, 2013, are not included in determining if the \$30,000,000 threshold has been met;

(2) that is constructed or substantially refurbished after June 30, 2012, where "substantially refurbished" means that at least 25,000 square feet have been rebuilt or modified, including:

(i) installation of enterprise information technology equipment; environmental control, computer software, and energy efficiency improvements; and

(ii) building improvements; and

(3) that is used to house enterprise information technology equipment, where the facility has the following characteristics:

(i) uninterruptible power supplies, generator backup power, or both;

(ii) sophisticated fire suppression and prevention systems; and

(iii) enhanced security. A facility will be considered to have enhanced security if it has restricted access to the facility to selected personnel; permanent security guards; video camera surveillance; an electronic system requiring pass codes, keycards, or biometric scans, such as hand scans and retinal or fingerprint recognition; or similar security features.

In determining whether the facility has the required square footage, the square footage of the following spaces shall be included if the spaces support the operation of enterprise information technology equipment: office space, meeting space, and mechanical and other support facilities. For purposes of this subdivision, "computer software" includes, but is not limited to, software utilized or loaded at a qualified data center or qualified refurbished data center, including maintenance, licensing, and software customization.

(d) For purposes of this subdivision, a "qualified refurbished data center" means an existing facility that qualifies as a data center under paragraph (c), clauses (2) and (3), but that is comprised of one or more buildings that consist in the aggregate of at least 25,000 square feet, and that are located on a single parcel or contiguous parcels, where the total cost of construction or refurbishment, investment in enterprise information technology equipment, and computer software is at least \$50,000,000 within a 24-month period.

(e) For purposes of this subdivision, "enterprise information technology equipment" means computers and equipment supporting computing, networking, or data storage, including servers and routers. It includes, but is not limited to: cooling systems, cooling towers, and other temperature control infrastructure; power infrastructure for transformation, distribution, or management of electricity used for the maintenance and operation of a qualified data center or qualified refurbished data center, including but not limited to exterior dedicated business-owned substations, backup power generation systems, battery systems, and related infrastructure; and racking systems, cabling, and trays, which are necessary for the maintenance and operation of the qualified data center or qualified refurbished data center.

(f) A qualified data center or qualified refurbished data center may claim the exemptions in this subdivision for purchases made either within 20 years of the date of its first purchase qualifying for the exemption under paragraph (a), or by June 30, 2042, whichever is earlier.

(g) The purpose of this exemption is to create jobs in the construction and data center industries.

(h) This subdivision is effective for sales and purchases made before July 1, 2042.

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(i)(1) The commissioner of employment and economic development must certify to the commissioner of revenue, in a format approved by the commissioner of revenue, when a qualified data center has met the requirements under paragraph (c) or a qualified refurbished data center has met the requirements under paragraph (d). The certification must provide the following information regarding each qualified data center or qualified refurbished data center:

(i) the total square footage amount;

(ii) the total amount of construction or refurbishment costs and the total amount of qualifying investments in enterprise information technology equipment and computer software; and

(iii) the beginning and ending of the applicable period under either paragraph (c) or (d) in which the qualifying expenditures and purchases under item (ii) were made, but in no case shall the period begin before July 1, 2012;

(2) Any refund for sales tax paid on qualifying purchases under this subdivision must not be issued unless the commissioner of revenue has received the certification required under clause (1) either from the commissioner of employment and economic development or the qualified data center or qualified refurbished data center claiming the refund; and

(3) The commissioner of employment and economic development must annually notify the commissioner of revenue of the qualified data centers that are projected to meet the requirements under paragraph (c) and the qualified refurbished data centers that are projected to meet the requirements under paragraph (d) in each of the next four years. The notification must provide the information required under clause (1), items (i) to (iii), for each qualified data center or qualified refurbished data center.

Subd. 43. **Resold admission tickets.** (a) When a ticket reseller who purchased a ticket from a seller who is in the business of selling tickets resells the ticket, the ticket reseller must charge tax on the total amount for which the ticket is resold and the following rules apply:

(1) if the ticket reseller did not use a fully completed exemption certificate to claim the exemption from tax for resale, but instead paid tax on the original purchase, then the ticket reseller may do one of the following:

(i) seek a refund of that tax under section 289A.50; or

(ii) pass through to the purchaser the amount of the tax the ticket reseller paid on the original purchase, by giving the purchaser credit for the Minnesota state and local tax paid by the ticket reseller on the ticket reseller's original purchase of the ticket. Credit for the tax cannot exceed either the sales tax paid on the original price of the ticket or the sales tax charged by the ticket reseller to the final purchaser;

(2) if the ticket reseller did not pay tax on the original purchase, tax is due on the full amount of the ticket when resold, without a credit given to the final purchaser; and

(3) the ticket reseller must retain records documenting the price and tax paid by the ticket reseller when purchasing the ticket and the price and tax collected when the ticket reseller resells the ticket.

(b) When a ticket reseller who purchased a ticket from a seller who is not in the business of selling tickets resells the ticket, the ticket reseller must charge tax on the total amount for which the ticket is resold and the following rules apply:

(1) the ticket reseller may credit its purchaser an amount equal to the tax the ticket reseller would have paid its seller, had the seller been registered to collect tax on its sale of the ticket to the ticket reseller. Credit for the tax cannot exceed either the sales tax paid on the original price of the ticket or the sales tax charged by the ticket reseller to the final purchaser. It is presumed that the original purchase price of the ticket is the face amount of the ticket;

(2) if no tax was paid on the original purchase, tax is due on the full amount of the ticket when resold, without a credit given to the ticket reseller's purchaser; and

(3) the ticket reseller must retain records documenting the price and tax paid by the ticket reseller when purchasing the ticket and the price and tax collected when the ticket reseller resells the ticket.

(c) For purposes of this subdivision, "ticket reseller" means a person who:

(1) purchases admission tickets to a sporting event, theater, musical performance, or place of public entertainment or amusement of any kind;

(2) resells admission tickets to events under clause (1); and

(3) is registered to collect tax under this chapter.

Subd. 44. **Greater Minnesota business expansions.** (a) Purchases and use of tangible personal property or taxable services by a qualified business, as defined in section 116J.8738, are exempt if:

(1) the business subsidy agreement provides that the exemption under this subdivision applies;

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(2) the property or services are primarily used or consumed at the facility in greater Minnesota identified in the business subsidy agreement; and

(3) the purchase was made and delivery received during the duration of the certification of the business as a qualified business under section 116J.8738.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property in greater Minnesota are exempt if the improvements after completion of construction are to be used in the conduct of the trade or business of the qualified business, as defined in section 116J.8738. This exemption applies regardless of whether the purchases are made by the business or a contractor.

(c) The exemptions under this subdivision apply to a local sales and use tax.

(d) The tax on purchases imposed under this subdivision must be imposed and collected as if the rate under section 297A.62 applied, and then refunded in the manner provided in section 297A.75. The total amount refunded for a facility over the certification period is limited to the amount listed in the business subsidy agreement. No more than \$7,000,000 may be refunded in a fiscal year for all purchases under this subdivision. Refunds must be allocated on a first-come, first-served basis. If more than \$7,000,000 of eligible claims are made in a fiscal year, claims by qualified businesses carry over to the next fiscal year, and the commissioner must first allocate refunds to qualified businesses eligible for a refund in the preceding fiscal year. Any portion of the balance of funds allocated for refunds under this paragraph does not cancel and shall be carried forward to and available for refunds in subsequent fiscal years. Notwithstanding section 297A.75, subdivision 4, for an eligible refund claim that carries over to a subsequent fiscal year, the interest on the amount carried over must be paid on the refund no sooner than from 90 days after July 1 of the fiscal year in which funds are available for the eligible claim.

297A.69 AGRICULTURAL EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale of, and storage, distribution, use, or consumption of the items contained in this section are specifically exempted from the taxes imposed by this chapter.

Subd. 2. **Materials consumed in agricultural production.** Materials stored, used, or consumed in agricultural production of personal property intended to be sold ultimately at retail are exempt, whether or not the item becomes an ingredient or constituent part of the property produced. Materials that qualify for this exemption include, but are not limited to, the following:

- (1) feeds, seeds, trees, fertilizers, and herbicides, including when purchased for use by farmers in a federal or state farm or conservation program;
- (2) materials sold to a veterinarian to be used or consumed in the care, medication, and treatment of agricultural production animals and horses;
- (3) chemicals, including chemicals used for cleaning food processing machinery and equipment;
- (4) materials, including chemicals, fuels, and electricity purchased by persons engaged in agricultural production to treat waste generated as a result of the production process;
- (5) fuels, electricity, gas, and steam used or consumed in the production process, including electricity, gas, or steam used for space heating, cooling, or lighting of facilities housing agricultural animals;
- (6) petroleum products and lubricants;
- (7) packaging materials, including returnable containers used in packaging food and beverage products; and
- (8) accessory tools and equipment that are separate detachable units with an ordinary useful life of less than 12 months used in producing a direct effect upon the product. Machinery, equipment, implements, tools, accessories, appliances, contrivances, and furniture and fixtures, except those listed in this clause are not included within this exemption.

Subd. 3. **Repair and replacement parts.** Repair and replacement parts, except tires, used for maintenance or repair of farm machinery, logging equipment, and aquaculture production equipment are exempt, if the part replaces a machinery part assigned a specific or generic part number by the manufacturer of the machinery.

Subd. 4. **Machinery, equipment, and fencing.** The following machinery, equipment, and fencing is exempt:

- (1) farm machinery;
- (2) logging equipment, including chain saws used for commercial logging;
- (3) fencing used for the containment of farmed Cervidae, as defined in section 35.153, subdivision 3;

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(4) primary and backup generator units used to generate electricity for the purpose of operating farm machinery, aquacultural production equipment, or logging equipment, or providing light or space heating necessary for the production of livestock, dairy animals, dairy products, or poultry and poultry products; and

(5) aquaculture production equipment.

Subd. 6. **Horses; related materials.** (a) Horses, including racehorses, are exempt.

(b) Materials, including feed and bedding, used or consumed in the breeding, raising, owning, boarding, and keeping of horses are exempt. Machinery, equipment, implements, tools, appliances, furniture, and fixtures used in the breeding, raising, owning, boarding, and keeping of horses are not included within this exemption.

Subd. 7. **Feed for poultry raised for human consumption.** Poultry feed is exempt if the poultry is raised for human consumption.

297A.70 EXEMPTIONS FOR GOVERNMENTS AND NONPROFIT GROUPS.

Subdivision 1. **Scope.** (a) To the extent provided in this section, the gross receipts from sales of items to or by, and storage, distribution, use, or consumption of items by the organizations or units of local government listed in this section are specifically exempted from the taxes imposed by this chapter.

(b) Notwithstanding any law to the contrary enacted before 1992, only sales to governments and political subdivisions listed in this section are exempt from the taxes imposed by this chapter.

(c) "Sales" includes purchases under an installment contract or lease purchase agreement under section 465.71.

Subd. 2. **Sales to government.** (a) All sales, except those listed in paragraph (b), to the following governments and political subdivisions, or to the listed agencies or instrumentalities of governments and political subdivisions, are exempt:

(1) the United States and its agencies and instrumentalities;

(2) school districts, local governments, the University of Minnesota, state universities, community colleges, technical colleges, state academies, the Perpich Minnesota Center for Arts Education, and an instrumentality of a political subdivision that is accredited as an optional/special function school by the North Central Association of Colleges and Schools;

(3) hospitals and nursing homes owned and operated by political subdivisions of the state of tangible personal property and taxable services used at or by hospitals and nursing homes;

(4) notwithstanding paragraph (d), the sales and purchases by the Metropolitan Council of vehicles and repair parts to equip operations provided for in section 473.4051 are exempt through December 31, 2016;

(5) other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state; and

(6) public libraries, public library systems, multicounty, multitype library systems as defined in section 134.001, county law libraries under chapter 134A, state agency libraries, the state library under section 480.09, and the Legislative Reference Library.

(b) This exemption does not apply to the sales of the following products and services:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities;

(3) the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except for leases entered into by the United States or its agencies or instrumentalities;

(4) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, soft drinks, and alcoholic beverages as defined in section 297A.67, subdivision 2, except for lodging, prepared food, candy, soft drinks, and alcoholic beverages purchased directly by the United States or its agencies or instrumentalities; or

(5) goods or services purchased by a local government as inputs to a liquor store, gas or electric utility, solid waste hauling service, solid waste recycling service, landfill, golf course, marina, campground, cafe, or laundromat.

(c) As used in this subdivision, "school districts" means public school entities and districts of every kind and nature organized under the laws of the state of Minnesota, and any instrumentality of a school district, as defined in section 471.59.

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(d) For purposes of the exemption granted under this subdivision, "local governments" has the following meaning:

(1) for the period prior to January 1, 2017, local governments means statutory or home rule charter cities, counties, and townships; and

(2) beginning January 1, 2017, local governments means statutory or home rule charter cities, counties, and townships; special districts as defined under section 6.465; any instrumentality of a statutory or home rule charter city, county, or township as defined in section 471.59; and any joint powers board or organization created under section 471.59.

Subd. 3. Sales of certain goods and services to government. (a) The following sales to or use by the specified governments and political subdivisions of the state are exempt:

(1) repair and replacement parts for emergency rescue vehicles, fire trucks, and fire apparatus to a political subdivision;

(2) machinery and equipment, except for motor vehicles, used directly for mixed municipal solid waste management services at a solid waste disposal facility as defined in section 115A.03, subdivision 10;

(3) chore and homemaking services to a political subdivision of the state to be provided to elderly or disabled individuals;

(4) telephone services to the Office of MN.IT Services that are used to provide telecommunications services through the MN.IT services revolving fund;

(5) firefighter personal protective equipment as defined in paragraph (b), if purchased or authorized by and for the use of an organized fire department, fire protection district, or fire company regularly charged with the responsibility of providing fire protection to the state or a political subdivision;

(6) bullet-resistant body armor that provides the wearer with ballistic and trauma protection, if purchased by a law enforcement agency of the state or a political subdivision of the state, or a licensed peace officer, as defined in section 626.84, subdivision 1;

(7) motor vehicles purchased or leased by political subdivisions of the state if the vehicles are exempt from registration under section 168.012, subdivision 1, paragraph (b), exempt from taxation under section 473.448, or exempt from the motor vehicle sales tax under section 297B.03, clause (12);

(8) equipment designed to process, dewater, and recycle biosolids for wastewater treatment facilities of political subdivisions, and materials incidental to installation of that equipment;

(9) the removal of trees, bushes, or shrubs for the construction and maintenance of roads, trails, or firebreaks when purchased by an agency of the state or a political subdivision of the state;

(10) purchases by the Metropolitan Council or the Department of Transportation of vehicles and repair parts to equip operations provided for in section 174.90, including, but not limited to, the Northstar Corridor Rail project; and

(11) purchases of water used directly in providing public safety services by an organized fire department, fire protection district, or fire company regularly charged with the responsibility of providing fire protection to the state or a political subdivision.

(b) For purposes of this subdivision, "firefighters personal protective equipment" means helmets, including face shields, chin straps, and neck liners; bunker coats and pants, including pant suspenders; boots; gloves; head covers or hoods; wildfire jackets; protective coveralls; goggles; self-contained breathing apparatus; canister filter masks; personal alert safety systems; spanner belts; optical or thermal imaging search devices; and all safety equipment required by the Occupational Safety and Health Administration.

(c) For purchases of items listed in paragraph (a), clause (10), the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 4. Sales to nonprofit groups. (a) All sales, except those listed in paragraph (b), to the following "nonprofit organizations" are exempt:

(1) a corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes if the item purchased is used in the performance of charitable, religious, or educational functions; and

(2) any senior citizen group or association of groups that:

(i) in general limits membership to persons who are either age 55 or older, or physically disabled;

(ii) is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes, not including housing, no part of the net earnings of which inures to the benefit of any private shareholders; and

(iii) is an exempt organization under section 501(c) of the Internal Revenue Code.

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For purposes of this subdivision, charitable purpose includes the maintenance of a cemetery owned by a religious organization.

(b) This exemption does not apply to the following sales:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities;

(3) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, soft drinks, and alcoholic beverages as defined in section 297A.67, subdivision 2, except wine purchased by an established religious organization for sacramental purposes or as allowed under subdivision 9a; and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, only if the vehicle is:

(1) a truck, as defined in section 168.002, a bus, as defined in section 168.002, or a passenger automobile, as defined in section 168.002, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) intended to be used primarily to transport tangible personal property or individuals, other than employees, to whom the organization provides service in performing its charitable, religious, or educational purpose.

(d) A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

Subd. 5. Veterans groups. Sales to an organization of military service veterans or an auxiliary unit of an organization of military service veterans are exempt if:

(1) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code; and

(2) the tangible personal property or services are for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure, or profit uses.

Subd. 6. Ambulances. The lease of a motor vehicle by an ambulance service licensed under section 144E.10 that is equipped and specifically intended for emergency response or for providing ambulance services is exempt.

Subd. 7. Hospitals, outpatient surgical centers, and critical access dental providers. (a) Sales, except for those listed in paragraph (d), to a hospital are exempt, if the items purchased are used in providing hospital services. For purposes of this subdivision, "hospital" means a hospital organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, and licensed under chapter 144 or by any other jurisdiction, and "hospital services" are services authorized or required to be performed by a "hospital" under chapter 144.

(b) Sales, except for those listed in paragraph (d), to an outpatient surgical center are exempt, if the items purchased are used in providing outpatient surgical services. For purposes of this subdivision, "outpatient surgical center" means an outpatient surgical center organized and operated for charitable purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, and licensed under chapter 144 or by any other jurisdiction. For the purposes of this subdivision, "outpatient surgical services" means: (1) services authorized or required to be performed by an outpatient surgical center under chapter 144; and (2) urgent care. For purposes of this subdivision, "urgent care" means health services furnished to a person whose medical condition is sufficiently acute to require treatment unavailable through, or inappropriate to be provided by, a clinic or physician's office, but not so acute as to require treatment in a hospital emergency room.

(c) Sales, except for those listed in paragraph (d), to a critical access dental provider are exempt, if the items purchased are used in providing critical access dental care services. For the purposes of this subdivision, "critical access dental provider" means a dentist or dental clinic that qualifies under section 256B.76, subdivision 4, paragraph (b), and, in the previous calendar year, had no more than 15 percent of its patients covered by private dental insurance.

(d) This exemption does not apply to the following products and services:

(1) purchases made by a clinic, physician's office, or any other medical facility not operating as a hospital, outpatient surgical center, or critical access dental provider, even though the clinic, office, or facility may be owned and operated by a hospital, outpatient surgical center, or critical access dental provider;

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(2) sales under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, and soft drinks;

(3) building and construction materials used in constructing buildings or facilities that will not be used principally by the hospital, outpatient surgical center, or critical access dental provider;

(4) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a hospital, outpatient surgical center, or critical access dental provider; or

(5) the leasing of a motor vehicle as defined in section 297B.01, subdivision 11.

(e) A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

(f) An entity that contains both a hospital and a nonprofit unit may claim this exemption on purchases made for both the hospital and nonprofit unit provided that:

(1) the nonprofit unit would have qualified for exemption under subdivision 4; and

(2) the items purchased would have qualified for the exemption.

Subd. 8. Regionwide public safety radio communication system; products and services. Products and services including, but not limited to, end user equipment used for construction, ownership, operation, maintenance, and enhancement of the backbone system of the regionwide public safety radio communication system established under sections 403.21 to 403.40, are exempt. For purposes of this subdivision, backbone system is defined in section 403.21, subdivision 9. This subdivision is effective for purchases, sales, storage, use, or consumption for use in the first and second phases of the system, as defined in section 403.21, subdivisions 3, 10, and 11, that portion of the third phase of the system that is located in the southeast district of the State Patrol and the counties of Benton, Sherburne, Stearns, and Wright, and that portion of the system that is located in Itasca County.

Subd. 9. Sacramental wine. Wine for sacramental purposes in religious ceremonies, as described in section 340A.316, is exempt if the wine is purchased from a nonprofit religious organization meeting the requirements of subdivision 4 or from a person authorized to import sacramental wine without a license as provided in section 340A.316.

Subd. 9a. Established religious orders. (a) Sales of lodging, prepared food, candy, soft drinks, and alcoholic beverages at noncatered events between an established religious order and an affiliated institution of higher education are exempt.

(b) For purposes of this subdivision, "established religious order" means an organization directly or indirectly under the control or supervision of a church or convention or association of churches, where members of the organization:

(1) normally live together as part of a community;

(2) make long-term commitments to live under a strict set of moral and spiritual rules; and

(3) work or engage full time in a combination of prayer, religious study, church reform or renewal, or other religious, educational, or charitable goals of the organization.

(c) For purposes of this subdivision, an institution of higher education is "affiliated" with an established religious order if members of the religious order are represented on the governing board of the institution of higher education and the two organizations share campus space and common facilities.

Subd. 10. Nonprofit tickets or admissions. (a) Tickets or admissions to an event are exempt if all the gross receipts are recorded as such, in accordance with generally accepted accounting principles, on the books of one or more organizations whose primary mission is to provide an opportunity for citizens of the state to participate in the creation, performance, or appreciation of the arts, and provided that each organization is:

(1) an organization described in section 501(c)(3) of the Internal Revenue Code in which voluntary contributions make up at least five percent of the organization's annual revenue in its most recently completed 12-month fiscal year, or in the current year if the organization has not completed a 12-month fiscal year;

(2) a municipal board that promotes cultural and arts activities; or

(3) the University of Minnesota, a state college and university, or a private nonprofit college or university provided that the event is held at a facility owned by the educational institution holding the event.

The exemption only applies if the entire proceeds, after reasonable expenses, are used solely to provide opportunities for citizens of the state to participate in the creation, performance, or appreciation of the arts.

(b) Tickets or admissions to the premises of the Minnesota Zoological Garden are exempt, provided that the exemption under this paragraph does not apply to tickets or admissions to

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performances or events held on the premises unless the performance or event is sponsored and conducted exclusively by the Minnesota Zoological Board or employees of the Minnesota Zoological Garden.

Subd. 11. **School tickets or admissions.** Tickets or admissions to regular season school games, events, and activities are exempt. For purposes of this subdivision, "school" has the meaning given it in section 120A.22, subdivision 4.

Subd. 12. **YMCA, YWCA, and JCC memberships.** The sale of memberships, meaning both onetime initiation fees and periodic membership dues, to an association incorporated under section 315.44 or an organization defined under section 315.51, are exempt. However, all separate charges made for the privilege of having access to and the use of the association's sports and athletic facilities are taxable.

Subd. 13. **Fund-raising sales by or for nonprofit groups.** (a) The following sales by the specified organizations for fund-raising purposes are exempt, subject to the limitations listed in paragraph (b):

(1) all sales made by a nonprofit organization that exists solely for the purpose of providing educational or social activities for young people primarily age 18 and under;

(2) all sales made by an organization that is a senior citizen group or association of groups if (i) in general it limits membership to persons age 55 or older; (ii) it is organized and operated exclusively for pleasure, recreation, and other nonprofit purposes; and (iii) no part of its net earnings inures to the benefit of any private shareholders;

(3) the sale or use of tickets or admissions to a golf tournament held in Minnesota if the beneficiary of the tournament's net proceeds qualifies as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code; and

(4) sales of candy sold for fund-raising purposes by a nonprofit organization that provides educational and social activities primarily for young people age 18 and under.

(b) The exemptions listed in paragraph (a) are limited in the following manner:

(1) the exemption under paragraph (a), clauses (1) and (2), applies only to the first \$20,000 of the gross annual receipts of the organization from fund-raising; and

(2) the exemption under paragraph (a), clause (1), does not apply if the sales are derived from admission charges or from activities for which the money must be deposited with the school district treasurer under section 123B.49, subdivision 2, or be recorded in the same manner as other revenues or expenditures of the school district under section 123B.49, subdivision 4.

(c) Sales of tangible personal property and services are exempt if the entire proceeds, less the necessary expenses for obtaining the property or services, will be contributed to a registered combined charitable organization described in section 43A.50, to be used exclusively for charitable, religious, or educational purposes, and the registered combined charitable organization has given its written permission for the sale. Sales that occur over a period of more than 24 days per year are not exempt under this paragraph.

(d) For purposes of this subdivision, a club, association, or other organization of elementary or secondary school students organized for the purpose of carrying on sports, educational, or other extracurricular activities is a separate organization from the school district or school for purposes of applying the \$20,000 limit.

Subd. 14. **Fund-raising events sponsored by nonprofit groups.** (a) Sales of tangible personal property or services at, and admission charges for fund-raising events sponsored by, a nonprofit organization are exempt if:

(1) all gross receipts are recorded as such, in accordance with generally accepted accounting practices, on the books of the nonprofit organization; and

(2) the entire proceeds, less the necessary expenses for the event, will be used solely and exclusively for charitable, religious, or educational purposes. Exempt sales include the sale of prepared food, candy, and soft drinks at the fund-raising event.

(b) This exemption is limited in the following manner:

(1) it does not apply to admission charges for events involving bingo or other gambling activities or to charges for use of amusement devices involving bingo or other gambling activities;

(2) all gross receipts are taxable if the profits are not used solely and exclusively for charitable, religious, or educational purposes;

(3) it does not apply unless the organization keeps a separate accounting record, including receipts and disbursements from each fund-raising event that documents all deductions from gross receipts with receipts and other records;

(4) it does not apply to any sale made by or in the name of a nonprofit corporation as the active or passive agent of a person that is not a nonprofit corporation;

(5) all gross receipts are taxable if fund-raising events exceed 24 days per year;

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(6) it does not apply to fund-raising events conducted on premises leased for more than five days but less than 30 days; and

(7) it does not apply if the risk of the event is not borne by the nonprofit organization and the benefit to the nonprofit organization is less than the total amount of the state and local tax revenues forgone by this exemption.

(c) For purposes of this subdivision, a "nonprofit organization" means any unit of government, corporation, society, association, foundation, or institution organized and operated for charitable, religious, educational, civic, fraternal, and senior citizens' or veterans' purposes, no part of the net earnings of which inures to the benefit of a private individual.

(d) For purposes of this subdivision, "fund-raising events" means activities of limited duration, not regularly carried out in the normal course of business, that attract patrons for community, social, and entertainment purposes, such as auctions, bake sales, ice cream socials, block parties, carnivals, competitions, concerts, concession stands, craft sales, bazaars, dinners, dances, door-to-door sales of merchandise, fairs, fashion shows, festivals, galas, special event workshops, sporting activities such as marathons and tournaments, and similar events. Fund-raising events do not include the operation of a regular place of business in which services are provided or sales are made during regular hours such as bookstores, thrift stores, gift shops, restaurants, ongoing Internet sales, regularly scheduled classes, or other activities carried out in the normal course of business.

Subd. 15. **Statewide amateur athletic games.** Notwithstanding section 297A.61, subdivision 3, or any other provision of this chapter, the gross receipts from the following sales made to or by a nonprofit corporation designated by the Minnesota Amateur Sports Commission to conduct a series of statewide amateur athletic games and related events, workshops, and clinics are exempt:

(1) sales of tangible personal property to or the storage, use, or other consumption of tangible personal property by the nonprofit corporation; and

(2) sales of tangible personal property, admission charges, and sales of prepared food, candy, and soft drinks by the nonprofit corporation at fund-raising events, athletic events, or athletic facilities.

Subd. 16. **Camp fees.** Fees to camps or other recreation facilities are exempt for:

(1) services primarily for children, adults accompanying children, or persons with disabilities; or

(2) educational or religious activities;

and the camp or facilities are owned and operated by an exempt organization under section 501(c)(3) of the Internal Revenue Code.

Subd. 17. **Private communication service for State Lottery.** Private communication service, as defined in section 297A.61, subdivision 26, is exempt if the service is purchased by an agent acting on behalf of the State Lottery.

Subd. 18. **Nursing homes and boarding care homes.** (a) All sales, except those listed in paragraph (b), to a nursing home licensed under section 144A.02 or a boarding care home certified as a nursing facility under title 19 of the Social Security Act are exempt if the facility:

(1) is exempt from federal income taxation pursuant to section 501(c)(3) of the Internal Revenue Code; and

(2) is certified to participate in the medical assistance program under title 19 of the Social Security Act, or certifies to the commissioner that it does not discharge residents due to the inability to pay.

(b) This exemption does not apply to the following sales:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax-exempt entities or their contractors to be used in constructing buildings or facilities that will not be used principally by the tax-exempt entities;

(3) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, soft drinks, and alcoholic beverages as defined in section 297A.67, subdivision 2; and

(4) leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except as provided in paragraph (c).

(c) This exemption applies to the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, only if the vehicle is:

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(1) a truck, as defined in section 168.002; a bus, as defined in section 168.002; or a passenger automobile, as defined in section 168.002, if the automobile is designed and used for carrying more than nine persons including the driver; and

(2) intended to be used primarily to transport tangible personal property or residents of the nursing home or boarding care home.

Subd. 19. **Nonprofit snowmobile clubs; machinery and equipment.** Sales of tangible personal property to a nonprofit snowmobile club that is used primarily and directly for the grooming of state or grant-in-aid snowmobile trails are exempt. The exemption applies to grooming machines, attachments, other associated accessories, and repair parts. A nonprofit snowmobile club is eligible for the exemption under this subdivision if it received, in the current year or in the previous three-year period, a state grant-in-aid maintenance and grooming grant administered by the Department of Natural Resources by applying for the grant with a local unit of government sponsor.

297A.71 CONSTRUCTION EXEMPTIONS.

Subdivision 1. **Scope.** The gross receipts from the sale of, and storage, distribution, use, or consumption of the tangible personal property contained in this section are specifically exempted from the taxes imposed by this chapter. Building materials, equipment, and supplies and other items exempt under this section are exempt regardless of whether purchased by the owner or a contractor, subcontractor, or builder.

Subd. 3. **Correctional facilities.** Building materials and supplies for constructing or improving an adult or juvenile correctional facility by a county, home rule charter city, or statutory city are exempt if the project is mandated by state or federal law, rule, or regulation. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 6. **Business incubator and industrial park.** Building materials and supplies for construction of a facility that includes a business incubator and industrial park are exempt if the facility:

(1) is owned and operated by a nonprofit charitable organization that qualifies for tax exemption under section 501(c)(3) of the Internal Revenue Code;

(2) is used for the development of nonretail businesses, offering access to equipment, space, services, and advice to the tenant businesses, for the purpose of encouraging economic development and job creation in the area served by the organization, and emphasizes development of businesses that manufacture products from materials found in the waste stream, or manufacture alternative energy and conservation systems, or make use of emerging environmental technologies;

(3) includes in its structure systems of material and energy exchanges that use waste products from one industrial process as sources of energy and material for other processes; and

(4) makes use of solar and wind energy technology and incorporates salvaged materials in its construction.

A limited liability company also qualifies for exemption under this subdivision if (1) it consists of a sole member that would qualify for the exemption, and (2) the items purchased qualify for the exemption.

Subd. 8. **Wood waste cogeneration facility.** Building materials and supplies for constructing, equipping, or modifying a district heating and cooling system cogeneration facility are exempt if the facility:

(1) utilizes wood waste as a primary fuel source; and

(2) satisfies the requirements of the biomass mandate in section 216B.2424, subdivision 5.

Subd. 11. **Building materials; disabled veterans.** Building materials to be used in the construction or remodeling of a residence are exempt when the construction or remodeling is financed in whole or in part by the United States in accordance with United States Code, title 38, sections 2101 to 2105. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 12. **Chair lifts, ramps, elevators.** Elevators and building materials used to install or construct chair lifts, ramps, and elevators are exempt, if they are authorized by a physician and installed in or attached to the owner's homestead. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 13. **Agriculture processing facility materials.** Building materials and supplies for constructing an agriculture processing facility as defined in section 469.1811 in which the total capital investment in the processing facility is expected to exceed \$100,000,000 are exempt. The

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tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

Subd. 14. **Mineral production facilities.** Building materials, equipment, and supplies used for the construction of the following mineral production facilities are exempt.

The mineral production facilities that qualify for this exemption are:

(1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent;

(2) a facility used for the manufacture of fluxed taconite pellets as defined in section 298.24;

(3) a new capital project that has a total cost of over \$40,000,000 that is directly related to production, cost, or quality at an existing taconite facility that does not qualify under clause (1) or (2); and

(4) a new mine or minerals processing plant for any mineral subject to the net proceeds tax imposed under section 298.015.

The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

Subd. 22. **Materials used to make residential property disabled accessible.** Building materials and equipment sold to, or stored, used, or consumed by, a nonprofit organization are exempt if:

(1) the materials and equipment are used or incorporated into modifying an existing residential structure to make it disabled accessible; and

(2) the materials and equipment used in the modification would qualify for an exemption under either subdivision 11 or 12 if made by the current owner of the residence.

For purposes of this subdivision, "nonprofit organization" means any nonprofit corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, educational, or civic purposes; or a veterans' group exempt from federal taxation under section 501(c), clause (19), of the Internal Revenue Code.

Subd. 23. **Construction materials for qualified low-income housing projects.** (a) Purchases of materials and supplies used or consumed in and equipment incorporated into the construction, improvement, or expansion of qualified low-income housing projects are exempt from the tax imposed under this chapter if the owner of the qualified low-income housing project is:

(1) the public housing agency or housing and redevelopment authority of a political subdivision;

(2) an entity exercising the powers of a housing and redevelopment authority within a political subdivision;

(3) a limited partnership in which the sole or managing general partner is an authority under clause (1) or an entity under clause (2), (4), or (5);

(4) a nonprofit corporation subject to the provisions of chapter 317A, and qualifying under section 501(c)(3) or 501(c)(4) of the Internal Revenue Code of 1986, as amended;

(5) a limited liability company if it consists of a sole member that is an entity under clause (4); or

(6) an owner entity, as defined in Code of Federal Regulations, title 24, part 941.604, for a qualified low-income housing project described in paragraph (b), clause (5).

This exemption applies regardless of whether the purchases are made by the owner of the facility or a contractor.

(b) For purposes of this exemption, "qualified low-income housing project" means:

(1) a housing or mixed use project in which at least 20 percent of the residential units are qualifying low-income rental housing units as defined in section 273.128;

(2) a federally assisted low-income housing project financed by a mortgage insured or held by the United States Department of Housing and Urban Development under United States Code, title 12, section 1701s, 1715l(d)(3), 1715l(d)(4), or 1715z-1; United States Code, title 42, section 1437f; the Native American Housing Assistance and Self-Determination Act, United States Code, title 25, section 4101 et seq.; or any similar successor federal low-income housing program;

(3) a qualified low-income housing project as defined in United States Code, title 26, section 42(g), meeting all of the requirements for a low-income housing credit under section 42 of the Internal Revenue Code regardless of whether the project actually applies for or receives a low-income housing credit;

(4) a project that will be operated in compliance with Internal Revenue Service revenue procedure 96-32; or

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(5) a housing or mixed use project in which all or a portion of the residential units are subject to the requirements of section 5 of the United States Housing Act of 1937.

(c) For a project, a portion of which is not used for low-income housing units, the amount of purchases that are exempt under this subdivision must be determined by multiplying the total purchases, as specified in paragraph (a), by the ratio of:

(1) the total gross square footage of units subject to the income limits under section 273.128, the financing for the project, the federal low-income housing tax credit, revenue procedure 96-32, or section 5 of the United States Housing Act of 1937, as applicable to the project; and

(2) the total gross square footage of all units in the project.

(d) The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied, and then refunded in the manner provided in section 297A.75.

Subd. 34. Waste recovery facility. Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of a waste-to-energy resource recovery facility are exempt if the facility uses biomass or mixed municipal solid waste as a primary fuel to generate steam or electricity.

Subd. 35. Municipal utilities. Materials and supplies used or consumed in, and equipment incorporated into, the construction, improvement, or expansion of electric generation and related facilities used pursuant to a joint power purchase agreement to meet the biomass energy mandate in section 216B.2424 are exempt if the owner or owners of the facilities are a municipal electric utility or utilities or a joint venture of municipal electric utilities. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded under section 297A.75.

Subd. 40. Construction materials; Central Corridor light rail transit. Materials and supplies used or consumed in, and equipment incorporated into, the construction or improvement of the Central Corridor light rail transit line and associated facilities including, but not limited to, stations, park-and-ride facilities, and maintenance facilities, are exempt. The tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75. Refunds must not be applied for or issued until after July 1, 2009.

Subd. 43. Building materials; football stadium. Materials and supplies used or consumed in, and equipment incorporated into, the construction or improvement of the football stadium and stadium infrastructure as defined in section 473J.03, subdivisions 8 and 10, are exempt. This subdivision expires one year after the date that the first National Football League game is played in the stadium for materials, supplies, and equipment used in the construction and equipping of the stadium, and five years after the issuance of the first bonds under section 16A.965 for materials, supplies, and equipment used in the public infrastructure.

Subd. 44. Building materials, capital projects. Materials and supplies used or consumed in and equipment incorporated into the construction or improvement of a capital project funded partially or wholly under section 297A.9905 are exempt, provided that the project has a total construction cost of at least \$40,000,000 within a 24-month period. The tax on purchases exempt under this provision must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

Subd. 45. Biopharmaceutical manufacturing facility. (a) Materials and supplies used or consumed in, capital equipment incorporated into, and privately owned infrastructure in support of the construction, improvement, or expansion of a biopharmaceutical manufacturing facility in the state are exempt if the following criteria are met:

(1) the facility is used for the manufacturing of biologics;

(2) the total capital investment made at the facility exceeds \$50,000,000; and

(3) the facility creates and maintains at least 190 full-time equivalent positions at the facility. These positions must be new jobs in Minnesota and not the result of relocating jobs that currently exist in Minnesota.

(b) The tax must be imposed and collected as if the rate under section 297A.62 applied, and refunded in the manner provided in section 297A.75.

(c) To be eligible for a refund, the owner of the biopharmaceutical manufacturing facility must:

(1) initially apply to the Department of Employment and Economic Development for certification no later than one year from the final completion date of construction, improvement, or expansion of the facility; and

(2) for each year that the owner of the biopharmaceutical manufacturing facility applies for a refund, the owner must have received written certification from the Department of Employment and Economic Development that the facility has met the criteria of paragraph (a).

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(d) The refund is to be paid annually at a rate of 25 percent of the total allowable refund payable to date, with the commissioner making annual payments of the remaining refund until all of the refund has been paid.

(e) For purposes of this subdivision, "biopharmaceutical" and "biologics" are interchangeable and mean medical drugs or medicinal preparations produced using technology that uses biological systems, living organisms, or derivatives of living organisms to make or modify products or processes for specific use. The medical drugs or medicinal preparations include but are not limited to proteins, antibodies, nucleic acids, and vaccines.

Subd. 48. **Construction materials, public infrastructure related to the destination medical center.** Materials and supplies used in, and equipment incorporated into, the construction and improvement of publicly owned buildings and infrastructure included in the development plan adopted under section 469.43, and financed with public funds, are exempt.

297A.75 REFUND; APPROPRIATION.

Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the following exempt items must be imposed and collected as if the sale were taxable and the rate under section 297A.62, subdivision 1, applied. The exempt items include:

- (1) building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;
- (2) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;
- (3) building materials for correctional facilities under section 297A.71, subdivision 3;
- (4) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11;
- (5) elevators and building materials exempt under section 297A.71, subdivision 12;
- (6) materials and supplies for qualified low-income housing under section 297A.71, subdivision 23;
- (7) materials, supplies, and equipment for municipal electric utility facilities under section 297A.71, subdivision 35;
- (8) equipment and materials used for the generation, transmission, and distribution of electrical energy and an aerial camera package exempt under section 297A.68, subdivision 37;
- (9) commuter rail vehicle and repair parts under section 297A.70, subdivision 3, paragraph (a), clause (10);
- (10) materials, supplies, and equipment for construction or improvement of projects and facilities under section 297A.71, subdivision 40;
- (11) materials, supplies, and equipment for construction, improvement, or expansion of:
 - (i) an aerospace defense manufacturing facility exempt under section 297A.71, subdivision 42;
 - (ii) a biopharmaceutical manufacturing facility exempt under section 297A.71, subdivision 45;
 - (iii) a research and development facility exempt under section 297A.71, subdivision 46; and
 - (iv) an industrial measurement manufacturing and controls facility exempt under section 297A.71, subdivision 47;
- (12) enterprise information technology equipment and computer software for use in a qualified data center exempt under section 297A.68, subdivision 42;
- (13) materials, supplies, and equipment for qualifying capital projects under section 297A.71, subdivision 44;
- (14) items purchased for use in providing critical access dental services exempt under section 297A.70, subdivision 7, paragraph (c); and
- (15) items and services purchased under a business subsidy agreement for use or consumption primarily in greater Minnesota exempt under section 297A.68, subdivision 44.

Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the exempt items must be paid to the applicant. Only the following persons may apply for the refund:

- (1) for subdivision 1, clauses (1), (2), and (14), the applicant must be the purchaser;
- (2) for subdivision 1, clause (3), the applicant must be the governmental subdivision;
- (3) for subdivision 1, clause (4), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21;
- (4) for subdivision 1, clause (5), the applicant must be the owner of the homestead property;

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(5) for subdivision 1, clause (6), the owner of the qualified low-income housing project;
(6) for subdivision 1, clause (7), the applicant must be a municipal electric utility or a joint venture of municipal electric utilities;

(7) for subdivision 1, clauses (8), (11), (12), and (15), the owner of the qualifying business; and

(8) for subdivision 1, clauses (9), (10), and (13), the applicant must be the governmental entity that owns or contracts for the project or facility.

Subd. 3. **Application.** (a) The application must include sufficient information to permit the commissioner to verify the tax paid. If the tax was paid by a contractor, subcontractor, or builder, under subdivision 1, clauses (3) to (13), or (15), the contractor, subcontractor, or builder must furnish to the refund applicant a statement including the cost of the exempt items and the taxes paid on the items unless otherwise specifically provided by this subdivision. The provisions of sections 289A.40 and 289A.50 apply to refunds under this section.

(b) An applicant may not file more than two applications per calendar year for refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.

Subd. 4. **Interest.** Interest must be paid on the refund at the rate in section 270C.405 from 90 days after the refund claim is filed with the commissioner for taxes paid under subdivision 1.

Subd. 5. **Appropriation.** The amount required to make the refunds is annually appropriated to the commissioner.