

Subd. 3. If the board finds that a claim for which the claimant has requested payment out of the fund is not a covered claim or the board reduces the amount of or rejects the ~~award under subdivision 2~~ claim, the board shall notify the claimant in writing of his rights under section 60C.12.

Sec. 4. REPEALER.

Minnesota Statutes 1980, Section 60C.10, Subdivision 2, is repealed.

Approved May 27, 1981

CHAPTER 261 — H.F.No. 409

An act relating to agriculture; requiring department of agriculture approval and receipt of certain grain storage receipts; regulating the family farm security program; changing terms of members of the family farm advisory council; regulating denaturing of certain food; identifying fur pelts; updating references in the shade tree control law; amending Minnesota Statutes 1980, Sections 17.35, Subdivision 7; 18.023, Subdivision 3a; 31.095; 41.52, Subdivisions 5, 8 and 9, and by adding subdivisions; 41.54, Subdivision 2; 41.56, Subdivisions 1, 2, 3 and 4; 41.58, Subdivision 2; 232.06, Subdivision 1; 233.03; 234.27; 236.03; 275.50, Subdivision 6; 290.01, Subdivision 20; and 290.08, Subdivision 24; repealing Minnesota Statutes 1980, Sections 29.091 and 234.02.

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

Section 1. Minnesota Statutes 1980, Section 17.35, Subdivision 7, is amended to read:

Subd. 7. **TAGS.** Every fur farmer transporting or selling any pelts of domestic animals ~~shall~~ may attach to every package of pelts a tag identifying the pelts therein. ~~Such~~ The tags shall be obtained from the commissioner.

Sec. 2. Minnesota Statutes 1980, Section 18.023, Subdivision 3a, is amended to read:

Subd. 3a. **GRANTS TO MUNICIPALITIES.** (a) The commissioner may, in the name of the state and within the limit of appropriations provided, make grants-in-aid to a municipality with an approved disease control program for the partial funding of municipal sanitation and reforestation programs. The commissioner may make grants-in-aid to any home rule charter or statutory city, or any special purpose park and recreation board organized under a charter of a city of the first class or any non-profit corporation serving a city of the first class or any county having an approved disease control program for the acquisition or implementation of a wood utilization or disposal system.

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(b) The commissioner shall promulgate rules, including temporary rules, for the administration of grants authorized by this subdivision. The rules shall establish and contain as a minimum:

- (1) Procedures for grant applications;
- (2) Conditions and procedures for the administration of grants;
- (3) Criteria of eligibility for grants including, but not limited to, those specified in this subdivision; and
- (4) ~~Such~~ Other matters as the commissioner may find necessary to the proper administration of the grant program.

(c) Grants-in-aid payments for wood utilization and disposal systems made by the commissioner pursuant to this subdivision shall not exceed 50 percent of the total cost of the system. Grants for sanitation and reforestation shall be combined into one grant program. Grants to any municipality for sanitation shall not exceed 50 percent of sanitation costs approved by the commissioner including any amount of sanitation costs paid by special assessments, ad valorem taxes, federal grants or other funds. A municipality shall not specially assess a property owner any amount greater than the amount of the tree's sanitation cost minus the amount of the tree's sanitation cost reimbursed by the commissioner. Grants to municipalities for reforestation shall not exceed 50 percent of the cost, but not more than \$50 per tree, of trees planted pursuant to the reforestation program; provided that a reforestation grant to any county may include 90 percent of the cost, but not more than \$60 per tree, of the first 50 trees planted on public property in a town not described in subdivision 1 and of less than 1,000 population upon the town's application to the county. Reforestation grants to towns and home rule charter or statutory cities as described in subdivision 1 of less than 4,000 population with an approved disease control program may include 90 percent of the cost, but not more than \$60 per tree, of the first 50 trees planted on public property with the approval of the 1979 application. The governing body of any municipality which receives a reforestation grant pursuant to this section shall appoint up to seven residents of the municipality or designate an existing municipal board or committee to serve as a reforestation advisory committee to advise the governing body of the municipality in the administration of the reforestation program. For the purpose of this subdivision, "cost" shall not include the value of a gift or dedication of trees required by a municipal ordinance but shall include documented "in kind" services or voluntary work for municipalities with a population of less than 1,000 according to the 1970 most recent federal census.

(d) Based upon estimates submitted by the municipality to the commissioner, which shall state the estimated costs of sanitation and reforestation in the succeeding quarter under an approved program, the commissioner shall direct quarterly advance payments to be made by the state to the municipality

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commencing April 1, 1979. The commissioner shall direct adjustment of any overestimate in a succeeding quarter. A municipality may elect to receive the proceeds of its sanitation and reforestation grants on a periodic cost reimbursement basis.

(e) A home rule charter or statutory city, or county outside the metropolitan area or any municipality, as defined in subdivision 1, may submit an application for a grant authorized by this subdivision concurrently with its request for approval of a disease control program.

Sec. 3. Minnesota Statutes 1980, Section 31.095, is amended to read:

31.095 DENATURING AND LABELING.

All food originally designated as food for human consumption which is diverted to animal food channels or to seed must be ~~denatured and~~ labeled in compliance with animal food ~~and~~ or seed laws and regulations, and any which has been embargoed pursuant to section 31.05 must be denatured in a manner approved by the Minnesota department of agriculture.

Sec. 4. Minnesota Statutes 1980, Section 41.52, Subdivision 5, is amended to read:

Subd. 5. "Family farm security loan", except in the case of a seller-sponsored loan, means a loan secured by a first real estate mortgage. In the case of a seller-sponsored loan, it means a loan secured either by a real estate mortgage evidenced by one or more notes or secured by a contract for deed. It shall be used for acquisition of farm land and shall be approved by the commissioner. This loan shall be guaranteed and may qualify for a payment adjustment as defined in subdivision 10 and may be a seller-sponsored loan as defined in subdivision 8.

Sec. 5. Minnesota Statutes 1980, Section 41.52, Subdivision 8, is amended to read:

Subd. 8. "Seller-sponsored loan" means a loan in which part or all of the purchase price of the farm is financed by a loan from the seller of the property who is a natural person, a partnership or a family farm corporation as defined in section 500.24, and the remainder of the loan, if any, is supplied by a lender as defined in subdivision 7 or other person. This loan shall be secured by a real estate mortgage evidenced by one or more notes that may carry different interest rates, or by a contract for deed.

Sec. 6. Minnesota Statutes 1980, Section 41.52, Subdivision 9, is amended to read:

Subd. 9. "Family farm loan guarantee" means an agreement that in the event of default the state of Minnesota shall pay the lender 90 percent of the sums due and payable under the first real estate mortgage, or, in the case of

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a seller-sponsored loan, 90 percent of the sums due and payable under the note and mortgage or contract for deed.

Sec. 7. Minnesota Statutes 1980, Section 41.52, is amended by adding a subdivision to read:

Subd. 11. "Cooperating agency" means any individual, financial institution, state or federal agency, or any other legal entity which executes a memorandum of understanding with the family farm security program.

Sec. 8. Minnesota Statutes 1980, Section 41.52, is amended by adding a subdivision to read:

Subd. 12. "Memorandum of understanding" means an agreement outlining conditions under which a cooperating agency will provide farm real estate loan funds not to be included under a family farm loan guarantee to applicants.

Sec. 9. Minnesota Statutes 1980, Section 41.54, Subdivision 2, is amended to read:

~~Subd. 2. TERMS AND COMPENSATION. The council shall expire and the terms, compensation and removal of members of the council shall be governed by section 15.059. The council shall meet monthly or more often as needed. Initial members shall be appointed for terms as follows: (a) for terms ending the first Monday in January, 1979: one officer from a commercial lending institution, the dairy farmer, and the cash grain farmer; and (b) for terms ending the first Monday in January, 1980: the remaining members.~~

The terms of the members serving on January 15, 1981, shall end on the first Monday in April in the year indicated as follows:

(a) The dairy farmer and one officer from a commercial lending institution, 1982;

(b) The cash grain farmer and the officer from a farm credit association, 1983;

(c) The livestock farmer and one officer from a commercial lending institution, 1984; and

(d) The agricultural economist, 1985.

After a term expires as provided in clauses (a) to (d), all successors shall be appointed for four year terms. The terms of the present officers from a commercial lending institution shall be decided by lot subject to clauses (a) and (c).

Sec. 10. Minnesota Statutes 1980, Section 41.56, Subdivision 1, is amended to read:

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Subdivision 1. **LOAN APPLICATION; DENIAL.** Any person desiring to acquire farm land may make application with a lender for a family farm security loan. Upon completion of the appropriate forms by the applicant and the lender, the ~~lender~~ applicant shall forward the application to the commissioner for approval. The commissioner shall prescribe a screening process to determine eligibility and he may arrange for local lenders to perform this function for the state. The commissioner may approve the application if the criteria of sections 41.55 and 41.57 are satisfied, and shall notify the applicant and the lender of his decision.

If the application is denied, the commissioner shall ~~return the application to the lender~~ provide the applicant with a written statement of the reasons for the denial. ~~The applicant shall be given a copy of the reasons for the denial of the loan.~~ If the circumstances of the applicant change such that he becomes eligible, he may reapply.

Sec. 11. Minnesota Statutes 1980, Section 41.56, Subdivision 2, is amended to read:

Subd. 2. **APPROVED LOANS.** If the commissioner approves the loan application, he shall ~~retain a copy of the application for his files and return the original to the lender~~ notify the applicant and lender of his decision. The applicant and the lender may then complete the transaction for the loan.

Sec. 12. Minnesota Statutes 1980, Section 41.56, Subdivision 3, is amended to read:

Subd. 3. **DEFAULT, FILING CLAIM.** Within 90 days of a default on a guaranteed family farm security loan, the lender shall send notice to the applicant stating that the commissioner must be notified if the default continues for 180 days, and the consequences of that default. The lender and the applicant may agree to take any steps reasonable to assure the fulfillment of the loan obligation.

After 180 days from the initial default, if the applicant has not made arrangements to meet his obligation, the lender shall file a claim with the commissioner, identifying the loan and the nature of the default, and assigning to the state all of the lender's security and interest in the loan in exchange for payment according to the terms of the family farm security loan guarantee. In the case of a seller-sponsored loan, the seller may elect to pay the commissioner all sums owed the commissioner by the applicant and retain title to the property in lieu of payment by the commissioner under the terms of the loan guarantee. If the commissioner determines that the terms of the family farm security loan guarantee have been met, he shall authorize payment of state funds to the lender, and shall notify the defaulting party. The state of Minnesota shall then ~~become the holder of the mortgage and~~ succeed to the interest of the mortgagee or the vendor of the contract for deed. • Taxes shall be levied and paid on the

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land as though the owner were a natural person and not a political subdivision of the state. The commissioner may, on behalf of the state, commence foreclosure or termination proceedings in the manner provided by law.

Sec. 13. Minnesota Statutes 1980, Section 41.56, Subdivision 4, is amended to read:

Subd. 4. **SALE OF DEFAULTED PROPERTY.** In the event that title to the property is acquired by the state, upon conveyance of title to the state and expiration of the period of redemption, the commissioner shall, within 15 days of the expiration of such period, undertake to sell the property by publishing a notice of the impending sale at least once each week for four successive weeks in a legal newspaper and also in a newspaper of general distribution in the county in which the property to be sold is situated. Such notice shall specify the time and place in the county at which the sale will commence, a description of the lots or tracts to be offered, and a general statement of the terms of sale. Except as further provided in this subdivision, the terms and method of sale shall be determined by the commissioner. The commissioner shall sell the property to the highest bidder as determined by taking sealed bids or by public auction, provided that in either event he shall select the successful bidder within 15 days of the date of the last published notice of sale. Bidders shall submit bid security in the form of a certified check or bid bond in the amount of two percent of their bid price and the successful bidder shall remit the balance of the purchase price to the commissioner within 90 days of the date of sale. Upon remittance of such balance within 90 days of the date of sale, the commissioner shall transfer title to the property, including any acquired mineral rights, to the purchaser by quitclaim deed. In the event that the purchaser fails to remit any part of such balance within 90 days of the date of sale, the purchaser shall forfeit all rights to the property and any moneys paid thereon and the state shall recommence the sale process as specified in this subdivision. Proceeds from the sale of a parcel of property obtained by the state pursuant to this section shall be paid into the ~~into the~~ special account authorized in section 41.61, subdivision 1, to the extent that funds from the special account were disbursed according to the terms of the family farm security loan guarantee and into the general fund to the extent that funds were disbursed as payment adjustments by the commissioner. Proceeds in excess of these amounts shall be paid to the lender to the extent that payment to the lender pursuant to the loan guarantee was less than the money due and payable to the lender under the family farm security loan. Proceeds in excess of these amounts shall be paid to cooperating agencies according to the terms of the family farm security memorandum of understanding. Additional proceeds, if any, shall be paid into the general fund.

Sec. 14. Minnesota Statutes 1980, Section 41.58, Subdivision 2, is amended to read:

Subd. 2. **NEGOTIABILITY AND MARKETABILITY.** A seller-sponsored loan shall be secured by a purchase money real estate mortgage evi-

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denced by negotiable note or notes as defined in section 336.3-104 or by a contract for deed. The commissioner must be notified in writing within 30 days after a family farm security loan note is sold or exchanged or vendor's interest in a contract for deed is sold, exchanged, assigned or transferred.

Sec. 15. Minnesota Statutes 1980, Section 232.06, Subdivision 1, is amended to read:

Subdivision 1. **DISCRIMINATION PROHIBITED; CONTRACT FOR STORAGE.** Every person, firm, or corporation operating a public local grain warehouse licensed to store grain shall receive for storage, so far as the capacity of the warehouse will permit, all grain tendered him, without discrimination of any kind; provided ~~such~~ the grain is sound and in a warehouseable condition. Upon delivery of grain for storage a legal warehouse storage receipt, authorized by the department, shall be issued to the owner or ~~his~~ the owner's agent which shall state the place and date when the grain was received, the name of the owner of the grain, the kind and grade of the grain according to the official terms established by the Minnesota board of grain standards, or by the Secretary of Agriculture of the United States, the gross weight, dockage and net weight of the grain as per Minnesota standard weight.

Charges for receiving, insuring, handling, storing and redelivering grain must be posted in a prominent place in the warehouse and filed with the ~~Minnesota public utilities commission~~ department of agriculture.

Each legal warehouse storage receipt shall contain either on its face or reverse side the following specific warehouse and storage contract:

This grain is received, insured and stored through the date of the expiration of the annual licenses of this warehouse and terms expressed in the body of this receipt shall constitute due notice to the holder thereof of the expiration of the storage period. It shall be ~~and hereby is made~~ unlawful for any person, firm, association or corporation to charge or collect a greater or lesser amount than the one filed with the ~~commission~~ department. All charges shall be collected by the warehouseman upon presentation of the storage receipt for the sale or delivery of the grain represented by ~~such~~ the receipt, or the termination of the storage period. This grain has been received and stored with grain of the same lawful grade. Upon the return of this receipt and payment or tender of all charges accrued up to the time of ~~said~~ return of this receipt, the above amount, kind and grade of grain will be delivered within the time prescribed by law to the person above named or his order either from this warehouse, or if the owner so desires, from any licensed and bonded warehouse within this state.

Sec. 16. Minnesota Statutes 1980, Section 233.03, is amended to read:
233.03 **DUTIES OF WAREHOUSEMEN.**

Every warehouseman shall receive for storage and shipment as far as the warehouse capacity of ~~his warehouse~~ will permit, all grain in suitable condition

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for storage, tendered ~~him~~ in the usual course of business, without discrimination of any kind. All grain shall be inspected on receipt and stored with other grain of the same grade except as herein otherwise provided. At the time of the receipt of the grain, the warehouseman shall issue and deliver to the owner or consignee a warehouse receipt, authorized by the department, in the following form:

Warehouse Receipt No.
..... Elevator Co.
..... Minn., 19.....

The Elevator Company has received in store in its elevator known as situated at Minnesota, for storage from owner, bushels of which has been duly inspected by a duly authorized inspector of grain appointed by the department of agriculture of Minnesota, or licensed by the Secretary of Agriculture of the United States, and has been graded by the inspector as No. and is that grade. This grain, or an equal amount of grain of the same kind and grade, is deliverable upon the return of this receipt properly endorsed by the owner above named and the payment of all lawful charges; in case of grain stored separately in a special bin, at the request of the owner or consignee, the identity of ~~such~~ the grain will be preserved while in store and the grain will be delivered as ~~such~~ a separate lot or parcel, in accordance with the law, upon surrender of the receipt. Loss by fire, heating or the elements is at the owner's risk.

Countersigned by

.....
Secretary

The Elevator Company conducts this elevator as a public terminal warehouse and receives and stores therein grain of others for hire.

..... bushels grade.

.....
By

STUB RECORD

Initial Car No. Bushels

Receipt No. 19.....

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Received in store from

.....

Bushels..... Lbs..... Grade.....

| | | | |
|---------|---------|---------|---------|
| Car No. | Bushels | Car No. | Bushels |
|---------|---------|---------|---------|

The receipts shall be consecutively numbered and delivered to the owner immediately upon receipt of each lot or parcel of grain, giving the true and correct grade and weight thereof. The manner of receipt of ~~such~~ the grain shall be stated in the receipt, and with the number and distinctive mark of each car, and the name of each barge or other vessel. The failure to issue ~~such~~ a receipt as directed or the issuance of any warehouse receipt differing in form or language from that prescribed shall be a misdemeanor; provided that ~~such~~ a warehouse receipt at the request of the owner or consignee, may provide for delivery of the grain represented thereby to the depositor, or any other specified person, and may have printed or stamped thereon the words "non-negotiable."

Sec. 17. Minnesota Statutes 1980, Section 234.27, is amended to read:
234.27 UNIFORM COMMERCIAL CODE TO APPLY.

All the provisions of article 7 of the uniform commercial code, relative to the negotiation, transfer, sale, or endorsement of warehouse receipts, shall, so far as possible, apply to the negotiation, transfer, sale, or endorsement of the certificates provided for herein.

For the purpose of application of the uniform commercial code:

(a) A certificate authorized by the department which evidences the storing of grain under the provisions of chapter 234 is a document of title as defined in section 336.1-201, clause (15); and

(b) A person who has title to and possession of any grain stored under the provisions of chapter 234 is a warehouseman as defined in section 336.7-102, clause (1)(h).

Sec. 18. Minnesota Statutes 1980, Section 236.03, is amended to read:
236.03 GRAIN BANK RECEIPT; CONTENTS.

A grain bank receipt, authorized by the department, shall be issued for each delivery of grain to the grain bank. Each receipt shall contain the name and address of the grain bank establishment, the name or names of the person or persons for whom the grain is delivered to the grain bank, the kind, quantity, and grade of grain which shall be redelivered to the owner of the grain, and ~~such~~ other relevant factors as may be required by the rules and regulations of the department.

Sec. 19. Minnesota Statutes 1980, Section 275.50, Subdivision 6, is amended to read:

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Subd. 6. The cost to a governmental unit of implementing section 18.023, including sanitation and reforestation, as defined in section 18.023, subdivision 1, is a "special levy" and is not subject to tax levy limitations including those contained in sections 275.50 to 275.56 and in Laws 1969, Chapter 593, as amended by Laws 1974, Chapter 108, commencing with the levy made in 1976, payable in 1977, and terminating with the levy made in 1980 ~~1982~~, payable in 1981 ~~1983~~.

Sec. 20. Minnesota Statutes 1980, Section 290.01, Subdivision 20, is amended to read:

Subd. 20. **GROSS INCOME.** Except as otherwise provided in this chapter, the term "gross income," as applied to corporations includes every kind of compensation for labor or personal services of every kind from any private or public employment, office, position or services; income derived from the ownership or use of property; gains or profits derived from every kind of disposition of, or every kind of dealing in, property; income derived from the transaction of any trade or business; and income derived from any source; except that gross income shall not include "exempt function income" of a "homeowners association" as those terms are defined in Section 528 of the Internal Revenue Code of 1954, as amended through December 31, 1979.

The term "gross income" in its application to individuals, estates, and trusts shall mean the adjusted gross income as computed for federal income tax purposes as defined in the Internal Revenue Code of 1954, as amended through the date specified herein for the applicable taxable year, with the modifications specified in this section.

(i) The Internal Revenue Code of 1954, as amended through December 31, 1974, shall be in effect for the taxable years beginning after December 31, 1974.

(ii) The Internal Revenue Code of 1954, as amended through December 31, 1976, including the amendments made to section 280A (relating to licensed day care centers) in H.R. 3477 as it passed the Congress on May 16, 1977, shall be in effect for the taxable years beginning after December 31, 1976. The provisions of the Tax Reform Act of 1976, P.L. 94-455, which affect adjusted gross income shall become effective for purposes of this chapter at the same time they become effective for federal income tax purposes. Section 207 (relating to extension of period for nonrecognition of gain on sale or exchange of residence) and section 402 (relating to time for making contributions to pension plans of self employed people) of P.L. 94-12 shall be effective for taxable years beginning after December 31, 1974.

The provisions of section 4 of P.L. 95-458, and sections 131, 133, 134, 141, 152, 156, 157, and 405 of P.L. 95-600 (relating to pensions, individual retirement accounts, deferred compensation plans, and to the sale of a resi-

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dence) shall be effective at the same time that these provisions became effective for federal income tax purposes.

(iii) The Internal Revenue Code of 1954, as amended through December 31, 1979, shall be in effect for taxable years beginning after December 31, 1979.

For taxable years beginning after December 31, 1980 and before January 1, 1983, the provisions of section 404 (relating to partial exclusions of dividends and interest received by individuals) of the Crude Oil Windfall Profit Tax Act of 1980, P.L. 96-223, shall apply.

References to the Internal Revenue Code of 1954 in clauses (a), (b) and (c) following shall mean the code in effect for the purpose of defining gross income for the applicable taxable year.

(a) Modifications increasing federal adjusted gross income. There shall be added to federal adjusted gross income:

(1) Interest income on obligations of any state other than Minnesota or a political subdivision of any other state exempt from federal income taxes under the Internal Revenue Code of 1954;

(2) Interest income on obligations of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax, but not from state income taxes;

(3) Income taxes imposed by this state or any other taxing jurisdiction, to the extent deductible in determining federal adjusted gross income and not credited against federal income tax;

(4) Interest on indebtedness incurred or continued to purchase or carry securities the income from which is exempt from tax under this chapter, to the extent deductible in determining federal adjusted gross income;

(5) Amounts received as reimbursement for an expense of sickness or injury which was deducted in a prior taxable year to the extent that the deduction for the reimbursed expenditure resulted in a tax benefit;

(6) The amount of any federal income tax overpayment for any previous taxable year, received as refund or credited to another taxable year's income tax liability, proportionate to the percentage of federal income tax that was claimed as a deduction in determining Minnesota income tax for the previous taxable year.

The overpayment refund or credit, determined with respect to a husband and wife on a joint federal income tax return for a previous taxable year, shall be reported on joint or separate Minnesota income tax returns. In the case of separate Minnesota returns, the overpayment shall be reported by each spouse proportionately according to the relative amounts of federal income tax claimed as a deduction on his or her separate Minnesota income tax return for such previous taxable year;

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(7) In the case of a change of residence from Minnesota to another state or nation, the amount of moving expenses which exceed total reimbursements and which were therefore deducted in arriving at federal adjusted gross income;

(8) In the case of property disposed of on or after January 1, 1973, the amount of any increase in the taxpayer's federal tax liability under section 47 of the Internal Revenue Code of 1954 to the extent of the credit under section 38 of the Internal Revenue Code of 1954 that was previously allowed as a deduction either under section 290.01, subdivision 20 (b) (7) or under section 290.09, subdivision 24;

(9) Expenses and losses arising from a farm which are not allowable under section 290.09, subdivision 29;

(10) Expenses and depreciation attributable to substandard buildings disallowed by section 290.101;

(11) The amount by which the gain determined pursuant to section 41.59, subdivision 2 exceeds the amount of such gain included in federal adjusted gross income;

(12) To the extent deducted in computing the taxpayer's federal adjusted gross income for the taxable year, losses recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

(13) Interest income from qualified scholarship funding bonds as defined in section 103(e) of the Internal Revenue Code of 1954, if the nonprofit corporation is domiciled outside of Minnesota;

(14) Exempt-interest dividends, as defined in section 852(b)(5)(A) of the Internal Revenue Code of 1954, not included in federal adjusted gross income pursuant to section 852(b)(5)(B) of the Internal Revenue Code of 1954, except for that portion of exempt-interest dividends derived from interest income on obligations of the state of Minnesota, any of its political or governmental subdivisions, any of its municipalities, or any of its governmental agencies or instrumentalities;

(15) The amount of any excluded gain recognized by a trust on the sale or exchange of property as defined in section 641(c)(1) of the Internal Revenue Code of 1954;

(16) An amount equal to one-sixth of any gain from the sale or other disposition of property deducted under sections 1202(a) and 1202(c)(1) of the Internal Revenue Code of 1954;

(17) To the extent not included in the taxpayer's federal adjusted gross income, the amount of any gain, from the sale or other disposition of property having a lower adjusted basis for Minnesota income tax purposes than for

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federal income tax purposes. This modification shall not exceed the difference in basis. If the gain is considered a long term capital gain for federal income tax purposes, the modification shall be limited to 50 percent of the portion of the gain. This modification is limited to property that qualified for the energy credit contained in section 290.06, subdivision 14, and to property acquired in exchange for the release of the taxpayer's marital rights contained in section 290.14, clause (9);

(18) The amount of any loss from a source outside of Minnesota which is not allowed under section 290.17 including any capital loss or net operating loss carryforwards or carrybacks resulting from the loss; and

(19) The amount of a distribution from an individual housing account which is to be included in gross income as required under clause (c) of section 290.09, subdivision 30.

(b) Modifications reducing federal adjusted gross income. There shall be subtracted from federal adjusted gross income:

(1) Interest income on obligations of any authority, commission or instrumentality of the United States to the extent includible in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States;

(2) The portion of any gain, from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes, that does not exceed such difference in basis; but if such gain is considered a long-term capital gain for federal income tax purposes, the modification shall be limited to 50 per centum of the portion of the gain. This modification shall not be applicable if the difference in basis is due to disallowance of depreciation pursuant to section 290.101.

(3) Interest or dividend income on securities to the extent exempt from income tax under the laws of this state authorizing the issuance of the securities but includible in gross income for federal income tax purposes;

(4) Losses, not otherwise reducing federal adjusted gross income assignable to Minnesota, arising from events or transactions which are assignable to Minnesota under the provisions of sections 290.17 to 290.20, including any capital loss or net operating loss carryforwards or carrybacks resulting from the losses;

(5) If included in federal adjusted gross income, the amount of any credit received, whether received as a refund or credit to another taxable year's income tax liability, pursuant to chapter 290A, and the amount of any overpayment of income tax to Minnesota, or any other state, for any previous taxable year, whether the amount is received as a refund or credited to another taxable year's income tax liability;

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(6) To the extent included in federal adjusted gross income, or the amount reflected as the ordinary income portion of a lump sum distribution under section 402(e) of the Internal Revenue Code of 1954, notwithstanding any other law to the contrary, the amount received by any person (i) from the United States, its agencies or instrumentalities, the Federal Reserve Bank or from the state of Minnesota or any of its political or governmental subdivisions or from any other state or its political or governmental subdivisions, or a Minnesota volunteer firefighter's relief association, by way of payment as a pension, public employee retirement benefit, or any combination thereof, or (ii) as a retirement or survivor's benefit made from a plan qualifying under section 401, 403, 404, 405, 408, 409 or 409A of the Internal Revenue Code of 1954. The maximum amount of this subtraction shall be \$11,000 less the amount by which the individual's federal adjusted gross income, plus the ordinary income portion of a lump sum distribution as defined in section 402(e) of the Internal Revenue Code of 1954, exceeds \$17,000. In the case of a volunteer firefighter who receives an involuntary lump sum distribution of his pension or retirement benefits, the maximum amount of this subtraction shall be \$11,000; this subtraction shall not be reduced by the amount of the individual's federal adjusted gross income in excess of \$17,000;

(7) In the case of property acquired on or after January 1, 1973, the amount of any credit to the taxpayer's federal tax liability under section 38 of the Internal Revenue Code of 1954 but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(8) To the extent included in the taxpayer's federal adjusted gross income for the taxable year, gain recognized upon a transfer of property to the spouse or former spouse of the taxpayer in exchange for the release of the spouse's marital rights;

(9) The amount of any distribution from a qualified pension or profit sharing plan included in federal adjusted gross income in the year of receipt to the extent of any contribution not previously allowed as a deduction by reason of a change in federal law which was not adopted by Minnesota law for a taxable year beginning in 1974 or later;

(10) Interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of the property on a family farm security loan executed before January 1, ~~1982~~ 1986 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60;

(11) The first \$3,000 of compensation for personal services in the armed forces of the United States or the United Nations, and the next \$2,000 of compensation for personal services in the armed forces of the United States or the United Nations wholly performed outside the state of Minnesota. This modification does not apply to compensation defined in clause (b)(6);

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(12) The amount of any income earned for personal services rendered outside of Minnesota prior to the date when the taxpayer became a resident of Minnesota. This modification does not apply to compensation defined in clause (b)(6);

(13) In the case of wages or salaries paid or incurred on or after January 1, 1977, the amount of any credit for employment of certain new employees under sections 44B and 51 to 53 of the Internal Revenue Code of 1954 which is claimed as a credit against the taxpayer's federal tax liability, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(14) In the case of work incentive program expenses paid or incurred on or after January 1, 1979, the amount of any credit for expenses of work incentive programs under sections 40, 50A and 50B of the Internal Revenue Code of 1954 which is claimed as a credit against the taxpayer's federal tax liability, but only to the extent that the credit is connected with or allocable against the production or receipt of income included in the measure of the tax imposed by this chapter;

(15) Unemployment compensation to the extent includible in gross income for federal income tax purposes under section 85 of the Internal Revenue Code of 1954;

(16) To the extent included in federal adjusted gross income, severance pay that may be treated as a lump sum distribution under the provisions of section 290.032, subdivision 5;

(17) The amount of any income or gain which is not assignable to Minnesota under the provisions of section 290.17; and

(18) Minnesota exempt-interest dividends as provided by subdivision 27.

(c) Modifications affecting shareholders of electing small business corporations under section 1372 of the Internal Revenue Code of 1954, or section 290.972 of this chapter.

(1) Shareholders in a small business corporation, which has elected to be so taxed under the Internal Revenue Code of 1954, but has not made an election under section 290.972 of this chapter, shall deduct from federal adjusted gross income the amount of any imputed income from the corporation and shall add to federal adjusted gross income the amount of any loss claimed as a result of stock ownership. Also there shall be added to federal adjusted gross income the amount of any distributions in cash or property made by said corporation to its shareholders during the taxable year.

(2) In cases where the small business corporation has made an election under section 1372 of the Internal Revenue Code of 1954, but has not elected under section 290.972 of this chapter and the corporation is liquidated or the

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individual shareholder disposes of the stock and there is no capital loss reflected in federal adjusted gross income because of the fact that corporate losses have exhausted the shareholders basis for federal purposes, the shareholders shall be entitled, nevertheless, to a capital loss commensurate to their Minnesota basis for the stock.

(3) In cases where the election under section 1372 of the Internal Revenue Code of 1954 antedates the election under section 290.972 of this chapter and at the close of the taxable year immediately preceding the effective election under section 290.972 the corporation has a reserve of undistributed taxable income previously taxed to shareholders under the provisions of the Internal Revenue Code of 1954, in the event and to the extent that the reserve is distributed to shareholders the distribution shall be taxed as a dividend for purposes of this act.

Items of gross income includible within these definitions shall be deemed such regardless of the form in which received. Items of gross income shall be included in gross income of the taxable year in which received by a taxpayer unless properly to be accounted for as of a different taxable year under methods of accounting permitted by section 290.07, except that (1) amounts transferred from a reserve or other account, if in effect transfers to surplus, shall, to the extent that the amounts were accumulated through deductions from gross income or entered into the computation of taxable net income during any taxable year, be treated as gross income for the year in which the transfer occurs, but only to the extent that the amounts resulted in a reduction of the tax imposed by this act, and (2) amounts received as refunds on account of taxes deducted from gross income during any taxable year shall be treated as gross income for the year in which actually received, but only to the extent that such amounts resulted in a reduction of the tax imposed by this act.

(d) Modification in computing taxable income of the estate of a decedent. Amounts allowable under section 291.07, subdivision 1, clause (2) in computing Minnesota inheritance or estate tax liability shall not be allowed as a deduction in computing the taxable income of the estate unless there is filed within the time and in the manner and form prescribed by the commissioner a statement that the amounts have not been allowed as a deduction under section 291.07 and a waiver of the right to have the amounts allowed at any time as deductions under section 291.07. The provisions of this paragraph shall not apply with respect to deductions allowed under section 290.077 (relating to income in respect of decedents). In the event that the election made for federal tax purposes under section 642(g) of the Internal Revenue Code of 1954 differs from the election made under this paragraph appropriate modification of the estate's federal taxable income shall be made to implement the election made under this paragraph in accordance with regulations prescribed by the commissioner.

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Sec. 21. Minnesota Statutes 1980, Section 290.08, Subdivision 24, is amended to read:

Subd. 24. **FAMILY FARM SECURITY LOAN INTEREST.** Gross income shall not include interest, including payment adjustment to the extent that it is applied to interest, earned by the seller of property on a family farm security loan executed before January 1, ~~1982~~ 1986 that is guaranteed by the commissioner of agriculture as provided in sections 41.51 to 41.60.

Sec. 22. **REPEALER.**

Minnesota Statutes 1980, Sections 29.091, and 234.02, are repealed.

Approved May 27, 1981

CHAPTER 262 — S.F.No. 17

An act relating to witnesses; exempting parents and minors from testifying with respect to confidential communications made by the minor to parent; amending Minnesota Statutes 1980, Section 595.02.

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

Section 1. Minnesota Statutes 1980, Section 595.02, is amended to read:

595.02 COMPETENCY OF WITNESSES.

Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as follows:

(1) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for non-support, neglect, dependency, or termination of parental rights;

(2) An attorney cannot, without the consent of his client, be examined as to any communication made by the client to him or his advice given thereon in

Changes or additions are indicated by underline, deletions by ~~strikeout~~.