

shall then encompass within its boundaries three or more municipalities additional to the villages of Brooklyn Park, Blaine, Mounds View, Spring Lake Park and the cities of Coon Rapids and Fridley, that then the membership of the board of trustees of the district shall not be enlarged to include more than a total of eleven members, but rather the representation on the board shall be re-apportioned by the board among the municipalities comprising the district in accordance with the population of each municipality or portion thereof within the district; provided, further, that no single municipality shall be entitled to have more than one member selected by the governing body of such municipality.

Sec. 10. **Severability.** The provisions of this chapter shall be severable and the invalidity of any section or subdivision or part thereof shall not make void any other section or subdivision or part thereof.

Approved June 10, 1961.

EXTRA SESSION

CHAPTER 91—H. F. No. 74

[Coded in Part]

An act relating to taxation; relating to taxes on cigarettes and the use thereof; relating to taxes on and measured by net income; relating to a tax on tobacco products and distributors thereof; relating to an additional tax on the mining or production of iron ore; relating to an additional tax on royalties; relating to an additional tax on intoxicating liquors; and providing for the disposition of the receipts therefrom; amending Minnesota Statutes 1957, Sections 290.06, Subdivisions 3, 4, and 5, as amended; 290.06, by adding subdivisions thereto; 290.361, Subdivision 6, as amended; 290.361, by adding a subdivision thereto; 290.62, as amended; 297.02, Subdivision 1, as amended; 297.22, Subdivision 1, as amended; 297.32, Subdivisions 1 and 2, as amended; 297.32, by adding a subdivision thereto; 298.011, as amended; 299.011, as amended; 340.47, Subdivision 5, as amended; Laws 1961, Chapter 213, Article 1, Section 1, Subdivisions 2, 5, 6, and 15; Laws 1961, Chapter 213, Article 1, Section 2, Subdivision 5; Laws 1961, Chapter 213, Article 1, Sections 3 and 5.

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Be it enacted by the Legislature of the State of Minnesota:

Article I.

Section 1. Minnesota Statutes 1957, Section 290.06, subdivision 4, as amended by Extra Session Laws 1959, Chapter 70, Article III, Section 4, is amended to read:

Subd. 4. **Additional privilege and income tax upon corporations other than banks.** There is hereby imposed on all corporations (other than banks) required to file a return under the provisions of Chapter 290 an additional privilege and income tax equal to 1.8 percent of all taxable net income attributable to this state less credit allowed by section 290.21 and section 290.06, subdivision 3 (5). This subdivision shall apply to all taxable years which begin after December 31, 1958, and prior to January 1, ~~1961~~ 1963. The proceeds of the tax imposed by this subdivision shall be deposited in the state treasury to the credit of the income tax school fund. There shall be paid from this income tax school fund all refunds of such taxes erroneously collected from taxpayers under this chapter as provided herein.

Sec. 2. Minnesota Statutes 1957, Section 290.06, Subdivision 5 as amended by Extra Session Laws 1959, Chapter 70, Article III, Section 5 is hereby amended to read:

Subd. 5. **Surtax upon individuals, estates, and trusts.** The rates of taxation fixed by subdivision 2 as the several rates to be applied in computing the income taxes imposed by this chapter upon individuals, estates, and trusts, other than those taxable as corporations, after deducting the credits allowable under section 290.06, subdivision 3, are increased ten percent of such respective rates; provided, however, that if the taxpayer elects to compute his tax according to the schedule of taxes contained in subdivision 2 (b), that tax, less the credits allowable under section 290.06, subdivision 3, shall be increased by ten percent. This subdivision shall apply to all taxable years which begin after December 31, 1958, and prior to January 1, ~~1961~~ 1963. The increase of the rates of taxation of the income taxes imposed by this chapter upon individuals, estates, and trusts, other than those taxable as corporations, and the increase of taxes of those taxpayers who elect to compute their taxes according to the schedule of taxes contained in subdivision 2 (b), shall hereafter be known as the surtax upon individuals other than corporations. The proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the

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credit of the ~~general revenue income tax school fund in the manner provided in section 14.~~

Sec. 3. Minnesota Statutes 1957, Section 290.361, Subdivision 6, as amended by Extra Session Laws 1959, Chapter 70, Article III, Section 10, is amended to read:

Subd. 6. **Surtax.** There is hereby imposed an additional privilege and income tax on corporations subject to the tax imposed by subdivision 2 equal to 1.9 percent of all taxable net income. This subdivision shall apply to all taxable years which begin after December 31, 1958, and prior to January 1, ~~1961~~ 1963. The proceeds of the tax imposed by this subdivision shall be deposited in the state treasury to the credit of the general revenue fund. There shall be paid from this general revenue fund all refunds of such taxes erroneously collected from taxpayers under this chapter as provided herein.

Sec. 4. Minnesota Statutes 1957, Section 298.011 as amended by Extra Session Laws 1959, Chapter 70, Article VIII, Section 2, is hereby amended to read:

298.011. **Additional occupation tax.** Every person engaged in the business of mining or producing iron ore or other ores in this state shall pay to the state as an addition to the occupation tax levied by section 298.01, as amended, an additional occupation tax equal to 2.25 percent of the valuation of all ores (except taconite and iron sulphides) mined and produced to be assessed, paid, and collected as a part of the occupation tax levied by section 298.01, as amended. This section shall apply to all ores (except taconite and iron sulphides) mined and produced subsequent to December 31, 1958 and prior to January 1, ~~1961~~ 1963, except as to the collection of taxes theretofore levied and unpaid. Of the proceeds of the tax imposed by this section on ore mined or produced prior to January 1, 1959, 50 percent thereof shall be deposited in the state treasury to the credit of the veterans compensation fund.

The proceeds of the tax imposed by this section on ore mined or produced on or after January 1, 1959 shall be deposited in the state treasury and apportioned and distributed in accordance with the Constitution of the State of Minnesota, Article IX, Section 1A, in the following manner: 50 percent to the general revenue fund, 40 percent for the support of elementary and secondary schools and 10 percent for the general support of the university.

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Sec. 5. Minnesota Statutes 1957, Section 299.011 as amended by Extra Session Laws 1959, Chapter 70, Article IX, Section 2, is amended to read:

299.011 **Additional tax.** There shall be levied and collected upon all royalty received during each calendar year after 1958, for permission to explore, mine, take out and remove ore (except upon royalties received because of the actual production of taconite or iron sulphides) from land in this state, as an addition to the tax levied by section 299.01, as amended, a tax of 2.25 percent to be levied and collected as a part of the tax levied by section 299.01, as amended. This section shall be effective as of January 1, 1959, and shall expire on December 31, ~~1960~~ 1962, except as to the collection of taxes theretofore levied and unpaid. The proceeds of the tax imposed by this section shall be deposited in the state treasury to the credit of the general revenue fund.

Sec. 6. Minnesota Statutes 1957, Section 340.47, Subdivision 5 as amended by Extra Session Laws 1959, Chapter 70, Article X, Section 2, is amended to read:

Subd. 5. **Surtax on intoxicating liquors.** The several rates of taxation levied by subdivision 1 on all intoxicating liquors sold in this state are increased 15 percent except on intoxicating liquors which are within the state on June 30, 1959, and which have been sold within this state by a licensed manufacturer or wholesaler to a retailer or ultimate consumer on or before June 30, 1959. The increase in the several rates of taxation levied by this subdivision on all intoxicating liquors sold in this state shall hereafter be known as the surtax on intoxicating liquors.

The surtax levied hereunder shall be reduced by a credit for any surtax previously paid pursuant to the provisions of Minnesota Statutes 1957, Section 340.47, Subdivision 3.

Notwithstanding the provisions of subdivision 1 and section 340.60, subdivision 2, the proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the credit of the general revenue fund.

This section expires June 30, ~~1961~~ 1963.

Art. II

Section 1. Laws 1961, Chapter 213, Article I, Section 1, Subdivision 2, is amended to read:

[290.92] Subd. 2. **Collection at source.** (1) De-

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ductions. Every employer making payment of wages on or after ~~January~~ *October 1, 1962* 1961 shall deduct and withhold upon such wages a tax as provided in this section.

(2) **Withholding on payroll period.** The employer shall withhold the tax on the basis of each payroll period or as otherwise provided in this section.

(3) **Withholding tables.** Unless the amount of tax to be withheld is determined as provided in subdivision 3, the amount of tax to be withheld for each individual shall be based upon tables to be prepared and distributed by the commissioner. The tables shall be computed for the several permissible withholding periods and shall take account of exemptions allowed under this section; and the amounts computed for withholding shall be such that the amount withheld for any individual during his taxable year shall approximate in the aggregate as closely as possible the tax which is levied and imposed under Minnesota Statutes, Chapter 290 for that taxable year, upon his salary, wages, or compensation for personal services of any kind for the employer, and shall take into consideration the allowable deduction for federal income tax and the deduction allowable under Minnesota Statutes, Section 290.09 (16) and the credits against the tax allowable under the Minnesota Income Tax Act.

The tables so prepared shall be in effect until the end of the quarterly period following the quarter in which any change shall be made in the income tax liability of individuals imposed by the Federal Income Tax Act and any change in the provisions of Minnesota Laws 1957, Chapter 290, as amended, with respect to income tax liability of individuals or until the commissioner shall have given the employers 90 days' notice with respect to any such change.

The withholding tables and the declarations of estimated tax with respect to amounts and declarations filed during the first six months of the calendar year 1963 shall be determined as if the temporary taxes imposed by Minnesota Statutes 1957, Section 290.06, Subdivision 4, as amended; Subdivision 5, as amended; and Section 290.361, Subdivision 6, as amended, and Article V, Section 3 were continued to be in effect for that taxable year.

(4) **Miscellaneous payroll period.** If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a

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number of days, including Sundays and holidays, equal to the number of days in the period with respect to which such wages are paid.

(5) **Miscellaneous payroll period.** (a) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of such wages by such employer during the calendar year, or the date of commencement of employment with such employer during such year, or January 1 of such year, whichever is the later.

(b) In any case in which the period, or the time described in (a), in respect of any wages is less than one week, the commissioner, under regulations prescribed by him, may authorize an employer to determine the amount to be deducted and withheld under the tables applicable in the case of a weekly payroll period, in which case the aggregate of the wages paid to the employee during the calendar week shall be considered the weekly wages.

(6) **Wages computed to nearest dollar.** If the wages exceed the highest bracket, in determining the amount to be deducted and withheld under this subdivision, the wages may, at the election of the employer, be computed to the nearest dollar.

(7) **Regulations on withholding.** The commissioner may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to such employee during such quarter as if the appropriate average of the wages so estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to such employee during such quarter such amount as may be necessary to adjust the amount actually deducted and withheld upon the wages of such employee during such quarter to the amount required to be deducted and withheld during such quarter without regard to this paragraph (7).

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(8) **Additional withholding.** The commissioner is authorized to provide by regulation, under such conditions and to such extent as he deems proper, for withholding in addition to that otherwise required under this subdivision and subdivision 3 in cases in which the employer and the employee agree to such additional withholding. Such additional withholding shall for all purposes be considered tax required to be deducted and withheld under this section.

Sec. 2. Laws 1961, Chapter 213, Article I, Section 1, Subdivision 5, is amended to read:

[290.92] Subd. 5. **Exemptions.** (1) **Entitlement.** An employee receiving wages shall on any day be entitled to the following withholding exemptions:

- (a) One exemption for himself;
- (b) One additional exemption for himself, if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to be allowable a credit for the taxable year under Minnesota Statutes, Section 290.06, Subdivision 3 (4) (a) or (c) for having attained the age of 65 before the close of such year;
- (c) One additional exemption for himself if, on the basis of facts existing at the beginning of such day, there may reasonably be expected to exist a credit for the taxable year under Minnesota Statutes, Section 290.06, Subdivision 3 (4) (b) or (c) for being blind at the close of such year;
- (d) If the individual is married, any exemption to which his spouse is entitled, or would be entitled, under subparagraph (a), (b) or (c), if such spouse were an employee receiving wages, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption;
- (e) One dependent exemption for each dependent as that term is defined in Minnesota Statutes, Section 290.06, Subdivision 3 (3).

(2) **Withholding exemption certificate.** Every employee shall, on or before ~~January~~ *October* 1, ~~1962~~ 1961, or before the date of commencement of employment, whichever is the later, furnish his employer with a signed withholding exemption certificate relating to the number of withholding

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exemptions which he claims, which shall in no event exceed the number to which he is entitled.

(3) **Effective date of exemption certificate.** Withholding exemption certificates shall take effect as of the beginning of the first payroll period ending, or the first payment of wages made without regard to a payroll period, on or after the date on which such certificate is so furnished. Certificates furnished before ~~January~~ *October 1, 1961* shall be considered as furnished on that date.

(4) **New exemption certificate.** A withholding exemption certificate which takes effect under this subdivision shall continue in effect with respect to the employer until another such certificate takes effect under this subdivision. If a withholding exemption certificate is furnished to take the place of an existing certificate, the employer, at his option, may continue the old certificate in force with respect to all wages paid on or before the first status determination date, January 1 or July 1, which occurs at least 30 days after the date on which such new certificate is furnished.

(5) **Change of number to reflect next tax year.** If, on any day during the calendar year, the number of withholding exemptions to which the employee may reasonably be expected to be entitled at the beginning of his next taxable year is different from the number to which the employee is entitled on such day, the employee shall in such cases and at such times as the commissioner may prescribe, furnish the employer with a withholding exemption certificate relating to the number of exemptions which he claims with respect to such next taxable year, which shall in no event exceed the number to which he may reasonably be expected to be so entitled. Exemption certificates issued pursuant to this paragraph shall not take effect with respect to any payment of wages made in the calendar year in which the certificate is furnished.

(6) **Change of number.** If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by the employee on the withholding exemption certificate then in effect with respect to him, the employee shall, within ten days thereafter, furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event ex-

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ceed the number to which he is entitled on such day. If, on any day during the calendar year, the number of withholding exemptions to which the employee is entitled is greater than the number of withholding exemptions claimed, the employee may furnish the employer with a new withholding exemption certificate relating to the number of withholding exemptions which the employee then claims, which shall in no event exceed the number to which he is entitled on such day.

(7) **Form of certificate.** Withholding exemption certificates shall be in such form and contain such information as the commissioner may by regulation prescribe.

Sec. 3. Laws 1961, Chapter 213, Article I, Section 1, Subdivision 6, is amended to read:

[290.92] Subd. 6. **Employer to furnish information.** (1) Every employer required to deduct and withhold tax under subdivision 2 or subdivision 3 shall (a) for the period beginning ~~January~~ *October 1, 1962* 1961 and ending ~~March 31, 1962~~ *December 31, 1961*, file with the commissioner of taxation, on or before ~~April 30, 1962~~ *January 31, 1962*, and pay over the tax required to be withheld under subdivision 2 and subdivision 3, and ~~(B) for the quarterly period beginning April 1, 1962 and ending June 30, 1962, and for each quarterly period thereafter, on or before the last day of the month following the close of each quarterly period make and file with the commissioner a return and pay over to him the tax required to be withheld under subdivision 2 or subdivision 3, except that, if during any calendar month, other than the last month of the calendar quarter, the aggregate amount of the tax withheld under subdivision 2 or subdivision 3 exceeds \$25, such employer shall deposit such aggregate amount within 15 days after the close of such calendar month with the commissioner of taxation. However, any such return may be filed on or before the tenth day of the second calendar month following such period if such return is accompanied by depositary receipts showing timely deposits in full payment of such taxes due for such period. For the purpose of the preceding sentence, a deposit which is not required to be made within such return period, may be made on or before the last day of the first calendar month following the close of such period. The commissioner shall upon receipt of such deposit issue to the employer a depositary receipt in duplicate evidencing such deposit. Every employer making monthly deposits pursuant to this subdivision shall attach to his return for the period with respect to which such deposits are~~

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made, depository receipts evidencing deposits made for such period and shall pay to the commissioner of taxation the balance, if any, of the taxes due for such period. If the aggregate amount of the taxes deposited as shown on the depository receipt or receipts attached to such return is in excess of the taxes shown on such return, a credit or refund may be obtained in accordance with regulations to be prescribed by the commissioner of taxation.

Such return shall be in such form and contain such information as the commissioner may by regulations prescribe. The commissioner may grant a reasonable extension of time for making such return *or deposit* and paying such tax, but no such extension shall be granted for more than six months.

(2) If less than the correct amount of such tax is paid to the commissioner, proper adjustments, with respect to both the tax and the amount to be deducted, shall be made, without interest, in such manner and at such times as the commissioner may by regulations prescribe. If such underpayment cannot be so adjusted the amount of the underpayment shall be assessed and collected in such manner and at such times as the commissioner may by regulations prescribe.

(3) If any employer fails to make and file any return required by paragraph (1) at the time prescribed therefor, or makes and files a false or fraudulent return, the commissioner shall make for him a return from his own knowledge and from such information as he can obtain through testimony, or otherwise, and assess a tax on the basis thereof. The amount of tax shown thereon shall be paid to the commissioner at such times as the commissioner may by regulations prescribe. Any such return or assessment so made by the commissioner shall be *prima facie* correct and valid, and the employer shall have the burden of establishing its incorrectness or invalidity in any action or proceeding in respect thereto.

(4) If the commissioner, in any case, has reason to believe that the collection of the tax provided for in paragraph (1) of this subdivision, and any added penalties and interest, if any, will be jeopardized by delay, he may immediately assess such tax, whether or not the time otherwise prescribed by law for making and filing the return and paying such tax has expired.

(5) Any assessment under this subdivision shall be made by recording the liability of the employer in the of-

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fice of the commissioner in accordance with regulations prescribed by the commissioner. Upon request of the employer, the commissioner shall furnish the employer a copy of the record of assessment.

(6) Any assessment of tax under this subdivision shall be made within three and one-half years after the due date of the return required by paragraph (1), or the date the return was filed, whichever is later; except that in the case of a false or fraudulent return or failure to file a return, the tax may be assessed at any time.

(7) (a) Except as provided in (b) of this paragraph, every employer who fails to pay to *or deposit with* the commissioner any sum or sums required by this section to be deducted, withheld and paid, shall be personally and individually liable to the state of Minnesota for such sum or sums (and any added penalties and interest); and any sum or sums deducted and withheld in accordance with the provisions of subdivision 2 or subdivision 3 shall be held to be a special fund in trust for the state of Minnesota.

(b) If the employer, in violation of the provision of this section, fails to deduct and withhold the tax under this section, and thereafter the taxes against which such tax may be credited are paid, the tax so required to be deducted and withheld shall not be collected from the employer; but this shall in no case relieve the employer from liability for any penalties and interest otherwise applicable in respect of such failure to deduct and withhold.

(8) Upon the failure of any employer to pay to *or deposit with* the commissioner within the time provided by paragraphs (1), (2) or (3) of this subdivision any tax required to be withheld in accordance with the provisions of subdivision 2 or subdivision 3, or if the commissioner has assessed a tax pursuant to paragraph (4), such tax shall become immediately due and payable, and the commissioner may deliver to the attorney general a certified statement of the tax, penalties and interest due from such employer. The statement shall also give the address of the employer owing such tax, the period for which the tax is due, the date of the delinquency, and such other information as may be required by the attorney general. It shall be the duty of the Attorney General to institute legal action in the name of the state to recover the amount of such tax, penalties, interest and costs. The commissioner's certified statement to the Attorney General

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shall for all purposes and in all courts be prima facie evidence of the facts therein stated and that the amount shown therein is due from the employer named in the statement. In event action is instituted as herein provided, the court shall, upon application of the Attorney General, appoint a receiver of the property and business of the delinquent employer for the purpose of impounding the same as security for any judgment which has been or may be recovered. Any such action shall be brought within four years and three months after the due date of the return *or deposit* required by paragraph (1), or the date the return was filed, *or deposit made* whichever is later; except that in the case of failure to make and file such return or if such return is false or fraudulent, *or such deposit is not made* such action may be brought at any time.

(9) The tax required to be withheld under subdivision 2 or subdivision 3 or paid to, *or deposited with* the commissioner under subdivision 6, together with penalties, interest and costs, shall become a lien upon all of the real property of the employer within this state, except his homestead, from and after the filing by the commissioner of a notice of such lien in the offices of the register of deeds of the county in which such real property is situated.

(10) Either party to an action for the recovery of any tax, interest or penalties under this subdivision may remove the judgment to the supreme court by appeal, as provided for appeals in civil cases.

(11) No suit shall lie to enjoin the assessment or collection of any tax imposed by this section, or the interest and penalties added thereto.

Sec. 4. Laws 1961, Chapter 213, Article I, Section 2, Subdivision 5, is amended to read:

[290.93] Subd. 5. **Date required.** (1) Declarations of estimated tax required by subdivision 1 from individuals other than farmers shall be filed on or before April 15 of ~~the~~ *each* taxable year, *beginning after December 31, 1961*, except that if the requirements of subdivision 1 are first met—

(a) After April 1 and before June 2 of the taxable year, the declaration shall be filed on or before June 15 of the taxable year, or

(b) After June 1 and before September 2 of the tax-

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able year, the declaration shall be filed on or before September 15 of the taxable year, or

(c) After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding taxable year.

(d) If the requirements of subdivision 1 are first met prior to December 1, 1961, the declaration of estimated tax for the taxable year beginning after December 31, 1960, shall be filed on or before December 15, 1961, and 25 percent of the estimated tax shall be paid therewith.

~~(2)~~ The first declaration of estimated tax required to be filed during 1962 shall be filed not later than April 15, 1962, if the requirements of this section are fulfilled at any time prior to April 2, 1962. If the requirements of this section are first met after April 1, 1962, the declaration shall be filed on or before June 15, 1962.

~~(2)~~ (2) Declarations of estimated tax required by subdivision 1 from individuals whose estimated gross income from farming for the taxable year is at least two-thirds of the total estimated gross income from all sources for the taxable year may, in lieu of the time prescribed in ~~paragraphs~~ paragraph (1) and ~~(2)~~ be filed at any time on or before January 15 of the succeeding taxable year.

~~(4)~~ (3) An individual shall make amendments of a declaration filed during the taxable year, under regulations prescribed by the commissioner.

~~(5)~~ (4) If on or before January 31 (or February 15, in the case of an individual referred to in paragraph ~~(3)~~ (2)) of the succeeding taxable year the taxpayer files a return for the taxable year for which the declaration is required, and pays in full the amount computed on the return as payable, then, under regulations prescribed by the commissioner—

(a) If the declaration is not required to be filed during the taxable year, but is required to be filed on or before January 15, such return shall be considered as such declaration; and

(b) If the tax shown on the return is greater than the estimated tax shown in the declaration previously made or in the last amendment thereof, such return shall be considered

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as the amendment of the declaration permitted by paragraph (4) (3) to be filed on or before January 15.

(6) (5) The commissioner may grant a reasonable extension of time for filing the declaration and paying the estimated tax. Except in the case of a taxpayer who is outside the continental limits of the United States, no such extension shall be granted for more than six months.

Sec. 5. Laws 1961, Chapter 213, Article I, Section 3, is amended to read:

Sec. 3. **[290.94] Credit for 1961 tax.** *Each individual shall, for the calendar year 1961, or, in the case of an individual on the fiscal year basis, for his fiscal year beginning in 1961, be entitled to a credit of 100 percent of an amount determined by computing the normal income tax less personal credits plus surtax liability for that taxable year or for the next preceding taxable year, whichever is the lesser. Each individual shall, for the calendar year 1961, or, in the case of an individual on the fiscal year basis, for his fiscal year beginning in 1961, be entitled to a credit of 75 percent of an amount determined by computing the normal income tax less personal credits plus the surtax liability imposed by Section 290.06, Subdivision 5, reduced by the tax credit, if any provided for by Minnesota Statutes 1957, Section 290.081 as amended by Chapter 213, Laws of 1961.*

For the purpose of computing the applicable credit where a joint return is filed by husband and wife, such return shall be considered as that of an individual.

In the case of more than one taxable year beginning during the calendar year 1961, the ~~100~~ 75 percent credit shall apply against such amount determined as specified in this ~~subdivision~~ *section* for the ~~first~~ *last* taxable year so beginning in 1961.

The provisions of this section shall be applicable only to those taxpayers who have duly filed income tax returns required to be filed for taxable years commencing after December 31, 1954, and who have *timely* paid all taxes; and interest and penalties shown to be due on such returns for all such taxable years.

Sec. 6. Laws 1961, Chapter 213, Article 1, Section 5, is amended to read:

Sec. 5. **[290.96] Appropriation.** The commis-

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sioner may employ such assistants and may incur such other expense as may be necessary to carry out the provisions of sections 1 to 5, within the limitations herein. To carry out the provisions of sections 1 to 5 there is appropriated out of any money in the state treasury, credited to the income tax school fund, the sum of ~~\$600,000~~ *\$750,000* to be available until expended and to cover the period of fiscal years 1960-61, 1961-62 and 1962-63.

Sec. 7. Laws 1961, Chapter 213, Article I, Section 1, Subdivision 15, is amended to read:

Subd. 15. **Penalties.** If any tax required to be deducted and withheld under subdivision 2 or subdivision 3, or any portion thereof, is not paid to *or deposited with* the commissioner within the time specified in subdivision 6 for the payment thereof, there shall be added thereto a penalty equal to five percent of the amount so remaining unpaid. Such penalty shall be collected as part of said tax, and the amount of said tax not timely paid, together with said penalty, shall bear interest at the rate of four percent per annum from the time such tax should have been paid *or deposited* until paid. Where an extension of time for payment has been granted under the provisions of subdivision 6, interest shall be paid at the rate of four percent per annum from the date when such payment *or deposit* should have been made if no extension had been granted, until such tax is paid. If payment is not made at the expiration of the extended period the penalties provided in this subdivision shall apply.

(2) In the case of any failure to withhold a tax on wages, make and file quarterly returns and make payments to *or deposits with* the commissioner of amounts withheld, as required by this section, within the time prescribed by law, unless it is shown that such failure is not due to negligence, there shall be added to the tax in lieu of the five percent penalty provided in paragraph (1) a penalty equal to 25 percent of the amount of tax that should have been properly withheld and paid over to *or deposited with* the commissioner. The amount so added to the tax shall be collected at the same time and in the same manner and as a part of the tax unless the tax has been paid before the discovery of the negligence, in which case the amount so added shall be collected in the same manner as the tax.

(3) If any employer required to withhold a tax on wages, *make deposits*, make and file quarterly returns and

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make payments to the commissioner of amounts withheld, as required by sections 1 to 5 6, wilfully fails to withhold such a tax *or make such deposits*, files a false or fraudulent return, wilfully fails to make such a payment *or deposit*, or wilfully attempts in any manner to evade or defeat any such tax or the payment *or deposit* thereof, there shall also be imposed on such employer as a penalty an amount equal to 50 percent of the amount of tax (less any amount paid *or deposited* by such employer on the basis of such false or fraudulent return *or deposit*) that should have been properly withheld and paid over *or deposited with* to the commissioner. The penalty imposed by this paragraph shall be collected as a part of the tax, and shall be in addition to any other penalties civil and criminal, prescribed by this subdivision.

(4) If any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or wilfully fails to furnish a statement in the manner, at the time, and showing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, there shall be imposed on such a person a penalty of \$10 for each such act or failure to act. The penalty imposed by this paragraph shall become due and payable within ten days after the mailing of a written demand therefor, and may be collected in the manner prescribed in subdivision 6 (8).

(5) In addition to the penalties hereinbefore prescribed, any person required to withhold a tax on wages, make and file quarterly returns and make payments *or deposits* to the commissioner of amounts withheld, as required by this section, who wilfully fails to withhold such a tax or truthfully make and file such a quarterly return and make such a payment *or deposit*, shall be guilty of a gross misdemeanor.

(6) In lieu of any other penalty provided by law (except the penalty provided by paragraph (4)), any person required under the provisions of subdivision 7 to furnish a statement to an employee and a duplicate statement to the commissioner, who wilfully furnishes a false or fraudulent statement to an employee or a false or fraudulent duplicate statement to the commissioner, or who wilfully fails to furnish a statement in the manner, at the time, and show-

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ing the information required by the provisions of subdivision 7, or regulations prescribed by the commissioner thereunder, shall be guilty of a gross misdemeanor.

(7) Any employee required to supply information to his employer under the provisions of subdivision 5, who wilfully fails to supply information thereunder which would require an increase in the tax to be deducted and withheld under subdivision 2 or subdivision 3, shall be guilty of a misdemeanor.

(8) The term "person", as used in this section, includes an officer or employee of a corporation, or a member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect of which the violation occurs.

(9) All payments received shall be credited first to penalties, next to interest, and then to the tax due.

(10) The commissioner shall have power to abate any civil penalties prescribed in this subdivision when in his opinion their enforcement would be unjust and inequitable. The exercise of this power shall be subject to the approval of the attorney general.

Art. III

Section 1. Minnesota Statutes 1957, Section 297.02, Subdivision 1, as amended by Extra Session Laws 1959, Chapter 70, Article VI, Section 1, and Laws 1961, Chapter 272, Section 1, is amended to read:

297.02 Tax on cigarettes. Subdivision 1. Rates. A tax is hereby imposed upon the sale of cigarettes in this state to be advanced and prepaid as hereinafter provided by any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in Section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, ~~two and three-fourths~~ *three and one-half* mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, ~~five and one half~~ *seven* mills on each such cigarette.

All cigarette taxes and excises paid pursuant to any law of this state shall conclusively be presumed to be direct taxes

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on the retail consumer, advanced and prepaid for the purpose of convenience and facility only.

Sec. 2. Minnesota Statutes 1957, Section 297.22, Subdivision 1, as amended by Extra Session Laws 1959, Chapter 70, Article VI, Section 4, is amended to read:

297.22 **Tax.** Subdivision 1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:

(1) On cigarettes weighing not more than three pounds per thousand, ~~two and three fourths~~ *three and one-half* mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, ~~five and one-half~~ *seven* mills on each such cigarette.

Sec. 3. *This article shall be effective from and after 12:01 A.M., July 1, 1961.*

Art. IV

Section 1. Minnesota Statutes 1957, Section 297.32, Subdivision 1, as amended by Extra Session Laws 1959, Chapter 70, Article VII, Section 1, and Laws of 1961, Chapter 271, Sections 1 and 2, is amended to read:

297.32 **Tax on tobacco products.** Subdivision 1. A tax is hereby imposed upon all tobacco products in this state to be advanced and prepared as hereinafter provided by any person engaged in business as a distributor thereof, at the rate of ~~15~~ *ten* percent of the wholesale sales price of such tobacco products. Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco products for sale; (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

All tobacco products' taxes and excises paid pursuant to any law of this state shall conclusively be presumed to be direct taxes on the retail consumer, advanced and prepaid for the purpose of convenience and facility only.

Sec. 2. Minnesota Statutes 1957, Section 297.32, Subdivision 2, as amended by Extra Session Laws 1959, Chapter 70, Article VII, Section 3, is amended to read:

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Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of ~~15~~ *ten* percent of the cost of such tobacco products.

The tax imposed by this subdivision shall not apply if the tax imposed by Subdivision 1 on such tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

1. Less than 25 cigars;
2. Less than 10 oz. snuff or snuff powder;
3. Less than 1 lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 3. Minnesota Statutes 1957, Section 297.32, as amended by Extra Session Laws 1959, Chapter 70, Article VII, Sections 1 through 4, is amended by adding a new subdivision to read:

[Subd. 7.] *Any distributor having in his possession on July 1, 1961, any tobacco products which were subject to tax at the rate of 20 percent of the wholesale sales price thereof shall be entitled to a credit at the rate of ten percent of the wholesale sales price of such tobacco products. This credit may be applied against any future tax due from the distributor. Each distributor claiming this credit shall, on or before July 20, 1961, file a report with the commissioner in such form as the commissioner may prescribe, showing the tobacco products on hand at 12:01 A.M. on July 1, 1961, and shall provide such other information as the commissioner may require.*

Sec. 4. *This article shall be effective from and after 12:01 A.M., July 1, 1961.*

Art. V

Section 1. Minnesota Statutes 1957, Section 290.06, as amended by Extra Session Laws 1959, Chapter 70, Article III, Sections 1 through 5, is amended by adding a new subdivision to read:

[Subd. 6.] **Surtax upon corporations.** *The rates of taxation fixed by subdivisions 1 and 4 as the several rates*

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to be applied in computing the privilege and income tax imposed by this chapter upon all corporations (other than banks) are increased ten percent of such respective rates. This subdivision shall apply to all taxable years which begin after December 31, 1960 and prior to January 1, 1963. The proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the credit of the income tax school fund.

Sec. 2. Minnesota Statutes 1957, Section 290.361, as amended by Extra Session Laws 1959, Chapter 70, Article III, Sections 9 and 10, and Laws 1959, Chapter 157, Section 10, is amended by adding a new subdivision to read:

[Subd. 7.] Added surtax. *The rates of taxation fixed by subdivisions 2 and 6 as the several rates to be applied in computing the privilege and income tax on banks are increased ten percent of such respective rates. This subdivision shall apply to all taxable years which begin after December 31, 1960 and prior to January 1, 1963. The proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the credit of the general revenue fund.*

Sec. 3. Minnesota Statutes 1957, Section 290.06, as amended by Extra Session Laws 1959, Chapter 70, Article III, Sections 1 through 5, is amended by adding a new subdivision to read:

[Subd. 7.] Surtax upon individuals, estates, and trusts. *The rates of taxation fixed by subdivision 2 as the several rates to be applied in computing the income taxes imposed by this chapter upon individuals, estates and trusts, other than those taxable as corporations, after deducting the credits allowable under section 290.06, subdivision 3, are increased five percent of such respective rates; provided, however, that if the taxpayer elects to compute his tax according to the schedule of taxes contained in schedule 2 (b) that tax, less the credits allowable under section 290.06, subdivision 3, shall be increased by five percent. This subdivision shall apply to all taxable years which begin after December 31, 1960 and prior to January 1, 1963. This surtax shall not be reducible by the credit allowed by Article II, Section 5. The proceeds of the surtax imposed by this subdivision shall be deposited in the state treasury to the credit of the income tax school fund.*

Sec. 4. Minnesota Statutes 1957, Section 290.06, as

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amended by Extra Session Laws 1959, Chapter 70, Article III, Sections 1 through 5, is amended by adding a new subdivision to read:

[Subd. 8.] Additional tax upon individuals, estates, and trusts. *There is hereby imposed upon individuals, estates and trusts, required to file a return under the provisions of Chapter 290 an additional tax equal to one percent on the first \$1,000 of adjusted gross income or fraction thereof. This tax shall apply only to those individuals, estates, and trusts whose net income tax plus surtaxes payable by such persons do not exceed \$10 and shall in no event be applied to increase the total taxes payable by such persons to more than \$10. It shall be in addition to all other taxes imposed by Chapter 290 and shall not be reduced by any credits, personal or otherwise, provided for under Chapter 290.*

Sec. 5. *The provisions of section 4 shall apply to all taxable years beginning after December 31, 1960.*

Art. VI

Section 1. Minnesota Statutes 1957, Section 290.06, Subdivision 3, as amended by Extra Session Laws 1959, Chapter 70, Article III, Section 3, is amended to read as follows:

Subd. 3. Credits against tax. The taxes due under the foregoing computation shall be credited with the following amounts:

(1) In the case of an unmarried individual, and, except as provided in paragraph 6, in the case of the estate of a decedent, \$10, and in the case of a trust, \$5;

(2) In the case of a married individual, living with husband or wife, and in the case of a head of a household, \$30. If such husband and wife make separate returns the personal exemption may be taken by either or divided between them;

(3) In the case of an individual, ~~\$14~~ \$15 for each person (other than husband or wife) dependent upon and receiving his chief support from the taxpayer. One taxpayer only shall be allowed this credit with respect to any given dependent. In the case of the head of the household, a credit for one dependent shall be disallowed. A payment to a divorced or separated wife, other than a payment of the kind referred to in section 290.072, subdivision 3, shall not be

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considered a payment by the husband for the support of any dependent.

(4) (a) In the case of an unmarried individual who has attained the age of 65 before the close of his taxable year, an additional \$10;

(b) In the case of an unmarried individual who is blind at the close of the taxable year, an additional \$10;

(c) In the case of a married individual, living with husband or wife, an additional \$15 for each spouse who has attained the age of 65 before the close of the individual's taxable year, and an additional \$15 for each spouse who is blind at the close of the individual's taxable year. If such husband and wife make separate returns, these credits may be taken by either or divided between them;

(d) For the purposes of sub-paragraphs (b) and (c) of paragraph (4), an individual is blind if his central visual acuity does not exceed 20/200 in the better eye with correcting lenses, or if his visual acuity is greater than 20/200 but is accompanied by a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than 20 degrees.

(5) In the case of an insurance company, it shall receive a credit on the tax computed as above equal in amount to any taxes based on premiums paid by it during the period for which the tax under this act is imposed by virtue of any law of this state, other than the surcharge on premiums imposed by Extra Session Laws 1933, Chapter 53, as amended;

(6) If the status of a taxpayer, insofar as it affects the credits allowed under paragraphs 1, 2 and 3 shall change during the taxable year, or if the taxpayer shall either become or cease to be a resident of the state during such taxable year, such credit shall be apportioned, in accordance with the number of months before and after such change. For the purpose of such apportionment, a fractional part of a month shall be disregarded unless more than one-half of the month, in which case it shall be considered as a month. In case of death during a taxable year a credit shall be allowed to the decedent, in proportion to the number of months before his death, and to his estate, in proportion to the number of months after his death, and in any event a minimum credit of \$5 shall be allowed to the decedent and his estate, respectively;

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(7) In the case of a non-resident individual, credits under paragraphs 1, 2, 3 and 4 shall be apportioned in the proportion of the gross income from sources in Minnesota to the gross income from all sources, and in any event a minimum credit of \$5 shall be allowed.

Sec. 2. *The provisions of this article shall be effective only with respect to taxable years commencing after December 31, 1960.*

Art. VII

Minnesota Statutes 1957, Section 290.62, as amended by Laws 1959, Chapter 158, Section 21, and Extra Session Laws 1959, Chapter 70, Article III, Section 14, is amended to read as follows:

290.62 Income tax school fund; distributions. All revenues (except the bank excise tax imposed by Section 290.361) derived from the taxes, interest, penalties and charges under this chapter shall, notwithstanding any other provision of law, be paid into the state treasury and credited to a special fund to be known as income tax school fund, and be distributed as follows:

(1) Except for refunds of bank excise tax imposed under Section 290.361, there shall, notwithstanding any other provision of the law, be paid from this income tax school fund all refunds of taxes erroneously collected from taxpayers under this chapter as provided herein;

(2) There shall be transferred each year from this fund to the general revenue fund the amount expended from the latter fund for expenses of administering this chapter.

In addition, there shall be transferred periodically from this fund to the general revenue fund during the biennium beginning July 1, 1961, and ending June 30, 1963, sufficient moneys to meet the appropriations made to the state college board from the general revenue fund for such biennium, and to also meet the appropriations made from the general revenue fund as aid to junior colleges maintained by public school districts during the same biennium.

(3) There shall be transferred monthly, during the biennium beginning July 1, 1959, and ending June 30, 1961, from the income tax school fund to the general revenue fund one-eleventh of the proceeds of taxes, interest, penalties

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and charges (exclusive of such revenues derived from banks and corporations)⁺, and for the biennium beginning July 1, 1961 and ending June 30, 1963, from the income tax school fund to the general revenue fund 7.25 percent of the proceeds of taxes, interest, penalties and charges (exclusive of such revenues derived from banks).

(4) Out of the balance in this income tax school fund, after meeting the requirements of clauses (1) and (2), there shall be distributed as income tax school aid to each school district of the state, including municipalities operating their own school, an amount equal to \$10 per child between the ages of six and 16 years, both years inclusive, residing in such district without being subject to any conditions; provided, that a child in his sixteenth year shall be included only if in actual attendance in school;

(5) The balance thereof shall be credited to the special state aid fund to be distributed as in this act provided;

(6) There is hereby appropriated to the persons, school districts, or municipalities entitled to payment herein, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make the refund and payment.

Approved June 10, 1961.

EXTRA SESSION

CHAPTER 92—H. F. No. 70

[Coded]

An act appropriating moneys for a development revolving fund relating to area redevelopment, amending Laws 1961, Chapter 629, Section 13, Subdivision 1.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. Laws 1961, Chapter 629, Section 13, Subdivision 1 is amended to read:

[472.13] **Appropriation to development revolving fund.** Subdivision 1. There is hereby appropriated out of the general revenue fund in the state treasury not other-

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