

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

MINNESOTA STATE REGULATION

Notice of filing by the Commissioner of Administration

We have received on this date, stamped and filed 2 copies of Rules and Regulations pertaining to the Department of Revenue
(Agency or Board)

Regulation No. Tax LL 1 thru 51 (new)

Subject: Local Government Limitations

Department of Administration
Publication, Central Services Division
Documents Section
140 Centennial Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-2874

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

JUL 15 1974 4:15 pm

BY Eda Staudenmaier EJ
AUTH. SIGNATURE

Stamped and filed with the Secretary of State 7-15-74

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JUL 17 1974

Dept. of Administration
Office of Commissioner

DMIN 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : **Gerald Pahl, Attorney**
Department of Revenue

DATE: **July 16, 1974**

FROM : Michael B. Miller
Special Assistant Attorney General

SUBJECT: Rules and Regulations - **Tax L.L. 1 - 51**

Enclosed directly following this memorandum are the rules and regulations you have submitted for approval. These rules and regulations have been approved by the Attorney General, filed with the Secretary of State and with the Department of Administration.

Upon receipt and before transmittal to your agency, it is IMPERATIVE that you recheck these rules and regulations as to:

1. Are the stamps of the Attorney General, Secretary of State and Department of Administration affixed to the last page of the rules and/or regulations;

2. Are all rules and/or regulations submitted covered by these stamps;

3. Are all pages of the rules and/or regulations included in the approved set?

Directly following the approved rules and/or regulations is a complete set of required documents and transcript which MUST be retained with the approved rules and/or regulations by you or your agency.

Also enclosed are additional documents and transcripts not retained by the Secretary of State; these should also be retained with the rules and/or regulations by you or your agency.

If you have any questions in this regard, please contact me.

MBM/sr

Enclosures

FINAL
~~PROPOSED~~

RULES AND REGULATIONS OF THE DEPARTMENT OF REVENUE

Local Government Levy Limitations
Minnesota Statutes 1971,
Sections 275.50 to 275.56
As Amended By
Laws of Minnesota 1973,
Chapter 650, Article IV

Minnesota Department of Revenue
Division of Research and Planning
November 16, 1973

P U R P O S E

The purpose of these proposed rules and regulations is to satisfy the requirements of Minnesota Statutes 1971, Sections 15.0412 and 275.55.

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Tax L.L. 1. Introduction.

Minnesota Statutes, Sections 275.50 to 275.56, hereinafter referred to as the Levy Limitations Law, imposes levy limitations on certain local units of government. Minnesota Statutes, Section 275.58 provides the procedure for elections to increase levies, without penalty, above the limits established by Minnesota Statutes, Sections 275.50 to 275.56. Minnesota Statutes, Section 275.59 exempts certain governmental subdivisions from the provisions of Minnesota Statutes, Sections 275.50 to 275.56.

Tax L.L. 2. Definitions.

Section 275.50, Subdivision 1 states, "As used in Sections 275.50 to 275.56, the terms defined herein have the meanings given to them." Terms not specifically defined in the Levy Limitations Law or in these regulations will be given the meaning ascribed to them in accordance with legal, governmental finance, accounting, or common usage.

Tax L.L. 3. Governmental Subdivision.

The term "governmental subdivision" is defined in Section 275.50, Subdivision 2 as "any county, city, village, borough, or town having the powers of a village pursuant to Minnesota Statutes 1971, Section 368.01 or

Section 368.61, or by special law." School districts, towns without village powers, and special taxing districts are specifically excluded from the term "governmental subdivision."

For the purpose of the Levy Limitations Law, those towns granted village powers by special law shall be deemed to be "governmental subdivisions" only if such special law adopts, by reference, all of the provisions of Minnesota Statutes, Section 368.01 or Minnesota Statutes, Section 368.61. All other towns granted village powers by special act shall not be deemed to be "governmental subdivisions."

The Department of Revenue has determined that the following are "special taxing districts" and are thereby excluded from the term "governmental subdivision":

(1) Metropolitan Mosquito Control District (Minnesota Statutes 1971, Chapter 399);

(2) Hospital districts (Minnesota Statutes 1971, Sections 355.80, 447.34, 447.35, 447.476; Laws of Minnesota 1957, Chapter 3; Laws of Minnesota 1961, Chapter 372; Laws of Minnesota 1963, Chapters 118 and 276);

(3) Housing and redevelopment authorities (Minnesota Statutes 1971, Sections 462.425 to 462.575; Laws of Minnesota 1961, Chapter 200);

(4) Metropolitan Airports Commission (Minnesota Statutes 1971, Sections 360.101 to 360.144);

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(3) Housing and redevelopment authorities (Minnesota Statutes 1971, Sections 462.425 to 462.575; Laws of Minnesota 1961, Chapter 200); except that if the Housing and Redevelopment Authority is a department within a municipal or county government, or has public officers or

employees of such government serving as the commissioner of such authority, the governing body in which such Housing and Redevelopment Authority principally operates may petition the Commissioner of Revenue for a determination that the Housing and Redevelopment Authority is an integral part of such municipal or county government. If the Commissioner, in response to such request, determines that the Housing and Redevelopment Authority is an integral part of such municipal or county government, the Housing and Redevelopment Authority shall not be considered to be a special taxing district and shall furthermore be subject to the levy limitations of such municipal or county government;

(4) Metropolitan Airports Commission (Minnesota Statutes 1971, Sections 360.101 to 360.144);

(5) Metropolitan Council (Minnesota Statutes 1971, Section 473.11 and Chapters 473B and 473C);

(6) Metropolitan Transit Commission (Minnesota Statutes 1971, Chapter 473A; Laws of Minnesota 1971, Chapter 830, Sections 6 and 12);

(7) Park districts (Minnesota Statutes 1971, Sections 398.01 to 398.21; Laws of Minnesota 1971, Chapter 954);

(8) Port authorities (Minnesota Statutes 1971, Sections 458.09 to 458.1991);

(9) Regional development commissions (Minnesota Statutes 1971, Sections 462.381 to 462.396; Laws of Minnesota 1971, Chapter 153);

(10) Regional sanitary sewer districts (Minnesota Statutes 1971, Sections 115.61 to 115.67);

(11) Dover, Eyota and St. Charles Area Sanitary District (Laws of Minnesota 1973, Chapter 160);

(12) St. Cloud Metropolitan Transit Commission (Laws of Minnesota 1969, Chapter 1134);

(13) Sanitary districts (Minnesota Statutes 1971, Sections 115.18 to 115.37 and Section 115.46; Laws of Minnesota 1971, Chapter 824);

(14) Alexandria Lake Area Sanitary District (Laws of Minnesota 1971, Chapter 869);

(15) Western Lake Superior Sanitary District (Laws of Minnesota 1971, Chapter 478);

(16) Watershed districts (Minnesota Statutes 1971, Chapter 112; Laws of Minnesota 1971, Chapter 662).

All of the aforementioned taxing districts are deemed to be "special taxing districts" since they are political entities and taxing entities separate from any county, city, village, borough or town with village powers.

The boards and commissions of a county, city, village, borough or town with village powers are not separate "governmental subdivisions" for the Levy Limitations Law, but instead are included in such county, city, village, borough or town with village powers governmental subdivision.

Example 1. County park boards and county hospital boards are not "governmental subdivisions."

Example 2. County library boards are not "governmental subdivisions" even though the ad valorem levy for them may not be county-wide (i.e., the mill rate may not be applied in certain assessment districts).

Tax L.L. 4. Governing Body of a Town.

The term "governing body" of a town is defined in Section 275.50, Subdivision 3, as the board of supervisors of the town.

Tax L.L. 5. Special Assessments.

The term "special assessments" is defined in Section 275.50, Subdivision 4 as those "assessments made against real property for purposes of financing, wholly or in part, only those types of improvements enumerated in Minnesota Statutes 1971, Sections 429.021, Subdivision 1 and 429.101, whether imposed pursuant to such sections or pursuant to home rule charter provisions." General tax levies to finance the aforementioned improvements which are spread upon real estate not specifically benefited by the improvements, and on the benefited real estate as part of the taxable valuation of the governmental subdivision, are not considered special assessments.

Example 1. An ad valorem levy by rate in a city, village, borough or town to pay the cost of a judicial ditch, county ditch, or joint county ditch assessment against such city, village, borough or town is not a "special assessment" because it is a mill levy and it is imposed on more than the specifically benefited property.

Example 2. General obligation improvement bonds are issued by a governmental subdivision to pay the cost of

street and curbing improvements. The bond agreement specifies that 80% of bond principal and interest is to be repaid by ad valorem levy and 20% is to be repaid by special assessments on benefited property. In this instance, only the 20% of the cost of bond principal and interest raised by special assessments against benefited property is included in the term "special assessments" as used in the Levy Limitations Law. However, the remaining 80% of bond principal and interest raised by ad valorem levy would qualify as a "special levy" outside the levy limitations imposed by the Levy Limitations Law. (See Tax L.L. 16 below for bonded indebtedness special levies.)

If a general or special law enacted after 1971 provides that a governmental subdivision must finance certain improvements by an ad valorem tax levy, when improvements of such type were financed by special assessments in levy year 1970, taxes payable in 1971, the governmental subdivision's levy limit base per capita is adjusted to reflect the change in financing. (See Tax L.L. 32 for adjustments to the base for public improvements required to be financed by ad valorem taxation and which previously were financed by special assessments.)

Tax L.L. 6. Special Levies.

The term "special levies" is defined in Section 275.50, Subdivision 5 as those portions of ad valorem taxes levied

by governmental subdivisions for the purposes enumerated in Section 275.50, Subdivision 5. (See Tax L.L. 7 through Tax L.L. 26 for the rules concerning the several "special levies.") These "special levies" are not subject to the levy limitations imposed by the Levy Limitations Law.

The term "special levies" does not include a levy claimed for any of the purposes enumerated in Minnesota Statutes, Section 275.50, Subdivision 5 when such levy is intended to be used for some other purpose. The term "special levies" also does not include a levy claimed for any of the purposes enumerated in Minnesota Statutes, Section 275.50, Subdivision 5, when such levy is in actuality an unused or unclaimed authorized "special levy" for a previous levy year, but which was levied in such previous levy year subject to the levy limitation of the governmental subdivision for such levy year as established pursuant to Minnesota Statutes, Sections 275.50 to 275.56.

For the purpose of determining the "special levies" pursuant to Section 275.50, Subdivision 5, and for the purpose of the rules Tax L.L. 7 through Tax L.L. 26 of these rules and regulations, the term "levy" or "levies" shall have the following meanings:

(1) For levy year 1970, taxes payable in 1971, the term "levy" or "levies" or "amount levied" shall mean the ad valorem tax voted by the governing body of the governmental subdivision and certified to the county auditor, before any reduction by the Exempt Property Reimbursement paid pursuant to Minnesota Statutes 1969, Section 273.69; and

(2) For levy years 1971 and thereafter, taxes payable in 1972 and thereafter, the term "levy" or "levies" or "amount levied" shall mean the ad valorem tax voted by the governing body of the governmental subdivision and certified to the county auditor.

Tax L.L. 7. Judgments.

Levies to "satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any action other than an action on an express contract, or to pay the costs of settlements out of court against the governmental subdivision in any action other than an action on an express contract when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision," are special levies to "the extent of the increase in levy for such judgments and out of court settlements over levy year 1970, taxes payable in 1971."

For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (a), the following items increase the special levy:

(1) A levy to pay the costs of court judgments and out of court settlements not paid either by liability insurance procured pursuant to Minnesota Statutes, Section 466.06 or by self insurance (from a contingency fund established for such purpose);

(2) A levy for the total premium costs of liability insurance procured pursuant to Minnesota Statutes, Section 466.06, excluding the premium costs of insurance for protection in excess of the limit of liability imposed by Minnesota Statutes, Section 466.04 and excluding any insurance procured to cover workmen's compensation claims;

(3) A levy for self insurance (contingency fund established for the purpose of paying court judgments and out of court settlements against the governmental subdivision), minus the amount of self insurance to be levied to cover workmen's compensation claims and minus the amount of unused self insurance levied in the immediately preceding levy year for all purposes except workmen's compensation.

For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (a), the following items decrease the special levy:

(1) The levy in 1970, taxes payable in 1971, to pay the costs of court judgments and out of court settlements;

(2) The levy in 1970, taxes payable in 1971, for the total premium costs of liability insurance procured pursuant to Minnesota Statutes, Section 466.06, excluding the premium costs of insurance for protection in excess of the limits of liability imposed by Minnesota Statutes, Section 466.04 and excluding any insurance procured to cover workmen's compensation claims;

(3) The levy in 1970, taxes payable in 1971, for self insurance (contingency fund established for the purpose of paying court judgments and out of court settlements against the governmental subdivision) minus the amount of self insurance levied to cover workmen's compensation claims.

For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (a), the aforementioned items which increase or decrease the special levy are limited to those levies which cover or pay for tort liability within the scope of Minnesota Statutes, Sections 466.02 and 466.03 (excluding workmen's compensation claims) and within the maximum liability amounts specified in Minnesota Statutes, Section 466.04.

Example 1. A levy to pay the cost of a tort judgment for false arrest would be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a).

Example 2. A levy to pay the cost of a settlement out of court against a governmental subdivision in a condemnation of real estate proceeding, substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, would be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a).

Levies to satisfy judgments or out of court settlements resulting from a governmental subdivision defaulting on

its obligations under express contract are not "special levies" pursuant to Section 275.50, Subdivision 5 (a). For example, a levy to pay the cost of a judgment resulting from the default of a governmental subdivision to pay for services rendered for maintenance of streets under a previously agreed contract would not be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a). However, levies to satisfy judgments or out of court settlements against the governmental subdivision in actions on implied contracts are included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a).

Tax L.L. 8. Lawful Orders.

A levy to "pay the costs of complying with any written lawful order issued by the state of Minnesota, or the United States, or any agency or subdivision thereof, which is authorized by law, statute, special act or ordinance and is enforceable in a court of competent jurisdiction, or any stipulation agreement or permit for treatment works or disposal system for pollution abatement in lieu of a lawful order signed by the governmental subdivision and the state of Minnesota, or the United States, or any agency or subdivision thereof which is enforceable in a court of competent jurisdiction," is a "special levy" to the extent that such lawful order, stipulation agreement or permit requires a new or altered activity which results in an increase in expenditures.

Example 1. A levy to pay the cost of complying with an order from the Minnesota Department of Health, ordering the governmental subdivision to install fluoridation equipment to its waterworks system, would be a "special levy" to the extent of the additional expense resulting from such installation. Also, a levy to pay the cost of complying with an order to increase an existing fluoridation level would be a special levy to the extent of the additional expenditure for increased chemical usage or plant modification (excluding machine adjustment).

Example 2. A levy to pay the cost of closing a dump, in compliance with a stipulation agreement signed by the Minnesota Pollution Control Agency and the governing body of the governmental subdivision would be a special levy. However, the cost of a grader or tractor which was purchased to use in closing a dump may not be levied as a special levy under Section 275.50, Subdivision 5 (b). However, if such equipment was financed by bonds, or by certificates of indebtedness pursuant to Minnesota Statutes, Sections 412.301 or 411.50, the principal and interest on such bonds or certificates could be claimed as a special levy. (See Tax L.L. 16 and Tax L.L. 17.)

Example 3. A city levy to pay the cost of complying with an order from the county government to take specific action with respect to applicable county ordinances established pursuant to the Solid Waste Management Act

(Minnesota Statutes, Chapter 400) would be a special levy to the extent of the incremental cost attributable to such lawful order.

Example 4. A levy to pay the cost of starting and operating a sanitary landfill system which is authorized by a permit issued by the Minnesota Pollution Control Agency is a special levy to the extent of the increased costs for such sanitary landfill over the amount levied for a sanitary landfill system or dump in levy year 1970, payable 1971.

Example 5. A village has a written stipulation agreement with the Minnesota Pollution Control agency to construct secondary and tertiary treatment facilities in order to comply with the Agency's rules and regulations. A levy to pay the cost of the village in complying with such stipulation agreement would be a special levy to the extent of the increased cost of the required activity over the levy for the same activity in 1970, taxes payable in 1971.

Example 6. The Federal Emergency Employment Act of 1971 requires that after the matching fund program has ended, the governmental subdivision must retain at least 50% of the employees hired under the Act. This requirement will be considered as a "stipulation agreement" for the purpose of the Levy Limitations Law. After the matching fund program under the Emergency Employment Act of 1971 is

ended, the governmental subdivision may levy the salaries, expenses and other costs of such employees retained as a special levy.

Example 7. A levy to pay the costs of helmets and boots for an organized fire department in order to qualify for state aid to firetowns, under the State Fire Marshall's rules and regulations, is not a "special levy." Such a levy is not the result of a lawful order, stipulation agreement or permit requiring certain new equipment but instead is a voluntary levy.

For the purpose of the Levy Limitations Law, the "costs" to a governmental subdivision of complying with a permit issued for a disposal system for pollution abatement shall be deemed to include the user fee imposed on the governmental subdivision pursuant to Laws of Minnesota 1973, Chapter 748. Such "costs" shall also be deemed to include the user fee imposed, pursuant to the same law, on the operator of a privately owned solid waste disposal facility, when the contract between the governmental subdivision and the operator of the disposal facility is renegotiated to reflect the increased costs due to such user fee. This "special levy" shall be limited to the extent that such user fee is not paid by service charges, special assessments or any other non-ad valorem tax revenue.

Finally, a governmental subdivision cannot default on its financial obligations, get a court order or any

other lawful order to levy an ad valorem property tax, and then levy such tax as a "special levy" under the Levy Limitations Law.

The Commissioner of Revenue shall, in consultation with other state departments and agencies, develop a suggested form which may serve as a model for all lawful orders issued by the State of Minnesota and its agencies or subdivisions.

Tax L.L. 9. Compliance With Laws of the Minnesota Legislature.

Levies to "pay the costs of complying with any law enacted by the 1971 legislature or a prior or subsequent year's legislature which specifically and directly requires a new or altered activity after levy year 1970" is a special levy to the "extent of the increased cost for such activity after levy year 1970, taxes payable in 1971."

In order to qualify as a special levy, the language of such law must be mandatory and not permissive and must specifically and directly require a new or altered activity which necessarily results in increased expenditures for the governmental subdivision. In addition, it must be a law of the Minnesota legislature which does not require a new or altered activity until after levy year 1970, taxes payable in 1971. Finally, it cannot be a law which sets the standards that a governmental subdivision must meet in order to qualify for a state aid. Such a law does not

specifically and directly require a new or altered activity, and compliance by the governmental subdivision with such standards is not mandated by the State.

Only the additional costs of the new or altered activity at the required level after levy year 1970, taxes payable in 1971 may be levied as a "special levy."

Example 1. A county government levy to pay the cost of its share of a detoxification center required by Laws of Minnesota 1971, Chapter 892 would be a "special levy."

Example 2. A levy to pay the cost of preparation and mailing of the notices to be sent out by the county assessor's office to the owners of taxable real estate, showing the increase in assessed value, as required by Laws of Minnesota 1971, Extra Session, Chapter 31, Article 23, Section 2 is a "special levy."

Example 3. A levy to pay the salaries and expenses of a building official, an activity specifically required by Laws of Minnesota 1971, Chapter 561 is a "special levy" to the extent that the costs as a result of this law exceed the 1970 payable in 1971 levy for such activity.

Example 4. Laws of Minnesota 1971, Chapter 403 provides that certain counties shall regulate solid waste collection, storage transportation and disposal facilities. The effect of this provision, if the regulation is a new activity, might be to force a county government into

garbage collection. However, Chapter 403 does not specifically or directly require a county government to collect, transport and dispose of garbage. Therefore, a county government cannot claim a special levy for garbage collection, transportation and disposal under Section 275.50, Subdivision 5 (c). However, if such county government obtained a permit from the Minnesota Pollution Control Agency to operate a sanitary landfill site or facility, the cost of operating such sanitary landfill site or facility could be levied as a special levy under Section 275.50, Subdivision 5 (b). (See Tax L.L. 8 for lawful order special levies.) Furthermore, the increased cost for the regulation function over the 1971 budget level may be levied as a special levy to the extent that the increased cost of regulation is attributable to Laws of Minnesota 1971, Chapter 403.

Example 5. Laws of Minnesota 1973, Chapter 23, requires that unemployment compensation must be paid to employees who are laid off for reason of a strike or labor dispute, provided that the employee is not participating in such strike or dispute. A levy to pay the costs of unemployment compensation for these employees is a "special levy."

Example 6. A levy to pay the litigation costs and fees for indigents that are charged to the governmental subdivision by any court of the State of Minnesota, pursuant to Laws of Minnesota 1973, Chapter 205, is a "special levy."

Example 7. A levy to pay the cost of adopting a local flood management ordinance as required under Laws of Minnesota 1973, Chapter 351 is a "special levy."

Example 8. A levy by a governmental subdivision to pay the cost of adopting a local ordinance affecting the use and development of its shoreland, as required under Laws of Minnesota 1973, Chapter 379 is a "special levy."

Example 9. Laws of Minnesota 1973, Chapter 559 requires that before an amendment to a zoning ordinance may be adopted, involving changes in district boundaries affecting an area of five acres or less, mailed notice must be sent to the owners of property located within 350 feet (previously 200) from the property to which the amendment relates. A levy to pay the increased cost of mailed notices resulting from this law is a "special levy."

Example 10. Pursuant to Laws of Minnesota 1973, Chapter 604, a governmental subdivision acting as an acquiring authority shall provide all relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and any regulations adopted pursuant thereto by the United States Department of Housing and Urban Development or the United States Department of Transportation, even though Federal aid is not available. A levy by a governmental subdivision to pay the costs of such required relocation assistance, services, payments and benefits when Federal aid is not available is a "special levy."

Example 11. A levy to pay the costs of complying with the Minnesota Fair Labor Standards Act (Laws of Minnesota 1973, Chapter 721), is a "special levy" to the extent that the provisions of the law regarding minimum wages and overtime cause the level of payroll costs to the governmental subdivision to exceed the levy year 1972, taxes payable in 1973 level.

Example 12. A levy by a governmental subdivision to pay the cost of complying with occupational safety and health standards or regulations promulgated pursuant to Laws of Minnesota 1973, Chapter 732 is a "special levy."

Example 13. Laws of Minnesota 1973, Chapter 752 provides that the Governor of the State of Minnesota designates an "area of critical concern" by written order. After receiving notification of such designation, a local unit of government with an "area of critical concern" within its jurisdiction must adopt plans and regulations to protect the area. A levy to pay the cost of adopting such plans and regulations concerning an "area of critical concern" would be a "special levy."

Tax L.L. 10. Expanded County Court Systems.

A levy by a county government to pay the costs of an expanded county court system is a special levy to the extent of the increase in costs to the county government, after subtracting the amount of the county's anticipated collections of fees, fines and forfeits from the county's share of total

court costs, over the amount levied in support of a county court or a probate court in levy year 1970, taxes payable in 1971. In general, any additional cost to the county government over the payable 1971 budget level, remaining after the subtraction of the county's anticipated collections of fees, fines and forfeits in the taxes payable year, is a "special levy."

Example 1. A probate judge was salaried the first half of 1971 at the yearly rate of $16,500. After becoming county court judge on July 1, 1971, his salary was increased to $24,000 in accordance with Laws of Minnesota 1971, Chapter 951, Section 5. Thus his salary for calendar year 1971 was $16,500/2 + $24,000/2 = $20,250. For levy year 1971 taxes payable in 1972 the county government could include both the increase in annual salary for 1971 ($20,250 - $16,500 = $3,750) and the increase in annual salary for 1972 ($24,000 - $16,500 = $7,500) in determining the "special levy" pursuant to Section 275.50, Subdivision 5 (d). In subsequent years, only the increase in salary over the budget year 1971 level can be included in determining this "special levy."

Example 2. A county court becomes operative on July 1, 1972 and several new employees (bailiff, deputy and clerk for Clerk of Court's Office) are hired effective July 1, 1972. A 1971 levy payable in 1972 to pay the cost of the salaries for the last half of calendar year 1972

and their associated supplies and expenses for that period would be included in determining the "special levy" for the increased costs of an expanded county court system. In subsequent years the total levy to pay the salaries, supplies, and expenses of these new employees would be included in determining this "special levy."

Example 3. A county court judge reports that more employees are needed for the court and that new office space must be provided for them as a result of the expanded county court system. A levy to pay the cost of remodeling or new construction for office space for the new court employees would be included in determining the "special levy" for the increased costs of an expanded county court system.

Example 4. The estimated total cost of a county court for budget year 1974 is $300,000. County A's share of the cost is $180,000. The anticipated amount of fines, fees and forfeits which will be paid to County A in budget year 1974 is $45,000. Since County A levied $100,000 for its probate court in levy year 1970, taxes payable in 1971, it would be entitled to a $35,000 "special levy" ($180,000 - $45,000 - $100,000) in levy year 1973, taxes payable in 1974, to pay the cost of an expanded county court system.

This special levy applies only to county governments. Cities, villages and boroughs may <u>not</u> claim as a "special levy" under Section 275.50, Subdivision 5 (d), a levy to pay the increased expenses for lawyers' services or to compensate for the loss of

municipal court fines or the municipality's share of the fines collected by a justice of the peace, due to the elimination of a municipal court or a justice of the peace by the County Court Law (Laws of Minnesota 1971, Chapter 951). However, the loss of municipal court fines or the municipality's share of fines collected by a justice of the peace may be included in the calculation of the special levy pursuant to Section 275.50, Subdivision 5 (n). (See Tax L.L. 20 for decreased non-tax revenues.)

Tax L.L. 11. Employer's Contributions to Public Pension Plans.

A levy to "pay amounts required by any public pension plan to the extent that operation of the Laws of the State of Minnesota or the United States governing such fund directly causes the level of governmental financial support to exceed the level of such support prior to July 1, 1971," is a special levy "provided that such increases are not the result of amendment by any means to the benefit plan after July 1, 1971, which required the approval of the governing body of the governmental subdivision."

To qualify as a special levy, the language of the law must be mandatory and not permissive and must specifically and directly require an increase in the level of governmental financial support over the level of such support prior to July 1, 1971.

In general any increase in levy for the minimum required employer's contribution to a public pension plan

over the levy year 1970, taxes payable 1971 level is a special levy, if not the result of amendment by any means to the benefit plan after July 1, 1971, which required the approval of the governing body of the governmental subdivision. The laws relating to this special levy include:

(1) The Social Security Act, including Public Laws 92-5, 92-336, 92-603, 93-66 and any subsequent amendment to the act;

(2) Minnesota Statutes, Section 353.27, relating to the payment of employer contributions to the Public Employees Retirement Association.

(3) Minnesota Statutes, Section 353.65, relating to employer contributions to the "Public Employees Police and Fire Fund" of the Public Employees Retirement Association.

(4) Minnesota Statutes, Section 69.77 (the "Police and Firemen's Relief Association Guidelines Act of 1969").

(5) Any special or local acts of the Minnesota legislature which established local pension plans, and the amendments to such acts.

For purposes of the special levy pursuant to Section 275.50, Subdivision 5 (e), the increase in levy for employer contributions to a public pension plan is calculated as the total increase in the levy for the minimum required employer's contribution (pursuant to the

forementioned laws) in the current levy year over the levy year 1970, taxes payable in 1971 level, without regard to whether or not a portion of such increased cost is attributable to salary increases or expanded manpower levels.

No portion of the employer cost for employees' group insurance may be levied as a special levy under Section 275.50, Subdivision 5 (e).

Tax L.L. 12. Employer's Contributions to Volunteer Firemen's Relief Associations.

A levy to pay the increase in amounts required in support of a volunteer firemen's relief association is a special levy if the increase in required amounts results from the operation of Minnesota Statutes, Section 69.772 or 69.773.

In effect, the levy for the minimum amount of employer contributions required in support of a volunteer firemen's relief association, pursuant to Minnesota Statutes, Sections 69.772 or 69.773 would be a special levy to the extent of the increase in levy over the amount levied in support of a volunteer firemen's relief association in levy year 1970, taxes payable in 1971. This special levy is calculated without regard to whether or not a portion of the required increase in employer's contributions is correlated with wage or salary increases or with an expansion of manpower levels.

Tax L.L. 13. Local Share of Matching Fund Programs.

A levy to pay the costs to a governmental subdivision for its share of any program otherwise authorized by law, for which matching funds have been appropriated by the State of Minnesota or the United States, is a special levy, but only to the extent that the minimum required local share for the program exceeds the levy for the local share of the same program in levy year 1970, taxes payable in 1971.

Levies to pay a local share may be a "special levy" both in the case of a matching fund program with Federal or state grants fixed by ratio and also in the case of a matching fund program with flat amounts of Federal or State grants. However, the term "special levy," for the purpose of Section 275.50, Subdivision 5 (g), does not in any way pertain to levies associated with State highway trunk fund aids and similar type aids (except grants for the administrative costs of categorical welfare aids and general assistance programs and the costs of administration of social services and the purchase of social services) which do not specifically require a stipulated local share amount.

The amount of the allowable special levy shall be calculated for each matching fund program individually. Likewise, in the case of segmented projects, the amount of the allowable special levy shall be calculated for each matching fund project individually. Separate determination

shall be made for each program or project whether old or new, different from all the rest or similar or identical to other programs or projects.

With the exception of the administration of categorical welfare aids, and general assistance programs and the administration of social services and purchase of social services, only that portion of a levy for a matching fund program local share shown in the final agreement as approved by the state of Minnesota or the United States, whichever has authority for final approval, can be used in determining this special levy. If a governmental subdivision levies in excess of its minimum required local share for the taxes payable year, the excess levy over the minimum required local share amount cannot be considered for a special levy. In determining this special levy, however, the governmental subdivision may include a levy to reimburse itself for tax revenues borrowed from other funds and expended on the minimum required local share of a matching fund program or project in the current or last preceding calendar year. This applies only if the governmental subdivision made expenditures on the minimum required local share of a matching fund program or project in anticipation of State or Federal grants and did not levy taxes payable in the current or last preceding calendar year for such program or project. A governmental subdivision may levy as a special levy the <u>increase</u> in levy for the minimum required local share of a matching fund

shall be made for each program or project whether old or new, different from all the rest or similar or identical to other programs or projects.

With the exception of the administration of categorical welfare aids, and general assistance programs and the administration of social services and purchase of social services, only that portion of a levy for a matching fund program local share shown in the final agreement as approved by the state of Minnesota or the United States, whichever has authority for final approval, can be used in determining this special levy. If a governmental subdivision levies in excess of its minimum required local share for the taxes payable year, the excess levy over the minimum required local share amount cannot be considered for a special levy. In determining this special levy, however, the governmental subdivision may include a levy to reimburse itself for revenues borrowed from other funds of such governmental subdivision or to pay the principal and interest on loans from private lending institutions or from agencies of the United States or the State of Minnesota, when such revenues or loans were expended on the minimum required local share of a matching fund program or project in the current or last preceding calendar year. This applies only if the governmental subdivision made expenditures on the minimum required local share of a matching fund program or project in anticipation of State or Federal grants and did not levy taxes payable in the current or last

preceding calendar year for such program or project. A governmental subdivision may levy as a special levy the increase in levy for the minimum required local share of a matching fund

program or project over the levy in 1970, taxes payable in 1971 for the same program or project. A governmental subdivision may levy as a special levy the entire minimum required share of a matching fund program or project if no levy was extended in 1970 for taxes payable in 1971 for such program or project.

A governmental subdivision may levy for a matching fund program or project in anticipation of State or Federal grants and consider the minimum required local share of such levy as a "special levy" to the extent that it exceeds the levy, if any, for the program or project in 1970, taxes payable in 1971. If the program or project is approved by the State of Minnesota or the United States, whichever has final authority, but the local share amounts for each year shown in the agreement are less than the amounts actually levied, the "special levies" will be adjusted down to the amounts shown in the approved matching fund program agreement. However, if the program is not approved, and no grants are forthcoming, the unspent balance of money so raised may be held in anticipation of a future grant. Otherwise such levies can no longer be considered as "special levies," and to the extent that the unspent balance exceeds the overall levy limitation for the governmental subdivision, it shall be subject to the Commissioner's administrative action pursuant to Section 275.55. (See Tax L.L. 45 for the Commissioner's administrative action.)

Example 1. A governmental subdivision hires several employees in 1971 under the Federal Emergency Employment Act of 1971. The federal government has appropriated funds to pay 8/9ths of the cost of the authorized program. This is the first year for the program and there were no levies made for it in 1970, taxes payable in 1971. The governmental subdivision now wants to levy taxes in 1971, payable in 1972 to cover both the unreimbursed, unfunded, local share expenditures of the current year and the local share for next year. Such levy for the minimum required local share for the two years would be a "special levy" for the Levy Limitations Law.

Example 2. A governmental subdivision will be installing police radio communications equipment under a matching fund program with the Governor's Crime Commission. The governmental subdivision wishes to levy in 1971 to pay its minimum required local share of the cost of such equipment in 1972. Such levy would be a "special levy."

Example 3. A county government spent $100,000 in 1970 in anticipation of grants from the United States for a matching fund program of land acquisition and improvements for the purpose of a county park. The matching fund program was given final approval by the United States in September of 1970. The authorized program provided for expenditures of $80,000 in each of the years 1970, 1971 and 1972. The minimum required local shares were to be $20,000

(25%) in 1970, $40,000 (50%) in 1971 and $60,000 (75%) in 1972. The county government levied $80,000 in 1970, taxes payable in 1971 to pay the cost of the stipulated local share of $40,000 for budget year 1971 and to reimburse its general fund for the cost of the program in 1970 which was not reimbursed by the Federal government ($100,000 - $60,000 = $40,000). Since the $80,000 levy in 1970 is in the county government's levy limit base per capita for levy year 1971 (see Tax L.L. 28 and Tax L.L. 29 for the determination of levy limits), and since this amount is greater than the minimum required local share of $60,000 for levy year 1971 payable in 1972, no amount can be taken as a special levy for this matching fund program in levy year 1971 payable 1972.

Example 4. A governmental subdivision spent money in 1972 in anticipation of funds from the United States for a matching fund program. A levy was made in 1972 for taxes payable in 1973 to reimburse the unfunded local share of expenditures for the program and to fund the expected local share for 1973, and was levied as a "special levy." In 1973 the Federal government denied approval of the matching fund program. In such a situation, the unspent balance of money raised by ad valorem levy for the program could be held in anticipation of some future grant and still be considered a "special levy." Otherwise, it would no longer be a "special levy" for the Levy

Limitations Law, and to the extent that the unspent balance exceeded the overall levy limitation for the governmental subdivision in levy year 1972, it would be subject to the Commissioner's administrative action pursuant to Section 275.55.

Included in the special levy for matching fund programs is the entire levy for the local costs of administration of categorical aids and general assistance programs and the local costs of administration of social services and purchase of social services. Only county governments may claim a special levy for such welfare costs. The term "special levy" does not apply to any levy for the administrative costs of township welfare systems or the City of Minneapolis' welfare department. (The township system of poor relief and the City of Minneapolis' levy for poor relief were abolished by Laws of Minnesota 1973, Chapter 650, Article XXI.)

Certain laws, such as the Federal Emergency Employment Act of 1971 or the rules and regulations of an agency of the State of Minnesota or the United States might require that a governmental subdivision continue an acitivity or function established under a matching fund agreement after the State or Federal share has ended. The additional cost of maintaining the required level of such activity or function over the levy year 1970 payable 1971 local share amount could qualify as a special levy under Section 275.50, Subdivision 5 (b). (See Tax L.L. 8 for special levies resulting from lawful orders.)

Limitations Law, and to the extent that the unspent balance exceeded the overall levy limitation for the governmental subdivision in levy year 1972, it would be subject to the Commissioner's administrative action pursuant to Section 275.55.

Included in the special levy for matching fund programs is the entire levy for the local costs of administration of categorical aids and general assistance programs and the local costs of administration of social services and purchase of social services. Only county governments may claim a special levy for such welfare costs. The term "special levy" does not apply to any levy for the administrative costs of township welfare systems or the City of Minneapolis' welfare department. (The township system of poor relief and the City of Minneapolis' levy for poor relief were abolished by Laws of Minnesota 1973, Chapter 650, Article XXI.)

Certain laws, such as the Federal Emergency Employment Act of 1971 or the rules and regulations of an agency of the State of Minnesota or the United States might require that a governmental subdivision continue an activity or function established under a matching fund agreement after the State or Federal share has ended. The additional cost of maintaining the required level of such activity or function over the levy year 1970 payable 1971 local share amount could qualify as a special levy under Section 275.50, Subdivision 5 (b). (See Tax L.L. 8 for special levies resulting from lawful orders.)

Tax L.L. 14. Natural Disasters.

A levy to pay the "expenses reasonably and necessarily incurred in preventing, preparing for or repairing the effects of natural disaster" is a special levy.

For the purpose of the Levy Limitations Law, "natural disaster" means the occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from natural causes, including and limited to fire, flood, earthquake, wind storm, tornado, wave action, oil spill, or other water contamination requiring action to avert danger or damage, volcanic activity, drought or air contamination.

A levy to pay the costs related to any of the aforementioned "natural disasters" is a special levy whether levied to provide funds for preventative action, levied in anticipation of an imminent natural disaster or levied after a natural disaster has occurred to reimburse other funds of the governmental subdivision or to pay principal and interest on loans from State or Federal agencies.

Example 1. A city situated next to a major river wants to build permanent dikes and repair existing ones to prevent flooding of the city. The cost of building and repairing these permanent dikes could be levied as a special levy.

Example 2. A village wants to levy a tax to reimburse funds that were used to pay the cost of

cleaning up after a tornado hit the village. This levy would qualify as a special levy.

The expenses of dutch elm disease eradication and tree removal and oak wilt eradication and tree removal do not qualify as natural disaster "special levies." Also, the additional cost of snow removal due to a greater than expected amount of snowfall does not qualify as a natural disaster "special levy." These natural phenomena are not included in the exclusive list of natural phenomena which may qualify as "natural disasters" for the Levy Limitations Law. Finally, the expenditures by a local civil defense unit which do not relate specifically to one or more types of qualifying "natural disasters," and any other activities which are of an on-going routine nature and are not immediately and directly related to a qualifying "natural disaster" do not qualify as special levies under Section 275.50, Subdivision 5 (h). A civil defense levy matched by Federal or State grants, however, might qualify as a special levy under Section 275.50, Subdivision 5 (g). (See Tax L.L. 13 for matching fund special levies.)

The Civil Defense Division of the State Department of Public Safety shall formulate standards by which the occurrence of a natural phenomena would be deemed a "natural disaster." These standards shall be confined to the exclusive list of natural phenomena which may qualify

as a "natural disaster." Such standards shall relate to levels of damage, injury or loss of life or property.

Each claim for a natural disaster "special levy" shall be investigated by the Commissioner of Revenue and compared to the standards devised by the Civil Defense Division to determine if the natural phenomenon qualifies as a "natural disaster" by reason of the level of damage, injury or loss of life or property that has occurred or would occur if preventative action was not taken. The Commissioner of Revenue shall consult with the Civil Defense Division on all such claims before approving or denying any part or all of a special levy.

Tax L.L. 15. Cash Public Assistance Programs.

A levy to pay the costs not reimbursed by the State or Federal government of payments made to or on behalf of recipients of aid under Minnesota Statutes, Sections 245.21 to 245.43 (Aid to the Disabled), Sections 256.11 to 256.43 (Old Age Assistance), Sections 256.49 to 256.71 (Aid to the Blind), Sections 256.72 to 256.87 (Aid to Families with Dependent Children), Chapter 256B (Medical Assistance), and Chapters 261, 262 and 263 (Poor Relief) is a special levy.

The entire levy by a county government for the actual aid payments to the recipients under the above programs is a special levy and thus outside the county government's

levy limitation established pursuant to Sections 275.50 to 275.56. Levies to pay the costs of general assistance payments made to recipients pursuant to Laws of Minnesota 1973, Chapter 650, Article XXI are also outside the county government's levy limitation established pursuant to Sections 275.50 to 275.56.

This special levy does not apply to the county's administrative costs of categorical welfare aids and general assistance programs or the county's administrative costs of providing social services or the purchase of social services. These costs may be levied as a "special levy" under Tax L.L. 13. (See Tax L.L. 13 for matching fund special levies.)

A levy by a city, village, borough or town with village powers in 1971 payable 1972, or 1972 payable 1973, to pay the costs of payments to recipients under Minnesota Statutes 1971, Chapters 261, 262, or 263, is a special levy. Beginning with levy year 1973 and levy years thereafter, no levy by a city, village, borough or town for the purposes cited in Minnesota Statutes 1971, Chapters 261, 262 or 263, except a levy for a fund deficit remaining from calendar year 1973 or preceding calendar years' expenditures for poor relief, can be recognized as a special levy, due to the elimination of the township system of poor relief and the City of Minneapolis' levy for poor relief by Laws of Minnesota 1973, Chapter 650, Article XXI.

Tax L.L. 16. Principal and Interest on Bonded Indebtedness.

The entire levy to pay the cost of principal and interest on bonded indebtedness is a "special levy" for the Levy Limitations Law. The amount of this special levy is the same amount that is excluded from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Effective for taxes levied in 1973 and levy years thereafter, a levy to reimburse for the amount of liquor store revenues used to pay the principal and interest due on municipal liquor store bonds in the calendar year immediately preceding the current levy year is a special levy. For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, such levy shall be considered as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded along with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Example. A city owns and operates a municipal liquor store. In calendar year 1972, liquor store revenues are used to pay the principal and interest due in 1972 on the city's municipal liquor store bonds. In levy year

1973, taxes payable in 1974, the city may levy a tax to reimburse itself for the amount of liquor store revenues used to make such payments in 1972 and consider such levy as a bonded indebtedness "special levy."

Tax L.L. 17. Principal and Interest on Certificates of Indebtedness.

A levy to pay the costs of principal and interest on certificates of indebtedness is a special levy, with the following exceptions. Levies to pay the costs of principal and interest on tax anticipation certificates of indebtedness, aid anticipation certificates of indebtedness, certificates issued to fund an insufficiency in receipts from taxes or other sources, or to fund extraordinary expenditures resulting from a public emergency, are not "special levies" under Section 275.50, Subdivision 5 (k). However, a qualified special levy to compensate for certain decreased non-tax revenues (see Tax L.L. 20) or a qualified special levy to pay the costs of preventing, preparing for or repairing the effects of a public emergency which qualifies as a the principal and interest on certificates of indebtedness previously issued to fund such insufficiency in receipts or to fund the extraordinary expenditures resulting from such public emergency.

1973, taxes payable in 1974, the city may levy a tax to reimburse itself for the amount of liquor store revenues used to make such payments in 1972 and consider such levy as a bonded indebtedness "special levy."

Tax L.L. 17. Principal and Interest on Certificates of Indebtedness.

A levy to pay the costs of principal and interest on certificates of indebtedness is a special levy, with the following exceptions. Levies to pay the costs of principal and interest on tax anticipation certificates of indebtedness, aid anticipation certificates of indebtedness, certificates issued to fund an insufficiency in receipts from taxes or other sources, or to fund extraordinary expenditures resulting from a public emergency, are not "special levies" under Section 275.50, Subdivision 5 (k). However, a qualified special levy to compensate for certain decreased non-tax revenues (see Tax L.L. 20) or a qualified special levy to pay the costs of preventing, preparing for or repairing the effects of a public emergency which qualifies as a "natural disaster" (see Tax L.L. 14) could be used to pay the principal and interest on certificates of indebtedness previously issued to fund such insufficiency in receipts or to fund the extraordinary expenditures resulting from such public emergency.

Example 1. A village financed the purchase of fire equipment by issuing certificates of indebtedness pursuant to Minnesota Statutes, Section 412.301. An ad valorem tax levy to pay the principal and interest on these certificates would be a special levy.

Example 2. A fourth class city operating under Minnesota Statutes, Chapter 411, financed the purchase of street maintenance equipment by issuing certificates of indebtedness pursuant to Minnesota Statutes, Section 411.50, Subdivision 2. An ad valorem tax levy to pay the principal and interest on these certificates would be a special levy.

For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, a special levy pursuant to Section 275.50, Subdivision 5 (k) shall be considered the same as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded in addition with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Tax L.L. 18. Principal and Interest on Armory Construction Bonds.

A levy to fund the payments made to the Minnesota State Armory Building Commission pursuant to Minnesota Statutes,

Section 193.145, Subdivision 2, is a special levy to the extent that such payments are for the purpose of retiring the principal and interest on armory construction bonds.

For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, a special levy pursuant to Section 275.50, Subdivision 5 (1) shall be considered the same as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded in addition with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Tax L.L. 19. Bonded Indebtedness Portion of Payments Made to Another Political Subdivision.

A levy to fund the payments made to another political subdivision of the State of Minnesota is a special levy to the extent that such payments are used to retire the principal and interest on bonds or certificates of indebtedness of the type which qualify for a special levy pursuant to Section 275.50, Subdivision 5 (k).

Example. A county government contracts with the board of directors of a city library, in accordance with Minnesota Statutes, Section 134.12, Subdivision 3, for the use of the library by the residents of the county outside

the city. A county levy on the taxable value outside the city, for the purpose of payment to the city library board for the library service provided, and which is used by the library board to pay the principal and interest on library construction bonds, would qualify as a "special levy" under Section 275.50, Subdivision 5 (m).

For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, a special levy pursuant to Section 275.50, Subdivision 5 (m) shall be considered the same as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded in addition with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Tax L.L. 20. Compensation for Certain Decreased Non-Tax Revenues.

Section 275.50, Subdivision 5 (n) provides that a qualifying governmental subdivision may levy as a "special levy" the amount necessary to compensate for certain decreased non-tax revenues. These revenues are revenues from all public service enterprises, municipal liquor stores, licenses, permits, fees, fines and forfeits and no other.

"Public service enterprises," for the purpose of the Levy Limitations Law, are defined as governmental activities which

are primarily (in excess of 50%) self-supporting on a user charge, service fee or admittance fee basis. In addition, the accounting for such activities must make it possible to show whether they are operated at a profit or loss in similarity to comparable private enterprises.

"Public service enterprises" includes, but is not limited to, water utilities, electric utilities, electric distribution systems, heat utilities, gas utilities, municipally owned cable television systems, public hospitals and public nursing homes.

"Revenues" from a public service enterprise or a municipal liquor store means the net income or loss of such public service enterprise or municipal liquor store, determined by subtracting total expenses (excluding any expenses taken as a "special levy" pursuant to Section 275.50, Subdivision 5, and excluding any bond principal not taken as a "special levy" pursuant to Section 275.50, Subdivision 5 (j)) from total revenues, and before any contribution to or from the governmental subdivision. "Fees, fines, and forfeits" for a municipal court means the net amount remaining after subtracting total municipal court expenses from total collections of municipal court fees, fines, and forfeits. "Fines" for a justice of the peace means the net amount remaining after subtracting these amounts from the total collections of fines by the justice of the peace: (1) that portion of the fines which

he retains, and (2) his expenses in performance of his duties which were reimbursed by the governmental subdivision.

The forementioned "revenues" of the governmental subdivision for the calendar year preceding the current levy year are aggregated and compared to the aggregate of these "revenues" for the governmental subdivision in calendar year 1971 to determine the decrease, if any, in these revenues from the calendar year 1971 level. The "revenues for all public service enterprises must be included in this calculation. If there was a decrease, such amount is then divided by the population of the governmental subdivision in the preceding levy year, determined pursuant to Section 275.53. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) If the resulting per capita amount is equal to or greater than two percent of the governmental subdivision's levy limit base per capita for the preceding levy year, the governmental subdivision shall qualify for the special levy pursuant to Section 275.50, Subdivision 5 (n). If the resulting per capita amount is less than two percent of the governmental subdivision's levy limit base per capita for the preceding levy year, the governmental subdivision shall not qualify for the special levy pursuant to Section 275.50, Subdivision 5 (n).

A qualifying governmental subdivision shall be allowed a special levy to compensate for the entire amount of the

decrease in aggregate revenues as computed pursuant to Section 275.50, Subdivision 5 (n).

Example. A city of 8,000 persons in 1972 (determined pursuant to Section 275.53) owns and operates a water utility and a municipal liquor store. The city also had a municipal court for the entire calendar year 1971. In calendar year 1971, the water utility had total revenues of $1,000,000 and total expenses of $850,000 for a "net income" of $150,000. In the same year the municipal liquor store had total revenues of $800,000 and total expenses of $700,000 for a "net income" of $100,000. Finally, the municipal court, in calendar year 1971, had total collections of municipal court fines of $100,000 and total municipal court expenses of $80,000 for net "fines" of $20,000. The aggregate of revenues from these three sources in calendar year 1971 was $270,000. In calendar year 1972, the water utility had total revenues of $1,100,000, and total expenses of $925,000 for a "net income" of $175,000. In the same year, the municipal liquor store had total revenues of $825,000 and total expenses of $760,000 for a "net income" of $65,000. Finally, the municipal court, which was abolished as of July 1, 1972 (due to the provisions of the County Court Law, Laws of Minnesota 1971, Chapter 951), had total collections of municipal court fines in calendar year 1972 of $50,000 and total municipal court expenses of $40,000 for net "fines" of $10,000. The aggregate of revenues

from these three sources in calendar year 1972 was $250,000. The difference in aggregate "revenues" for the calendar years 1971 and 1972 is $20,000, a decrease for calendar year 1972. This decrease divided by the city's 1972 population of 8,000 is a per capita dollar amount of $2.50. This per capita amount is 5% of the city's 1972 payable 1973 levy limit base per capita of $50.00. Since the per capita decrease of $2.50 is in excess of 2% of the city's 1972 payable 1973 levy limit base per capita, the city is entitled to a special levy pursuant to Section 275.50, Subdivision 5 (n) for levy year 1973, taxes payable in 1974. The city may, therefore, levy up to $20,000 as a special levy to compensate for certain decreased non-tax revenues.

Tax L.L. 21. Compensation for Decreased Mobile Homes Property Tax Receipts.

A levy to compensate for a decrease in mobile homes property tax receipts is a special levy to the extent that the governmental subdivision's portion of the actual total levy in the current levy year, pursuant to Minnesota Statutes, Section 273.13, Subdivision 3, as amended, is less than the distribution of mobile homes tax the governmental subdivision was entitled to receive pursuant to Minnesota Statutes, Section 273.13, Subdivision 3, in calendar year 1971.

Example. A governmental subdivision was entitled to receive a mobile homes tax distribution of $10,000 in

calendar year 1971. In levy year 1972, taxes payable in 1973, the governmental subdivision levied 15 mills on all taxable property excluding mobile homes. Pursuant to Minnesota Statutes, Section 273.13, Subdivision 3, the mobile homes property tax for the governmental subdivision in levy year 1973 and payable in 1973, is based on the governmental subdivision's rate of levy in the preceding levy year applied to the 1973 taxable value of mobile homes located within the governmental subdivision's territory. Since the 1973 taxable value of mobile homes within the governmental subdivision is $600,000, the mobile homes property tax levied and collected by the governmental subdivision in 1973 is $600,000 times 15 mills or $9,000. This is a decrease of $1,000 from the calendar year 1971 mobile homes tax which the governmental subdivision was entitled to receive. Therefore, the governmental subdivision may levy $1,000 as a special levy in levy year 1973, taxes payable in 1974, to compensate for a decrease in mobile homes property tax receipts.

Tax L.L. 22. Compensation for Decreased Gross Earnings Tax Aids.

A levy to compensate for a decrease in gross earnings tax aids pursuant to Minnesota Statutes, Sections 276.15 to 276.18; 295.38; 368.39 to 368.42; or 373.20 to 373.24 is a special levy to the extent that the distribution of these aids to which the governmental subdivision was entitled to

calendar year 1971. In levy year 1972, taxes payable in 1973, the governmental subdivision levied 15 mills on all taxable property excluding mobile homes. Pursuant to Minnesota Statutes, Section 273.13, Subdivision 3, the mobile homes property tax for the governmental subdivision in levy year 1973 and payable in 1973, is based on the governmental subdivision's rate of levy in the preceding levy year applied to the 1973 taxable value of mobile homes located within the governmental subdivision's territory. Since the 1973 taxable value of mobile homes within the governmental subdivision is $600,000, the mobile homes property tax levied and collected by the governmental subdivision in 1973 is $600,000 times 15 mills or $9,000. This is a decrease of $1,000 from the calendar year 1971 mobile homes tax which the governmental subdivision was entitled to receive. Therefore, the governmental subdivision may levy $1,000 as a special levy in levy year 1973, taxes payable in 1974, to compensate for a decrease in mobile homes property tax receipts.

Tax L.L. 22. Compensation for Decreased Gross Earnings Tax Aids.

A levy to compensate for a decrease in gross earnings tax aids pursuant to Minnesota Statutes, Sections 276.15 to 276.18; 368.39 to 368.42; or 373.20 to 373.24 is a special levy to the extent that the distribution of these aids to which the governmental subdivision was entitled to

receive in the calendar year immediately preceding the current levy year is less than the distribution of these aids to which the governmental subdivision was entitled to receive in calendar year 1971.

Laws of Minnesota 1973, Chapter 650, Article XXVII abolished these aids for all payments required to be made thereunder subsequent to December 31, 1973. The last payment that a governmental subdivision will be entitled to receive will be for calendar year 1973 (whether actually paid in calendar year 1973 or in calendar year 1974). This means that for levy year 1975 and thereafter, taxes payable in 1976 and thereafter, a governmental subdivision may levy as a special levy an amount equal to the entire amount of gross earnings tax aids it was entitled to receive in calendar year 1971 pursuant to Minnesota Statutes, Sections 276.15 to 276.18; 368.39 to 368.42; or 373.20 to 373.24.

Example. A village was entitled to receive $20,000 in gross earnings tax aids for calendar year 1971 pursuant to Minnesota Statutes, Sections 276.15 to 276.18. For calendar year 1973 the village was entitled to $18,000 in gross earnings tax aids, a decrease of $2,000 from the calendar year 1971 level. This $2,000 decrease could be compensated for by a special levy in levy year 1974, taxes payable in 1975. Due to the elimination of the village's gross earnings aids after calendar year 1973 (pursuant to Laws of Minnesota 1973, Chapter 650, Article XXVII), the

village would be entitled to a $20,000 special levy in levy year 1975 and each levy year thereafter, to compensate for the elimination of its gross earnings tax aids paid pursuant to Minnesota Statutes, Sections 276.15 to 276.18.

Tax L.L. 23. Compensation for a County Auditor's Error of Omission.

A levy to pay the amounts required, in accordance with Minnesota Statutes, Section 275.075, to correct for a county auditor's error of omission in levy year 1971 or a subsequent levy year, is a special levy to the extent that when added to the certified budget levy of the governmental subdivision in the levy year such error occurred, it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 in such levy year.

The term "county auditor's error of omission," for the purpose of the Levy Limitations Law, includes, but is not limited to: (1) the failure to include a part or all of a

tax amount certified by the governing body of a governmental subdivision; (2) the computation of an incorrect mill rate which results in a smaller amount of property taxes being extended on the tax lists than was certified by the governing body of a governmental subdivision, except when the reduced tax and the reduced mill rate are the result of the county auditor reducing the certified budget levy by the 1973 reimbursement aid distributed pursuant to Minnesota Statutes 1971, Section 477A.02; and (3) the deduction, by the county auditor, of a state aid from a tax levy when such state aid had already been deducted by the State of Minnesota or the governing body of the governmental subdivision in determining its tax levy, and such deduction was not the responsibility of the county auditor. For the purposes of the Levy Limitations Law, the term "county auditor's error of omission" does not include tax amounts purposely omitted from the tax lists by the county auditor because such amounts were in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56.

Example 1. A village certified to the county auditor a $4,000 levy for the purpose of controlling insect pests and Dutch Elm disease. Such levy was within all applicable limitations on the per capita, mill and dollar amount of taxes the village was permitted to levy, and this amount should have been spread on the tax lists for taxes

payable in 1972. However, the county auditor failed to extend the levy on the appropriate tax lists. In levy year 1972, taxes payable in 1973, no amount was levied to correct for the county auditor's error of omission. In levy year 1973, taxes payable in 1974, the village would be entitled to a special levy of $4,000 to compensate for the county auditor's error of omission in levy year 1971, taxes payable in 1972.

Example 2. A city certified a total levy of $10,000,000 to the county auditor for levy year 1972, taxes payable in 1973, from which the county auditor was to deduct $150,000 in reimbursement aid to be paid in 1973 pursuant to Minnesota Statutes 1971, Section 477A.02. In determining the mill rates for the city, however, a taxable value of $549,720,000 was used instead of the actual taxable value of $548,860,000. This error was due to the double counting of a manufacturing plant with a taxable value of $860,000. The result for the $9,850,000 spread levy was a computed mill rate of 17.919 instead of the correct mill rate of 17.947. In the process of spreading the taxes on the tax lists, the double counting error was discovered. Due to this county auditor's error of omission, the city had a spread levy amount of $9,835,022 instead of the correct amount of $9,850,000. The difference of $14,978 could be compensated for by a special levy in that amount in levy year 1973, taxes payable in 1974.

Example 3. In levy year 1973, taxes payable in 1974, the Department of Revenue certified a 1973 payable 1974 levy limitation (pursuant to Sections 275.50 to 275.56) of $150,000 to Village of the North. This amount was after deduction of $45,000 in Local Government Aid and $500 of Attached Machinery Aid to be paid in calendar year 1974. Village of the North voted a tax levy of $150,000 plus $30,000 of special levies for a total levy of $180,000 and certified this levy to the county auditor. However, the county auditor deducted the $45,000 Local Government Aid once again and spread only $135,000 on the tax lists. Because of this county auditor's error of omission, Village of the North would be entitled to a special levy of $45,000 in levy year 1974, taxes payable in 1975, as compensation for such error.

A county auditor's error of omission in levy year 1970, taxes payable in 1971 cannot be compensated for by a "special levy" since it is a permanent adjustment to the governmental subdivision's levy limit base per capita for levy year 1973 and levy years thereafter. (See Tax L.L. 31 for adjustments to levy limit bases per capita to compensate for errors of omission in levy year 1970, taxes payable in 1971.)

Tax L.L. 24. Compensation for an Error of Omission in the Levy Certified to the County Auditor.

A levy to compensate for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city, village, borough or town with village powers in levy year 1971 or a subsequent levy year is a special levy to the extent that when added to the certified budget levy of the governmental subdivision in the levy year such error occurred, it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 in such levy year.

For the purpose of the Levy Limitations Law, these errors of omission include, but are not limited to: (1) failure to certify to the county auditor a tax which was voted by the governing body of the governmental subdivision; (2) inadvertently certifying a lesser tax levy than the tax levy voted by the governing body of the governmental subdivision; and (3) deducting a state aid from a tax levy when such deduction is the responsibility of the county auditor and the county auditor subsequently reduces the tax levy further by the amount of the state aid.

For the purpose of the Levy Limitations Law, these errors of omission do not include tax amounts which were not voted by the governing body of the governmental subdivision. Also, these errors of omission do not include tax amounts

voted by the governing body of the governmental subdivision which were purposely not certified to the county auditor because such amounts were in excess of an applicable statutory, special law, or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56.

Example 1. In levy year 1972, taxes payable in 1973, the clerk of a village failed to certify the tax levy voted by the village council to the county auditor. In levy year 1973, taxes payable in 1974, the village could levy a "special levy" in the amount of the omitted levy to compensate for the error.

Example 2. In levy year 1972, taxes payable in 1973, the council of a city voted a tax levy of $200,000. From this amount the city clerk deducted $15,000 of reimbursement aid to be paid to the city in 1973 pursuant to Minnesota Statutes 1971, Section 477A.02. The amount certified to the county auditor was then $185,000. The county auditor, unaware of what the city clerk had done, deducted the $15,000 reimbursement aid from the certified budget levy of $185,000, as was his duty pursuant to Minnesota Statutes 1971, Section 477A.02 (c). The reduced amount of $170,000 was then spread on the tax lists. Due to the city clerk's error, the city would be entitled to levy a $15,000 special levy in levy year 1973, taxes payable in 1974 to compensate for such error.

voted by the governing body of the governmental subdivision which were purposely not certified to the county auditor because such amounts were in excess of an applicable statutory, special law, or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56.

Example 1. In levy year 1972, taxes payable in 1973, the clerk of a village failed to certify the tax levy voted by the village council to the county auditor. In levy year 1973, taxes payable in 1974, the village could levy a "special levy" in the amount of the omitted levy to compensate for the error.

Example 2. In levy year 1972, taxes payable in 1973, the council of a city voted a tax levy of $200,000. From this amount the city clerk deducted $15,000 of reimbursement aid to be paid to the city in 1973 pursuant to Minnesota Statutes 1971, Section 477A.02. The amount certified to the county auditor was then $185,000. The county auditor, unaware of what the city clerk had done, deducted the $15,000 reimbursement aid from the certified budget levy of $185,000, as was his duty pursuant to Minneosta Statutes 1971, Section 477A.02 (c). The reduced amount of $170,000 was then spread on the tax lists. Due to the city clerk's error, the city would be entitled to levy a $15,000 special levy in levy year 1973, taxes payable in 1974 to compensate for such error.

Example 3. Village A has a levy limitation of $25,000 pursuant to the Levy Limitations Law for levy year 1973, taxes payable in 1974. The village wants to levy $25,000 plus special levies and in addition wants to levy $2,000 for advertising. However, the $2,000 levy for advertising does not qualify as a special levy and would be in excess of the village's levy limitation when added to the $25,000 levy subject to the limitation. In looking at the village's 1972 payable 1973 levy, it was discovered that the village had certified a tax levy of $21,500 (in addition to special levies), which was $2,100 below the 1972 payable 1973 levy limitation of $23,600. Since no amount was levied for advertising in levy year 1972 payable 1973, and since the village levied $2,100 below its levy limitation in levy year 1972 payable 1973, the village council wanted to claim a $2,000 "special levy" in levy year 1973 payable 1974 as compensation for an error of omission in the levy certified to the county auditor in levy year 1972 payable in 1973. However, this levy would not qualify as a "special levy" under the Levy Limitations Law.

An error of omission by the governing body of a city, village, borough or town with village powers in levy year 1970, taxes payable in 1971 cannot be compensated for by a "special levy" since it is a permanent adjustment to the governmental subdivision's levy limit base per capita for levy year 1973 and levy years thereafter. (See Tax L.L. 31

for adjustments to levy limit bases per capita to compensate for errors of omission in levy year 1970, taxes payable in 1971.)

Tax L.L. 25. Increased Costs Resulting From Minnesota Municipal Commission Orders.

A levy to pay the increased costs of municipal services as the result of an annexation or consolidation ordered by the Minnesota Municipal Commission in levy year 1971 or a subsequent levy year is a special levy but only to the extent and for the levy years provided by the Commission in its order pursuant to Minnesota Statutes, Section 414.01, Subdivision 15.

This special levy relates to Minnesota Municipal Commission orders which enlarge an existing municipality or create a new municipality. In each case the Commission is charged with the responsibility of determining the increased costs of municipal services associated with extending such services to newly acquired territory or developing such services in a newly created municipality. This special levy does not relate in any way to annexations by ordinance but is confined entirely to annexations and consolidations which are ordered by the Minnesota Municipal Commission pursuant to Minnesota Statutes, Chapter 414.

The special levy pursuant to Section 275.50, Subdivision 5 (s) is retroactive to Minnesota Municipal Commission orders in levy years 1971 and 1972. This means

that the Minnesota Municipal Commission will estimate the increased costs of municipal services due to Commission orders issued in levy years 1971 and 1972. Provided that a revised order is issued, a municipality entitled to special levies for the increased costs of municipal services due to a Commission order issued in levy year 1971 or 1972 will be allowed in levy year 1973, taxes payable in 1974, a special levy to compensate for the computed "special levies" for such prior years, in addition to the computed special levy for levy year 1973, subject to the years for which the municipality is allowed a special levy by the Minnesota Municipal Commission in its revised order.

For the purpose of the Levy Limitations Law, the special levy for an enlarged municipality shall be the yearly increased costs of municipal services as estimated by the Minnesota Municipal Commission pursuant to Minnesota Statutes, Section 414.01, Subdivision 15, minus: (1) an amount equal to the acquiring municipality's current levy year's levy limit base per capita in the year of annexation multiplied times the population of the annexed territory as contained in the Minnesota Municipal Commission's order, and (2) the increased costs of municipal services extended to the annexed territory paid for through special assessments or through bonded indebtedness or any other "special levy" pursuant to Section 275.50, Subdivision 5, other than the "special levy" pursuant to Section 275.50, Subdivision 5 (s).

Example. City W annexed a portion of Township Z, a town without village powers, following a Minnesota Municipal Commission order issued in levy year 1971. According to the Commission order, the population of the annexed territory was 450 persons. This number multiplied times the city's 1971 payable 1972 levy limit base per capita of $38.00 increased the city's 1971 payable 1972 levy limit base by $17,100. In levy year 1973, pursuant to Minnesota Statutes, Section 414.01, Subdivision 15, the Minnesota Municipal Commission revised its order to City W to estimate the increased cost of municipal services due to such order. The increased cost of these municipal services for the purpose of Section 275.50, Subdivision 5 (s) was found to be $25,000 per year for the levy years 1971 through 1975. Since $3,000 of the increased yearly costs of municipal services were being paid for through bonded indebtedness and special assessments, the special levy for levy years 1971, 1972 and 1973 would be $4,900 each year ($25,000 - $17,100 - $3,000 = $4,900). Therefore, in levy year 1973, taxes payable in 1974, City W would be entitled to a special levy of $14,700 (for levy years 1971-1973) to pay the increased costs of municipal services due to a Minnesota Municipal Commission order.

For the purpose of the Levy Limitations Law, the special levy for a newly created municipality shall be the yearly costs of municipal services as estimated by the Minnesota Municipal Commission pursuant to Minnesota Statutes,

Section 414.01, Subdivision 15, minus: (1) an amount equal to the current levy year's levy limit base per capita for the newly formed municipality in the year of consolidation (see Tax L.L. 42 for the determination of levy limitations for newly created municipalities) multiplied times the population of the newly created municipality as contained in the Minnesota Municipal Commission's order, and (2) the increased costs of municipal services for the newly created municipality paid for through special assessments or through bonded indebtedness or any other "special levy" pursuant to Section 275.50, Subdivision 5, other than the "special levy" pursuant to Section 275.50, Subdivision 5 (s).

Example. In levy year 1973, the Minnesota Municipal Commission ordered the consolidation of Township J into an entirely new village, Village J. The estimated total cost of all municipal services, including increased costs due to the Commission's order, was determined by the Commission to be $100,000 in levy year 1973 decreased by $5,000 in each of the next four levy years. The population of Village J as contained in the Commission's order was 1,100. This amount multiplied times the new village's 1973 payable 1974 levy limit base per capita of $34.00 (see Tax L.L. 42 for the determination of levy limitations for newly created municipalities) produced a 1973 payable 1974 levy limit base of $37,400. Since none of the increased costs of municipal services will be paid for

through bonded indebtedness or special assessments in levy year 1973 payable 1974, the special levy for levy year 1973 payable 1974 would be $62,600 ($100,000 - $37,400).

Tax L.L. 26. Increased Costs Resulting From Extending Municipal Services to New Private Industrial and Nonresidential Commercial Development.

Subject to the limitations of Section 275.50, Subdivision 5 (t), a levy to pay the increased costs resulting from extending municipal services to new private industrial and nonresidential commercial development is a special levy insofar as the extension of such services are not paid by bonded indebtedness, special assessments, or user service charges, or any "special levy" pursuant to Section 275.50, Subdivision 5, other than the special levy pursuant to Section 275.50, Subdivision 5 (t). For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (t), the term "development" means the construction of totally new structures or buildings and the enlarging of previously existing structures or buildings, but does not include internal alterations and improvements of previously existing structures or buildings.

This special levy shall be calculated separately for each new private industrial or nonresidential commercial development. For the purpose of the Levy Limitations Law, there is a separate and distinct "new private industrial or nonresidential commercial development" associated with

each building permit issued, in calendar year 1970 or calendar years thereafter, for the purpose of such private industrial or nonresidential commercial construction as included in ther term "development" defined in the preceding paragraph. After the special levy for each new private industrial or nonresidential commercial development has been calculated, the governmental subdivision may aggregate them to derive one total amount.

Included in the special levy pursuant to Section 275.50, Subdivision 5 (t) is the increased expenditures, commonly called "front money" or "site preparation costs," necessary in preparation for the delivering of municipal services to a new private industrial and nonresidential commercial development. These are primarily construction costs, such as the costs of building roads out to the development or extending water and sewer lines to it. For each separate new private industrial or nonresidential commercial development, only one year's expenditures (the expenditures for 365 days or one calendar year, at the choice of the governmental subdivision) necessary in preparation for the delivering of municipal services may be included in the special levy pursuant to Section 275.50, Subdivision 5 (t), and in only one levy year. The one year's site preparation costs for a private industrial or nonresidential commercial development may be levied in only one levy year, except that such costs may be apportioned between two levy years, so that a portion of the costs is levied in each of

the two selected levy years. Only expenses actually incurred after December 31, 1972, may be used in determining this inclusion in the special levy pursuant to Section 275.50, Subdivision 5 (t). This may include expenses incurred prior to the issuance of the building permit as well as expenditures made subsequent to the issuance of the building permit. Estimated future site preparation costs may not be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (t).

Also included in the special levy pursuant to Section 275.50, Subdivision 5 (t) is an allowance for the increased costs of police and fire protection, the increased costs of maintaining new roads, water and sewer lines, and the increased costs of other municipal services extended to a new private industrial and nonresidential commercial development. This amount is calculated by applying a mill rate times the increased assessed value of the new private industrial or nonresidential commercial development located within the governmental subdivision. The mill rate is the overall levy limitation of the governmental subdivision for the current levy year, established pursuant to Sections 275.50 to 275.56, divided by the total taxable value of the governmental subdivision for the current levy year. The increase in assessed value of the new private industrial or nonresidential commercial development is calculated as the increase in assessed value for the current levy year (after levy year 1972, taxes payable in 1973)

over the assessed value of the real estate parcels within the governmental subdivision subject to such private development as most recently determined before the building permit was issued. The term "real estate parcels" as used here includes buildings and structures as well as the land. For the purpose of Section 275.50, Subdivision 5 (t), the assessed value of property for an assessment year prior to assessment year 1972 shall be an amount equal to the assessor's value for the property in such prior year multiplied times 3. In the fourth levy year subsequent to the levy year in which the building permit was issued, the governmental subdivision shall no longer be entitled to a special levy for the increased costs of providing municipal services to that particular private industrial or nonresidential commercial development.

The aggregate of the foregoing amounts, less any portion paid or to be paid by bonded indebtedness or special assessments, or by user service charges imposed on the developer of the industrial or nonresidential commercial development equals the maximum amount that a governmental subdivision may levy as a "special levy" pursuant to Section 275.50, Subdivision 5 (t).

Example 1. A city issued a building permit in 1973 for a new industrial plant. The city subsequently widened the road out to the industrial plant, installed traffic signals, and ran sewer and water lines to the

construction site. The costs of these improvements to the city totaled $40,000 in calendar year 1973. Of this amount, $30,000 was being paid for by bonds and special assessments. The remaining $10,000 would qualify as a "special levy" for one levy year only, or could be apportioned between two levy years.

Example 2. A large discount department store was built subsequent to the city issuing its permit in April of 1970. The January 2, 1970 assessed value of the parcels subject to this development, multiplied by 3, was $60,000. In levy year 1973, the first and last levy year that the city may claim a special levy for the cost of extending municipal services to this particular development, the assessed value of the property is $1,000,000, a $940,000 increase. The 1973 payable 1974 levy limitation for the governmental subdivision, established pursuant to Sections 275.50 to 275.56, is $300,000. The total taxable value of the governmental subdivision, including the $1,000,000 assessed value of the discount department store, for taxes levied in 1973, is $20,000,000. The levy limitation of $300,000 divided by the total taxable value of $20,000,000 equals a mill rate of 15 mills. This mill rate multiplied times the $940,000 increase in assessed value of the discount department store equals $14,100, the amount which the governmental subdivision can levy in 1973 as a special levy to pay the increased costs of providing

municipal services to this particular new discount department store.

Tax L.L. 27. Other Levies Outside of the Overall Levy Limitations.

In addition to the special levies provided in Section 275.50, Subdivision 5, certain other levies may be levied outside a governmental subdivision's overall levy limitation without being subject to the penalty provisions of Section 275.51, Subdivision 4. These are levies which are authorized in excess of the levy limitations pursuant to Sections 275.50 to 275.56 by laws of the 1971 or subsequent years' legislatures. The entire amount levied for any of the following purposes is outside the levy limitations pursuant to Sections 275.50 to 275.56:

(1) A levy pursuant to Minnesota Statutes, Section 275.57, for the removal of property condemned as hazardous to health, safety or welfare;

(2) A levy by either thy City of Mankato or the City of North Mankato, pursuant to Laws of Minnesota 1973, Chapter 81, in an amount not to exceed one-tenth of one mill, to provide funds for musical entertainment;

(3) A levy by a governmental subdivision, pursuant to Laws of Minnesota 1973, Chapter 160, Section 10, Subdivision 3, to pay the costs charged to it by the Dover, Eyota and St. Charles Area Sanitary District;

(4) A levy by a city or village, pursuant to Laws of Minnesota 1973, Chapter 322, Section 1, to provide for the payment of all special assessments and other charges imposed upon the area of such city or village served by a public water or sewer system established pursuant to Minnesota Statutes, Sections 116A.01 to 116A.26;

(5) A levy by the City of Brainerd pursuant to Laws of Minnesota 1973, Chapter 445, in an amount not to exceed 2 mills on taxable value, $3 per capita or $15,000, whichever is less, for the purpose of supporting a program of public recreation and playgrounds or other recreational facilities;

(6) A levy by the City of St. Paul, pursuant to Laws of Minnesota 1973, Chapter 719, Section 3, to repay the amount which was borrowed (not to exceed $300,000) in calendar year 1973 for the support of social service programs.

Tax L.L. 28. Imposition of Levy Limitations.

Section 275.51, Subdivision 1 provides that the levies of governmental subdivisions for levy years 1971, 1972 and subsequent levy years, for all purposes except special levies and special assessments, shall be subject to the levy limits determined in accordance with the procedures set forth in Section 275.51. Subject to Section 275.56, the levy limits determined pursuant to Section 275.51 supercede all provisions

(4) A levy by a city or village, pursuant to Laws of Minnesota 1973, Chapter 322, Section 1, to provide for the payment of all special assessments and other charges imposed upon the area of such city or village served by a public water or sewer system established pursuant to Minnesota Statutes, Secitons 116A.01 to 116A.26;

(5) A levy by the City of Brainerd pursuant to Laws of Minnesota 1973, Chapter 445, in an amount not to exceed 2 mills on taxable value, $3 per capita or $15,000, whichever is less, for the purpose of supporting a program of public recreation and playgrounds or other recreational facilities;

(6) A levy by the City of St. Paul, pursuant to Laws of Minnesota 1973, Chapter 719, Section 3, to repay the amount which was borrowed (not to exceed $300,000) in calendar year 1973 for the support of social service programs.

Tax L.L. 28. Imposition of Levy Limitations.

Section 275.51, Subdivision 1 provides that the levies of governmental subdivisions for levy years 1971, 1972 and subsequent levy years, for all purposes except special levies and special assessments, shall be subject to the levy limits determined in accordance with the procedures set forth in Section 275.51. Subject to Section 275.56, the levy limits determined pursuant to Section 275.51 supercede all provisions

of law or municipal charter to the contrary (except laws of the 1973 legislature or a subsequent year's legislature which expressly exempt levies from the limitations imposed by Sections 275.50 to 275.56) which would otherwise authorize ad valorem levies in excess of the limitations established by Sections 275.50 to 275.56.

Tax L.L. 29. Calculation of the 1971 Payable 1972 Levy Limitations.

The property tax levy limitation for each governmental subdivision in 1971 for taxes payable in 1972 is calculated as follows:

(a) The first step is to take the total amount of ad valorem taxes actually levied by the governmental subdivision in 1970 for taxes payable in 1971. This is not the amount certified to the county auditor but is the actual amount that was spread by him on taxable value before any reduction prescribed by Sections 273.13 and 273.135 in respect to homestead property. Special assessments on benefited property are excluded from this amount. Levies for any of the special taxing districts enumerated in Tax L.L. 3 of these rules and regulations are excluded from the governmental subdivision's levy. Levies for another taxing district (including county school tuition and transportion levies) are excluded from the governmental subdivision's levy. Levies for functions of the governmental subdivision (including county library levies and other taxing district levies that do not encompass

the entire taxing district) which were levied separately are included in the governmental subdivision's levy.

Example 1. The ad valorem levy of a housing and redevelopment authority was included in the ad valorem levy of a city in a 1971 Abstract of Tax Lists. This housing and redevelopment authority is not a board, department or function of the city governmental subdivision. It is one of the special taxing districts listed in Tax L.L. 3 of these rules and regulations. Therefore, the levy by and for the housing and redevelopment authority shall be excluded from the levy of the city as reported in the 1971 Abstract of Tax Lists.

Example 2. The ad valorem levy by a township on the taxable valuation of a contiguous village was included in the ad valorem levy of the village in a 1971 Abstract of Tax Lists. The purpose of such a levy is to finance the cost of services provided by the township to the village (such as snow removal, town dump or voting facilities). Since this levy was by and for the township, it shall be excluded from the levy of the village (as reported in the 1971 Abstract of Tax Lists) and included in the levy of the township (as reported in the 1971 Abstract of Tax Lists).

Example 3. A township ad valorem levy for a special fire protection district within the township was shown separately as a special district levy in a 1971 Abstract of Tax Lists. This levy, though not a township-wide levy, is a levy by

the entire taxing district) which were levied separately are included in the governmental subdivision's levy.

Example 1. The ad valorem levy of a housing and redevelopment authority was included in the ad valorem levy of a city in a 1971 Abstract of Tax Lists. The housing and redevelopment authority is not a board, department of function of the city governmental subdivision. It is one of the special taxing districts listed in Tax L.L. 3 of these rules and regulations. Therefore, the levy by and for the housing and redevelopment authority shall be excluded from the levy of the city as reported in the 1971 Abstract of Tax Lists.

Example 2. The ad valorem levy by a township on the taxable valuation of a contiguous village was included in the ad valorem levy of the village in a 1971 Abstract of Tax Lists. The purpose of such a levy is to finance the cost of services provided by the township to the village (such as snow removal, town dump or voting facilities). Since this levy was by and for the township, it shall be excluded from the levy of the village (as reported in the 1971 Abstract of Tax Lists) and included in the levy of the township (as reported in the 1971 Abstract of Tax Lists).

Example 3. A township ad valorem levy for a special fire protection district within the township was shown separately as a special district levy in a 1971 Abstract of Tax Lists. This levy, though not a township-wide levy, is a levy by

the township for services arranged by the township for the benefit of the special fire protection district. The special fire protection district is not a governmental subdivision and is not a special taxing district. Therefore, the levy for the special fire protection district shall be included in the levy (as shown on the 1971 Abstract of Tax Lists) of the township which levied such tax.

If the governmental subdivision levied such taxes in 1970, taxes payable in 1971, for a period shorter than 12 months, then such taxes levied in the most recent preceding year for a period of 12 months shall be used for this calculation. This applies only to those situations where a governmental subdivision switched from a fiscal to a calendar budget year for taxes levied in 1970 and payable in 1971.

Example. A city handled its finances on a July 1 to June 30 fiscal year basis for levy year 1969, at which time it levied for fiscal year July 1, 1970 to June 30, 1971. In levy year 1970 the city switched to a calendar year financial basis. Since the city had previously levied for the first half of calendar year 1971, the city levied in 1970 for just the last six months of calendar year 1971. For levy limitation purposes, the taxes levied in 1969 for the fiscal year July 1, 1970 to June 30 1971, would be used.

(b) The next step is to deduct those portions of the taxes levied in part (a) which are "special levies". These are just the items which would be special levies by

applying the definitions of "special levy" in Section 275.50, Subdivision 5 to the 1970 levy, taxes payable in 1971. By such application, the only items which would be "special levies" are the levies for welfare and bonded indebtedness. The other "special levies" pursuant to Section 275.50, Subdivision 5 do not apply to this deduction since they are all related to increases over the payable 1971 level.

For the purpose of this regulation, a levy for "welfare" includes:

(1) A levy for the administrative costs of categorical welfare aids and poor relief and the costs of administration of social services and the purchase of social services. (See Tax L.L. 13 for matching fund levies); and

(2) A levy to pay the costs of actual aid payments to recipients under the categorical welfare aids and poor relief programs. (See Tax L.L. 15 for the special levy for cash public assistance programs.)

For the purpose of this regulation, a levy for "bonded indebtedness" includes:

(1) A levy to pay the principal and interest on bonded indebtedness. (See Tax L.L. 16 for bonded indebtedness special levies);

(2) A levy to pay the principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except to pay current expenses or to fund an insufficiency

in receipts from taxes or other sources or to fund extraordinary expenditures resulting from a public emergency. (See Tax L.L. 17 for the special levy for certificates of indebtedness);

(3) A levy to fund the payments made to the Minnesota State Armory Building Commission pursuant to Minnesota Statutes, Section 193.145, Subdivision 2, to retire the principal and interest on armory construction bonds. (See Tax L.L. 18 for the special levy for armory construction bonds); and

(4) A levy to provide for the bonded indebtedness portion of payments made to another political subdivision of the State of Minnesota. (See Tax L.L. 19 for the special levy to pay principal and interest on another governmental subdivision's bonds.)

(c) The next step is to add the Exempt Property Reimbursement (pursuant to Minnesota Statutes 1969, Section 273.69) and Sales Tax Per Capita Aid (pursuant to Minnesota Statutes 1969, Sections 297A.51 to 297A.60) that the governmental subdivision was entitled to receive in calendar year 1971, minus the allocation of these aids on a percentage distribution basis to the welfare and bonded indebtedness special levies in taxes payable year 1971. These aids are the payable 1971 tax year amounts estimated by the Department of Revenue and may not necessarily be the amounts that were actually received by the governmental subdivision in 1971. The aid amounts estimated by the Department of Revenue are the amounts that the governmental subdivision should have

received in 1971 without regard for adjustments to previous years' payments. For the purpose of this regulation, the terms "welfare" and "bonded indebtedness" have the meanings given them in (b) above.

(1) The 1971 Exempt Property Reimbursement amount added to the ad valorem levy of part (a) above is the total amount paid as estimated by the Department of Revenue minus the following allocation:

$$\frac{\text{Welfare and bonded indebtedness special levies from part (b)}}{\text{Total 1970 ad valorem levy payable in 1971 from part (a)}} \times \text{Total 1971 estimated governmental subdivision's Exempt Property Reimbursement}$$

(2) The 1971 Sales Tax Per Capita Aid amount added to the ad valorem levy of part (a) is the amount estimated by the Department of Revenue minus the following allocation:

$$\frac{\text{Welfare special levy from part (b)}}{\text{Total 1970 ad valorem levy payable in 1971 from part (a)}} \times \text{Total 1971 estimated governmental subdivision's Sales Tax Per Capita Aid}$$

(d) The total 1970 ad valorem levy payable in 1971 of part (a) minus the special levies of part (b) plus the Exempt Property Reimbursement and Sales Tax Per Capita Aid of part (c) of the governmental subdivision is divided by the 1970 population of the governmental subdivision pursuant to

Section 275.53 in order to derive the 1970 payable 1971 levy limit base per capita. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) The 1970 Federal census figures (corrected final figures) are used for this step since none of the other methods of determining population authorized by Section 275.53 are applicable to 1970.

(e) The 1970 payable 1971 levy limit base per capita determined in part (d) is then multiplied by the annual 6% increase in accordance with Section 275.52, Subdivision 2 in order to derive the levy year 1971 payable 1972 levy limit base per capita increase. (See Tax L.L. 38 for the annual 6% increase.)

(f) The levy year 1971 payable 1972 levy limit base per capita increase is added to the 1970 payable 1971 levy limit base per capita to derive the 1971 payable 1972 levy limit base per capita.

(g) The 1971 payable 1972 levy limit base per capita is then multiplied by the most recent 1971 population figure to produce the total 1971 payable 1972 levy limit base for the governmental subdivision. The population figure used is the 1970 Federal census figure, or for the seven county metropolitan area, estimates by the Metropolitan Council, unless a different population for the governmental subdivision was established by one of the allowable methods pursuant to Section 275.53, and such population was governing for the purpose of the Levy Limitations Law.

(h) Next, the 1972 amounts of the aids to local units of government enacted by the 1971 legislature are deducted from the governmental subdivision's total 1971 payable 1972 levy limit base.

(1) The Local Government Aid due and payable to the governmental subdivision in 1972, as determined by the Department of Revenue pursuant to Minnesota Statutes, Section 477A.01, is deducted. For most governmental subdivisions, this is the only aid deducted.

(2) Certain municipalities in the iron range counties qualify for Taconite Municipal Aid. The amount of this aid, as determined by the Department of Revenue pursuant to Minnesota Statutes, Section 298.282, is deducted from the 1971 payable 1972 levy limit base of the qualifying municipalities.

(i) The 1971 payable 1972 levy limit base of the governmental subdivision minus its 1972 amount of the aforementioned aids of part (h) is the 1971 payable 1972 overall levy limitation for the governmental subdivision, exclusive of special levies and special assessments. The governmental subdivision could not levy more than the sum of its overall levy limitation plus its special levies and special assessments without being subject to the penalty provisions of Section 275.51, Subdivision 4 and the administrative action of the Commissioner of Revenue pursuant to Section 275.55. Other statutory and charter limitations on tax levies may have prohibited the governmental subdivision from having a levy as large as its

overall levy limitation established pursuant to Sections 275.50 to 275.56.

Tax L.L. 30. Calculation of Levy Limits in Subsequent Levy Years.

The property tax levy limitation for a governmental subdivision in 1972 and subsequent levy years is calculated as follows:

(a) The governmental subdivision's levy limit base per capita for the immediately preceding levy year is increased by the annual 6% adjustment pursuant to Section 275.52, Subdivision 2. (See Tax L.L. 38 for the annual 6% increase.) The resulting product of this operation is the governmental subdivision's current levy year's levy limit base per capita.

(b) The current year's levy limit base per capita of part (a) is then multiplied by the current levy year's population of the governmental subdivision according to the latest Federal or state census, or an estimate as established pursuant to Section 275.53, whichever is the most recent. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) This produces the total current year's levy limit base for the governmental subdivision.

(c) The total current year's levy limit base of part (b) is reduced by the amounts of the Local Government Aid (determined pursuant to Minnesota Statutes, Section 477A.01) and the Taconite Municipal Aid (determined pursuant to

Minnesota Statutes, Section 298.282), if any, which the Department of Revenue estimates as due and payable to the governmental subdivision during the tax collection year to which the current year's levy limit base applies. These aids do not reflect any adjustments for penalties assessed pursuant to Section 275.51, Subdivision 4. (See Tax L.L. 35 for penalties.) Commencing with levy year 1973 and levy years thereafter, the total current year's levy limit base of part (b) is also reduced by the amount of Attached Machinery Aid which the Department of Revenue estimates as due and payable to the governmental subdivision, pursuant to Laws of Minnesota 1973, Chapter 650, Article XXIV, Section 5, during the tax collection year to which the current year's levy limit base applies. The resulting figure of this calculation is then the current year's overall levy limitation for the governmental subdivision, exclusive of special levies and special assessments. The governmental subdivision cannot levy more than the sum of its overall levy limitation plus its special levies and special assessments without being subject to the penalty provisions of Section 275.51, Subdivision 4, and the Commissioner of Revenue's administrative action pursuant to Section 275.55.

The amount actually levied by a governmental subdivision in 1971 or subsequent levy year, for all purposes except special levies and special assessments, in no way affects its levy limitation. That is, the levy limitation for 1972 or

subsequent levy year is based on the previous year's levy limit base per capita and not on the previous year's actual levy for all purposes, exclusive of special levies and special assessments. If the governmental subdivision levies in excess of its overall levy limitation, such levy in no way builds up the overall levy limitation for the subsequent levy year, unless it is approved by the voters of the governmental subdivision at a general or special election pursuant to Section 275.51, Subdivision 4 or Section 275.58. (See Tax L.L. 44 for review of levy limitations, and Tax L.L. 36 and Tax L.L. 52 for adjusting levy limit bases per capita by election.)

Tax L.L. 31. Adjustments to the Base for Errors of Omission in Levy Year 1970, Taxes Payable in 1971.

For the purpose of determining levy limitations for levy year 1973 and subsequent levy years, the following adjustment is made to a governmental subdivision's levy limit base per capita to include errors of omission committed in levy year 1970, taxes payable in 1971:

(a) The first step is to take the amount of a county auditor's error of omission in the ad valorem taxes extended in levy year 1970, taxes payable in 1971, but only to the extent that when included in the governmental subdivision's levy in 1970, taxes payable in 1971, such amount is not in excess of an applicable statutory, special law or charter limitation imposed on the governmental subdivision in levy year

subsequent levy year is based on the previous year's levy limit base per capita and not on the previous year's actual levy for all purposes, exclusive of special levies and special assessments. If the governmental subdivision levies in excess of its overall levy limitation, such levy in no way builds up the overall levy limitation for the subsequent levy year, unless it is approved by the voters of the governmental subdivision at a general or special election pursuant to Section 275.51, Subdivision 4 or Section 275.58. (See Tax L.L. 44 for review of levy limitations, and Tax L.L. 36 and Tax L.L. 50 for adjusting levy limit bases per capita by election.)

Tax L.L. 31. Adjustments to the Base for Errors of Omission in Levy Year 1970, Taxes Payable in 1971.

For the purpose of determining levy limitations for levy year 1973 and subsequent levy years, the following adjustment is made to a governmental subdivision's levy limit base per capita to include errors of omission committed in levy year 1970, taxes payable in 1971:

(a) The first step is to take the amount of a county auditor's error of omission in the ad valorem taxes extended in levy year 1970, taxes payable in 1971, but only to the extent that when included in the governmental subdivision's levy in 1970, taxes payable in 1971, such amount is not in excess of an applicable statutory, special law or charter limitation imposed on the governmental subdivision in levy year

1970. The term "county auditor's error of omission" has the same meaning as given to it in Tax L.L. 23 of these Rules and Regulations. (See Tax L.L. 23 for the "special levy" for a county auditor's error of omission.)

(b) The second step is to take the amount of an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city, village, borough or town with village powers in levy year 1970, taxes payable in 1971, but only to the extent that when included in the governmental subdivision's levy in 1970, taxes payable in 1971, such amount is not in excess of any applicable statutory, special law or charter limitation imposed on the governmental subdivision in levy year 1970. The term "error of omission" as used herein has the same meaning as given to it in Tax L.L. 24 of these Rules and Regulations. (See Tax L.L. 24 for the "special levy" for an error of omission in the levy certified to the county auditor.)

(c) The next step is to aggregate the amounts from parts (a) and (b) and increase them by 12.36 percent.

(d) The product of part (c) is divided by the 1972 population of the governmental subdivision established pursuant to Section 275.53 to derive the per capita adjustment. The 1972 population is used instead of the 1973 population since this per capita adjustment is to be added to the governmental subdivision's 1972 payable 1973 levy limit base per capita, which is calculated using the governmental

subdivision's 1972 population. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.)

(e) The per capita amount calculated in part (d) is added to the governmental subdivision's 1972 payable 1973 levy limit base per capita. (See Tax L.L. 30 for calculation of levy limits in levy year 1972 and subsequent levy years.) This is a permanent adjustment to the governmental subdivision's levy limit base per capita and is increased yearly (as part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for levy year 1973 and thereafter, taxes payable in 1973 and thereafter.

This adjustment shall not be construed to alter in any way the amount of Local Government Aid estimated by the Department of Revenue to be paid the governmental subdivision pursuant to Minnesota Statutes, Section 477A.01 in calendar years 1972 and 1973, nor shall it be construed to affect in any way the Local Government Aid determinations for calendar year 1974.

Tax L.L. 32. Adjustments to the Base for Public Improvements Required to be Financed by Ad Valorem Taxation and Which Previously Were Financed by Special Assessments.

For the purpose of determining levy limitations for levy year 1973 and thereafter, a governmental subdivision shall have

its levy limit base per capita adjusted for laws of the Minnesota Legislature which require that public improvements be financed by ad valorem taxation, which are of a type financed by special assessments in calendar year 1971. As used in this regulation, "public improvements" means only those types of improvements enumerated in Minnesota Statutes, Sections 429.021, Subdivision 1 and 429.101. "Laws" referred to by this regulation mean laws which make the conversion from special assessment to ad valorem taxation mandatory, but permissive laws are included in this regulation if they stipulate that the governmental subdivision cannot revert to special assessments once it chooses to finance certain public improvements by ad valorem taxation.

Whenever (after levy year 1972) a governmental subdivision, acting pursuant to a law of the Minnesota legislature, provides that certain public improvements will henceforth be financed by ad valorem taxation, the total amount of special assessments levied in the immediately preceding levy year for such improvements shall be divided by the population of the governmental subdivision in the preceding levy year (determined pursuant to Section 275.53) and added to the governmental subdivision's levy limit base per capita for such preceding levy year. (See Tax L.L. 40 for determination of population, Tax L.L. 41 for governing population census or estimate, and Tax L.L. 30 for calculation of levy limits in levy year 1972 and subsequent levy years.) This is a permanent adjustment

to the governmental subdivision's levy limit base per capita and is increased yearly (as a part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for the current and subsequent levy years.

Example. Laws of Minnesota 1973, Chapter 393, provides that the City of Minneapolis may pay the costs of maintenance of streets and street lighting by levying ad valorem taxes. The law also provides that if the City of Minneapolis acts pursuant to the authority of such law, the city shall no longer specially assess the costs of these improvements. If the City of Minneapolis acts pursuant to Laws of Minnesota 1973, Chapter 393, the total amount of special assessments levied for maintenance of streets and street lighting in the year preceding such action shall be divided by the population of the City of Minneapolis in the npreceding levy year and shall be added to the city's levy limit base per capita for such preceding levy year. This would be a permanent adjustment to the City of Minneapolis' levy limit base per capita and would be increased yearly (as a part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for all levy years subsequent to the last levy year that the cost of maintenance of streets and street lighting were specially assessed.

to the governmental subdivision's levy limit base per capita and is increased yearly (as a part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for the current and subsequent levy years.

Example. Laws of Minnesota 1973, Chapter 393, provides that the City of Minneapolis may pay the costs of maintenance of streets and street lighting by levying ad valorem taxes. The law also provides that if the City of Minneapolis acts pursuant to the authority of such law, the city shall no longer specially assess the costs of these improvements. If the City of Minneapolis acts pursuant to Laws of Minnesota 1973, Chapter 393, the total amount of special assessments levied for maintenance of streets and street lighting in the year preceding such action shall be divided by the population of the City of Minneapolis in the preceding levy year and shall be added to the city's levy limit base per capita for such preceding levy year. This would be a permanent adjustment to the City of Minneapolis' levy limit base per capita and would be increased yearly (as a part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for all levy years subsequent to the last levy year that the cost of maintenance of streets and street lighting were specially assessed.

Tax L.L. 33. Adjusting Levy Limitations for Certain Abolished State Aids.

For levy year 1973 and thereafter, taxes payable in 1974 and thereafter, the current levy year's levy limit base for the governmental subdivision (see Tax L.L. 30 for the calculation of levy limits in levy year 1972 and subsequent levy years) shall be increased by the following amounts:

(1) Calendar year 1973 cigarette tax distribution aids pursuant to Minnesota Statutes 1971, Section 297.13;

(2) Calendar year 1973 liquor tax distribution aids pursuant to Minnesota Statutes 1971, Section 340.60;

(3) November 30, 1972 and May 31, 1973, bank excise tax distribution aids pursuant to Minnesota Statutes 1971, Section 290.361;

(4) Seventy percent (if a county government) or 100 percent (if a city, village or town government) of the mortgage registry tax distribution the governmental subdivision was entitled to receive in fiscal year 1973 (July 1, 1972 through June 30, 1973).

These are the amounts, as estimated by the Department of Revenue, which the governmental subdivision was entitled to receive from the state for such payment dates or periods, as the case may be, and are not necessarily the actual amounts paid. Also, these amounts do not reflect any adjustments for prior payments.

This adjustment shall not be construed to alter in any way the governmental subdivision's levy limit base per capita,

and it is not subject to the yearly 6% compounded adjustment pursuant to Minnesota Statutes, Section 275.52, Subdivision 2. The foregoing addition shall be made to the governmental subdivision's current levy year's levy limit base before the deduction of the aids estimated by the Department of Revenue to be paid to the governmental subdivision pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid), as amended, during the tax collection year to which the current levy year's levy limit base applies.

Tax L.L. 34. Minimum Property Tax Levy Limitation.

Notwithstanding the provisions of Section 275.51, Subdivision 3 (see Tax L.L. 30 for the calculation of levy limits in levy year 1972 and subsequent levy years), but subject to any other statute, special act or charter limitation, each governmental subdivision shall be entitled, in levy year 1973 and subsequent levy years, to a minimum property tax levy limitation equal to six percent of its state aids estimated by the Department of Revenue to be paid, pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid), to the governmental subdivision during the tax collection year to which the property tax levy limitation applies. These state aids are the same amounts that are deducted, in addition with Attached Machinery Aid (Laws of Minnesota 1973, Chapter 650, Article XXIV, Section 5),

from the current levy year's levy limit base of the governmental subdivision in determining the current year's levy limitation for the governmental subdivision under the provisions of Section 275.51, Subdivision 3.

A governmental subdivision which would maximize its property tax levy limitation under this minimum allowance shall qualify for the provisions of Section 275.51, Subdivision 3a, and the provisions of Section 275.51, Subdivision 3 shall not apply to such governmental subdivision. Any year in which a governmental subdivision qualifies for the provisions of Section 275.51, Subdivision 3a shall be known as a "qualifying levy year."

In addition to the minimum property tax levy limitation, Section 275.51, Subdivision 3a also provides a means for establishing a new levy limit base per capita for use under the provisions of Section 275.51, Subdivision 3. The new levy limit base per capita is determined as follows:

(a) In any levy year (qualifying levy year) that a governmental subdivision qualifies for the minimum levy limitation under Section 275.50, Subdivision 3a, the state aids estimated by the Department of Revenue to be paid, pursuant to Minnesota Statutes, Sections 477A.01 and 298.282 to the governmental subdivision in the taxes payable year to which such qualifying levy year applies shall be divided by the population of the governmental subdivision in such qualifying levy year as determined pursuant to Section 275.53.

(See Tax L.L. 40 for the determination of population and Tax L.L. 41 for governing population census or estimate.)

(b) The resulting quotient of part (a) shall be increased pursuant to Section 275.52, Subdivision 2 (see Tax L.L. 38 for the annual 6% increase) to derive the qualifying levy year's levy limit base per capita for use under the provisions of Section 275.51, Subdivision 3.

In any subsequent levy year that a governmental subdivision would maximize its property tax levy limitation under Section 275.51, Subdivision 3, using the levy limit base per capita computed under parts (a) and (b) above for the last qualifying levy year as the preceding year's levy limit base per capita for the provisions of Section 275.51, Subdivision 3, the governmental subdivision shall no longer qualify for Section 275.51, Subdivision 3a and shall resume to have its property tax levy limitation calculated pursuant to Section 275.51, Subdivision 3.

Example. A city with a 1973 population of 1,000 has a 1973 payable 1974 levy limit base of $16,000. The city's 1974 Local Government Aid will be $15,600 and its 1974 Attached Machinery Aid will be $500. This results in a zero levy limitation for levy year 1973, taxes payable in 1974 ($16,000 - $16,100 = $(100) = 0). However, under Section 275.51, Subdivision 3a, the city is entitled in levy year 1973 to a minimum property tax levy limitation equal to 6% of its 1974 aids estimated by the Department of Revenue to be paid pursuant

to Minnesota Statutes, Sections 477A.01 and 298.282. Since the city will not receive any Taconite Municipal Aid, its 1973 payable 1974 minimum levy limitation is 6% of $15,600 or $936.

In levy year 1974 payable 1975, the city still has a population of 1,000 and its 1974 payable 1975 levy limit base (pursuant to Section 275.51, Subdivision 3) is $16,960. Its 1975 Local Government Aid will be $15,700 and its 1974 Attached Machinery Aid will be $500. This results in a levy limitation of $460 pursuant to Subdivision 3. The city's minimum property tax levy limitation for levy year 1974 is 6% of $15,700 or $942. However, the city now would benefit more by resuming to have its levy limitation computed under Subdivision 3, using the preceding qualifying levy year's levy limit base per capita established under the provisions of Subdivision 3a. Under Subdivision 3a, the city's 1974 Local Government Aid of $15,600 is divided by the city's 1973 population of 1,000. The resulting per capita amount ($15.60) is increased by 6%, which produces a levy limit base per capita of $16.54 for the 1973 payable 1974 qualifying levy year under the minimum levy limitation provisions of Subdivision 3a. This per capita amount of $16.54 becomes the preceding year's levy limit base per capita for the provisions of Subdivision 3. Under Subdivision 3, the per capita amount of $16.54 would be increased by 6% pursuant to Section 275.52, Subdivision 2. The resulting current levy year's levy limit base per capita of $17.53 would then be multiplied by the

city's 1974 population of 1,000 to derive the city's current levy year's levy limit base for 1974. The city's current levy year's levy limit base of $17,530 for levy year 1974, minus its 1975 Local Government Aid of $15,700 equals $1,830. Since this amount is greater than the city's minimum levy limitation of $942, the city would be entitled to a 1974 payable 1975 property tax levy limitation of $1,830 and would continue to have its levy limitation determined under Subdivision 3, until such time that it qualifies again for the minimum levy limitation provisions of Subdivision 3a.

Tax L.L. 35. Penalties.

Pursuant to Section 275.51, Subdivision 4, penalties shall be imposed on any levy of a governmental subdivision, exclusive of special levies and special assessments, which is in excess of the governmental subdivision's overall levy limitation established pursuant to Sections 275.50 to 275.56, unless other remedy is agreed to under the provisions of Section 275.55. (See Tax L.L. 45 for the Commissioner's administrative action.) Penalties shall not be imposed under Section 275.51, Subdivision 4 for an actual levy in excess of the overall levy limitation if the excess is caused by the rounding of the mill rates of the governmental subdivision in accordance with Minnesota Statutes, Section 275.28.

If a governmental subdivision levies a tax in 1971 payable in 1972 for all purposes except special levies and special

assessments, which is in excess of its 1971 payable 1972 overall levy limitation, the Local Government Aid and Taconite Municipal Aid distributions due and payable to such governmental subdivision in calendar year 1972 or subsequent calendar years pursuant to Minnesota Statutes, Sections 477A.01 and 298.282 shall be, pursuant to Section 275.51, Subdivision 4, reduced 10 cents for each full dollar that such levy exceeds the overall levy limitation, unless other remedy is agreed to under the provisions of Section 275.55.

If a governmental subdivision levies a tax in 1972, for all purposes except special levies and special assessments, which is in excess of its 1972 overall levy limitation, the Local Government Aid and Taconite Municipal Aid distributions due and payable to such governmental subdivision in calendar year 1973 or subsequent calendar years pursuant to Sections 477A.01 and 298.282, shall be, pursuant to Section 275.51, Subdivision 4, reduced 10 cents for each full dollar that such levy exceeds the overall levy limitation by up to five percent, and 33 cents for each full dollar that such levy exceeds the overall levy limitation by more than five percent, unless other remedy is agreed to under the provisions of Section 275.55.

If a governmental subdivision levies a tax in 1973 or a subsequent levy year, for all purposes except special levies and special assessments, which is in excess of its overall levy limitation in levy year 1973 or such subsequent levy year, the Local Government Aid and Taconite Municipal Aid distributions

due and payable to such governmental subdivision in calendar year 1974 or subsequent calendar years pursuant to Sections 477A.01 and 298.282 shall be, pursuant to Section 275.51, Subdivision 4, reduced 33 cents for each full dollar that such levy exceeds the overall levy limitation, unless other remedy is agreed to under the provisions of Section 275.55.

For the purpose of determining whether or not a levy limitation has been exceeded, the levy of a metropolitan county government shall be the levy of such county before the reduction of its road and bridge fund levy as required pursuant to Minnesota Statutes, Section 163.051, Subdivision 5.

Tax L.L. 36. Resolutions and Elections to Increase Levy.

A governmental subdivision may determine to levy in excess of its overall levy limitation established by Sections 275.50 to 275.56, in an amount not to exceed 5 percent of such limitation and be subject to a penalty of 15 cents on each dollar of excess levy instead of the penalty of 33 cents on each dollar of excess levy as otherwise provided in Section 275.51, Subdivision 4.

In order to qualify for the reduced penalty, the governmental subdivision must pass a resolution stating the amount by which the levy limit is proposed to be exceeded. Such resolution shall be published for two consecutive weeks in the official newspaper of the governmental subdivision or if there be no official newspaper, then in a newspaper of general circulation

therein. With such published resolution there shall be joined a notice announcing the date for a public hearing on the proposed increase in levy. Such hearing shall be held not less than two weeks nor more than four weeks after the first publication of the resolution and notice of hearing. Following the public hearing, the governing body of the governmental subdivision may choose to adopt a resolution authorizing the levy as originally proposed, adopt a resolution authorizing a lesser amount of excess levy, or the governing body may choose to take no further action. A resolution authorizing a levy in excess of the limitation imposed by Sections 275.50 to 275.56 shall be published in the official newspaper of the governmental subdivision, or if there be no official newspaper, such resolution shall be published in a newspaper of general circulation.

If within 30 days after the publication of the resolution authorizing the excess levy, no referendum is requested by the voters of the governmental subdivision, and if the resolution was adopted prior to October 1 in any levy year, the excess levy authorized by the resolution may be levied in that same levy year. In addition, the Local Government Aid distributions and Taconite Municipal Aid distributions due and payable to such governmental subdivision in subsequent calendar years pursuant to Minnesota Statutes, Sections 477A.01 and 298.282 shall be reduced 15 cents for each full dollar that the levy exceeds the limitation by up to five percent, and 33 cents

for each full dollar that such levy exceeds the limitation by more than five percent. A levy authorized by a resolution adopted after September 30 in a given year shall not be levied in that same levy year except as subject to a penalty of 33 cents for each full dollar that such levy exceeds the limitation, unless other remedy is agreed to under the provisions of Section 275.55. However, an excess levy authorized by resolution adopted after September 30 in a given levy year may be levied in the next subsequent levy year, subject to the penalty of 15 cents for each full dollar of excess levy.

If within 30 days after the publication of the resolution authorizing the excess levy, a petition signed by voters of the governmental subdivision equal in number to five percent of the votes cast in the governmental subdivision in the last general election or 2,000 voters, whichever is less, requesting a referendum on the proposed excess levy is filed with the clerk or recorder (if the governmental subdivision is a city, village, borough or town) or the county auditor (if the governmental subdivision is county government), the resolution shall not be effective until it has been submitted to the voters at a general or special election and a majority of the votes cast on the question of approving the resolution are in the affirmative.

A levy increase approved by any such referendum at a general or special election held prior to October 1 in any levy year increases the allowable levy in that same levy

year, without penalty, and provides a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. A levy increase approved by any such referendum at a general or special election held after September 30 in a given levy year shall not be levied in that same levy year, except with a 33 percent penalty, but shall provide a permanent adjustment to the levy limit base per capita for future levy years without penalty.

A levy increase approved by the voters of the governmental subdivision at a general or special election shall become a permanent adjustment to the governmental subdivision's levy limit base per capita as follows. In the first levy year subsequent to the year in which the levy increase is approved by referendum, the amount of the approved increase is divided by the population of the governmental subidvision in the year such election was held (as established pursuant to Section 275.53). This per capita amount is then added to the current year's levy limit base per capita for the year in which such election was held. This combined amount is then adjusted pursuant to Section 275.52, Subdivision 2 (see Tax L.L. 38 for the maximum 6% allowable increase) to derive the current levy year's levy limit base per capita for the purpose of Section 275.51, Subdivision 3 for the first levy year subsequent to the levy year in which the levy increase was approved by referendum. Each year thereafter the levy limit base per capita (including the approved levy increase) shall be adjusted pursuant to

Section 275.52, Subdivision 2 for the purpose of levy limitations determined pursuant to Section 275.51, Subdivision 3. (See Tax L.L. 30 for calculation of levy limits in subsequent levy years.)

A levy increase rejected by a majority of the voters of the governmental subdivision voting at a general or special election, if levied in spite of such rejection, shall be subject to the 33 percent penalty provisions of Section 275.51, Subdivision 4.

The Commissioner of Revenue is directed to prepare a suggested form of question to be presented at a referendum held pursuant to Section 275.51, Subdivision 4. The suggested form of question to be presented at such referendum is found on page 91.

Tax L.L. 37. Recertifications in Levy Year 1971.

All governmental subdivisions were allowed to recertify their tax levies in 1971 in order to conform with the levy limitations imposed by Sections 275.50 to 275.56. This suspension of the legal deadlines for levy certifications applied to levy year 1971 only.

Tax L.L. 38. Annual Six Percent Increase in Levy Limit Base Per Capita.

The levy limit base per capita of a governmental subdivision, as determined by Section 275.51 and adjusted for previous increases pursuant to Section 275.52, is increased each year

REFERENDUM

Resolution number _____ increasing the levy of the

_____ of _____
(County, city or town) (Name of governmental subdivision)

☐ Yes The following proposition shall be approved as follows.

☐ No The _____ (name of governmental subdivision) shall be authorized to exceed its levy limitation for 19___, by an amount not to exceed $_____, which may be levied on the taxable property within its boundaries in addition to all other taxes voted by it. In the next succeeding year and years following, such amount shall become a permanent adjustment to the levy limit base per capita of the _____ (name of governmental subdivision.

REFERENDUM

Resolution number _____ increasing the levy of the

_____ of _____
(County, city, village, borough or town) (Name of governmental subdivision)

☐ Yes

☐ No

The following proposition shall be approved as follows.

The _____(name of governmental subdivision) shall be authorized to exceed its levy limitation for 19___, by an amount not to exceed $_____, of the taxable property within its boundaries in addition to all other taxes voted by it. In the next succeeding year and years following, such amount shall become a permanent adjustment to the levy limit base per capita of the _____ (name of governmental subdivision).

by the amount of six percent of the previous year's levy limit base per capita. The previous year's actual levy (whether above, below or at the level of the previous year's levy limitation) has no bearing on the subsequent year's overall levy limitation.

Tax L.L. 39. Population Decreases.

If the population (as established pursuant to Section 275.53) of any governmental subdivision decreases from one year to the next, the current year's population shall, for purposes of the Levy Limitations Law, be increased by an amount equal to one-half of the decrease in population from the preceding year. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) However, such increase is effective for that one particular levy year only. This population adjustment applies to decreases in population resulting from a change in a governmental subdivision or changes in the boundaries of a governmental subdivision, as well as to other population decreases.

Example 1. A governmental subdivision's population is 100,000 in 1971, 98,000 in 1972 and 95,000 in 1973. For levy year 1972 payable 1973, the current year's population figure used for the Levy Limitations Law would be 98,000 + 1/2(100,000 - 98,000) = 99,000. For levy year 1973 payable 1974, the current year's population figure used would be 95,000 + 1/2(98,000 - 95,000) = 96,500.

Example 2. A town with village powers has a population of 3,000 in 1972. In 1973 a portion of the town is annexed into an adjoining village. The 1973 population of the town after annexation, as determined by the Minnesota Municipal Commission in its order, is 1,800, and it continues to qualify as a "town with village powers" pursuant to Minnesota Statutes, Section 368.01. In 1974, the population of the town has increased to 1,850, and no further annexation is to occur in 1974. For levy year 1973, taxes payable in 1974, the current year's population of the town for the Levy Limitations Law would be 1,800 + 1/2(3,000 - 1,800) = 2,400. For levy year 1974, taxes payable in 1975, the current year's population of the town for the Levy Limitations Law would be 1,850.

Tax L.L. 40. Determination of Population.

For the purposes of determining the amount of tax that a governmental subdivision may levy within a per capita limitation established in accordance with Sections 275.50 to 275.56, the population of a governmental subdivision shall be that established by one of the following methods:

(a) The population as established by the last Federal or state census, incorporating subsequent corrections made by the Bureau of the Census or the Secretary of State, as the case may be. Unless a more recent population figure is established subsequent to the latest Federal decennial census, by means of a special state or Federal census or by a population estimate

authorized by Section 275.53, the population of a governmental subdivision, for the purpose of determining the governmental subdivision's overall levy limitation pursuant to Sections 275.50 to 275.56, shall be the population as established by the last Federal decennial census as corrected.

(b) The population estimated by the Metropolitan Council. These estimates are developed between Federal census years, but are available only for governmental subdivisions within the seven counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington. Each non-Federal census year, the Metropolitan Council estimates the current year's April 1 population of the seven metropolitan counties and the population of each city, village, borough and township within the seven counties. These estimates are then made available the following July 1 for levy purposes in the same calendar year.

(c) The population as estimated by the Minnesota Municipal Commission pursuant to Minnesota Statutes 1971, Section 414.01, Subdivision 14, after ordering the creation of a new municipality or enlargement of an existing municipality.

(d) The population as established by a special census taken within the entire governmental subdivision pursuant to Section 275.53, Subdivision 2.

Section 275.53, Subdivision 2 provides that "the governing body of a governmental subdivision may, in any year, pass a resolution requesting the Secretary of State to take a special census for the purpose of computing the amount of

tax that it may levy. Upon receiving a certified copy of such resolution, the Secretary of State shall cause such a census to be taken under his immediate supervision and under such rules and regulations as he may prescribe. The results of the census shall be certified to the governmental subdivision within three months after the Secretary of State has received a certified copy of the resolution by which the census was requested."

"The expense of taking the census shall be paid by the governmental subdivision in which the census is taken." Such expense, however, must be levied within the levy limitations of the governmental subdivision imposed by Sections 275.50 to 275.56. Such an expense does not qualify as a "special levy" as defined for the Levy Limitations Law.

(e) The population as established by an estimate of the current population of the governmental subdivision, contained in a resolution passed by the governing body of such subdivision.

(1) "In lieu of passing a resolution pursuant to Section 275.53, Subdivision 2, the governing body of a municipality or town may pass by June 1 of any year a resolution containing an estimate of the current population of the subdivision." The resolution shall contain the name of the governmental subdivision and county where located, the estimate of the current population, the date of the population estimate, a detailed explanation of the criteria used in developing the population estimate, a statement that the estimate is made for

the purpose of increasing that governmental subdivision's levy pursuant to Minnesota Statutes 1971, Sections 275.50 to 275.56, the date that the resolution was passed and adopted by the governing body of the governmental subdivision, the signature of the clerk or recorder (if the governmental subdivision is a city, village, borough or town) or the county auditor (if the governmental subdivision is a county government) and the date of signature, and the official seal of the governmental subdivision.

(2) "The resolution shall then be submitted to the State Planning Agency. The Agency shall determine, and so inform the subdivision in writing within 30 days of receipt of the resolution, whether the criteria described therein do or do not provide a reasonable basis for the population estimate" and whether or not the resulting estimate itself is reasonable. "No determination by the Agency made pursuant to Section 275.53, Subdivision 3 shall constitute, nor shall it be represented as constituting, a determination of actual population."

(3) If the State Planning Agency determines that the criteria do not provide a reasonable basis for the population estimate, the resolution shall not be valid for purposes of the Levy Limitations Law and such estimate shall not be used for the purpose of determining the levy limitation of the governmental subdivision pursuant to Sections 275.50 to 275.56. If the Agency determines that the cirteria do provide a reasonable basis for the population estimate, the resolution,

the purpose of increasing that governmental subdivision's levy pursuant to Minnesota Statutes 1971, Sections 275.50 to 275.56, the date that the resolution was passed and adopted by the governing body of the governmental subdivision, the signature of the clerk or recorder (if the governmental subdivision is a city, village, borough or town) or the county auditor (if the governmental subdivision is a county government) and the date of signature, and the official seal of the governmental subdivision.

(2) "The resolution shall then be submitted to the State Planning Agency. The Agency shall determine, and so inform the subdivision in writing within 30 days of receipt of the resolution, whether the criteria described therein do or do not provide a reasonable basis for the population estimate" and whether or not the resulting estimate itself is reasonable. "No determination by the Agency made pursuant to Section 275.53, Subdivision 3 shall constitute, nor shall it be represented as constituting, a determination of actual population."

(3) If the State Planning Agency determines that the criteria do not provide a reasonable basis for the population estimate, the resolution shall not be valid for purposes of the Levy Limitations Law and such estimate shall not be used for the purpose of determining the levy limitation of the governmental subdivision pursuant to Sections 275.50 to 275.56. If the Agency determines that the criteria do provide a reasonable basis for the population estimate, the resolution,

as prepared in accordance with number (1) above and submitted to the Agency in accordance with number (2) above shall be published at least once in a legal newspaper of general circulation in the governmental subdivision. "Such estimate may then be used for computing the amount of ad valorem taxes the subdivision may levy, unless within 30 days following the publication of the resolution, 10 percent or more of the registered voters of the subdivision, or if the subdivision does not require voter registration, then 10 percent or more of its voters who voted at the subdivision's last election, sign a petition demanding a special census, and submit the petition to the governing body of the subdivision."

(4) "Attached to the petition shall be an affidavit executed by the circulator or circulators thereof, stating that he or they personally circulated the petition, stating the number of signatures thereon, and stating that all the signatures were affixed in his or their presence and that he or they believe them to be genuine signatures of the persons whose names they purport to be. Each signature need not be notarized."

(5) "Upon the receipt of a petition conforming to Section 275.53, Subdivision 3, the governing body of the governmental subdivision shall pass a resolution requesting the Secretary of State to take a special census of the governmental subdivision. The census shall be taken and financed pursuant to the provisions of Section 275.53,

Subdivision 2." Once developed, the population established by this special census supercedes the population estimate contained in the governing body's resolution.

(6) "The governing body of a governmental subdivision may not avail itself of the provisions of Section 275.53, Subdivision 3 during any year for which any State or Federal census has been taken or for which the Metropolitan Council has made a population estimate of the subdivision." If none of these census figures or estimates of population for the governmental subdivision have been developed during any year, or if the only population figure developed during the year was an estimate by the Minnesota Municipal Commission pursuant to Minnesota Statutes 1971, Section 414.01, Subdivision 14, the governing body of a governmental subdivision may then determine its population for such year pursuant to Section 275.53, Subdivision 3.

Tax L.L. 41. Governing Population Census or Estimate.

The general rule, for the purpose of determining the tax that may be levied within the per capita limitations of the Levy Limitations Law, is that the most recent population count or estimate established for the governmental subdivision, pursuant to Section 275.53, must be used. This selection pertains to the stated date of the population count or estimate and not to the date of release of the final count or estimate. If there are two population counts or estimates for a governmental

subdivision, one in each of two succeeding years, the population count or estimate for the later year must be used. If, on the other hand, there are two population counts or estimates for a governmental subdivision within the same year, the count or estimate for the latest date must be used. Once the selection is made according to this rule, the final count or estimate of population, incorporating subsequent corrections, is used.

Example 1. The 1970 Federal census population figure for a city was 50,000. The Metropolitan Council developed a population estimate of 49,500 for the same city as of April 1, 1971. No other census or population estimates have been developed in 1971. In this case the city must use the estimate developed by the Metropolitan Council for levy year 1971 payable 1972. However, this estimate would be adjusted upward to 49,750 in accordance with Section 275.52, Subdivision 3, and this adjusted population estimate would be the actual figure used.

Example 2. The 1970 Federal census population figure for a village was 12,000. In 1974 the governing body developed a population estimate of 13,000 in accordance with Section 275.53, Subdivision 3, and passed and adopted the estimate by resolution dated May 1, 1974. The population estimate was approved by the State Planning Agency and was unopposed by the voters of the governmental subdivision. No other population estimate was developed in 1974. In this case, the governmental subdivision must use the 1974 estimate of 13,000 developed in accordance

with Subdivision 3. If the governmental subdivision had not passed and adopted the resolution containing the population estimate until after June 1, 1974, such resolution, pursuant to Section 275.53, Subdivision 3 (a), would not be valid and the 1970 Federal census population figure would prevail.

The one exception to the general rule is that a governmental subdivision may not develop a population estimate pursuant to Section 275.53, Subdivision 3 in the same year that any other population census or estimate (except a population estimate developed by the Minnesota Municipal Commission) has been developed pursuant to Section 275.53. Section 275.53, Subdivision 3 is also superceded by any subsequent population census or estimate (including a population estimate developed by the Minnesota Municipal Commission) developed pursuant to Section 275.53.

In the event that a population estimate is developed pursuant to Section 275.53, having the same date of count or estimate as a Federal or State population census, the Federal or State census, as the case may be, shall prevail. In the event that two or more population estimates are developed having the same date of estimate, and they are the latest population figures developed pursuant to Section 275.53, and they differ numerically, then the governing body of the governmental subdivision shall choose, by resolution, from among these estimates the population figure which shall be governing for the purposes of the Levy Limitations Law.

Example 1. A special State census taken by the Secretary of State, pursuant to Section 275.53, Subdivision 2, counts the population of a city as of April 1, 1973, as 220,000. The Metropolitan Council estimates that the population of the city as of April 1, 1973 is 210,000. No other population estimate was developed in 1973. In this case, the population of the city established by the special State census would prevail for the purposes of the Levy Limitations Law.

Example 2. A village annexes a portion of an adjacent township. The Minnesota Municipal Commission estimates the population of the newly enlarged village as of May 1, 1972, as 8,000. A population estimate of the village developed by the village council pursuant to Section 275.53, Subdivision 3, passed and adopted by resolution dated June 1, 1972, establishes the May 1, 1972 population as 8,200. The population estimate contained in the resolution is approved by the Vital Statistics Section of the Department of Health and is unapposed by the voters of the governmental subdivision. No other population estimate or census count for the village is established for 1972. In this case, the village council must choose between the Minnesota Municipal Commission's estimate of 8,000 population and the governmental subdivision's estimate of 8,200 population.

Tax L.L. 42. Annexations, Consolidations and Transfers of Functions.

Section 275.54 provides for the determination of levy limitations when the boundaries of governmental subdivisions

change due to consolidations, mergers or other combinations and also provides for the determination of levy limitations when functions or services are transferred between governmental subdivisions.

(a) "If all or part of the area included within two or more governmental subdivisions is consolidated, merged or otherwise combined to constitute a single governmental subdivision, and differing limitations upon the amount of tax levy per capita apply to the governmental subdivisions from which the consolidated, merged or otherwise combined governmental subdivision was formed, the limitation applicable to the surviving entity for purposes of Sections 275.50 to 275.56 shall be equal to the highest limitation applicable to any one of the constituent subdivisions prior to the consolidation, merger or other combination." This applies to governmental subdivisions enlarged through mergers as well as totally new governmental subdivisions created out of all or parts of the areas of previously existing political subdivisions of the State.

Example 1. Town A with village powers and Town B with village powers operate as separate governmental subdivisions for levy year 1971, taxes payable in 1972. Portions of the two towns merge in 1972 to form Village C, a totally new governmental subdivision. The levy limit base per capita for Township A in levy year 1971 payable 1972 was $45.12 while the levy limit base per capita for Township B in levy year 1971 payable 1972 was $42.25. The levy limit base per capita for

Village C (levy year 1971 payable 1972 levy limit base per capita to be used in determining the levy limit base per capita for levy year 1972, taxes payable in 1973, pursuant to Sections 275.50 to 275.56), would be $45.12, which is equal to the highest limitation applicable to one of the constituent subdivisions (Township A) prior to the merger. The remaining portion of Township A (the portion not incorporated into Village C) would retain its levy year 1971 payable 1972 levy limit base per capita of $45.12, unless it no longer qualified as a town with village powers. Similarly, the remaining portion of Township B (the portion not incorporated into Village C) would retain its levy year 1971 payable 1972 levy limit base per capita of $42.25, unless it no longer qualified as a town with village powers. (See Tax L.L. 3 for the definition of "town with village powers".)

Example 2. In 1972 a city annexes a portion of a town without village powers. In this case, a hypothetical levy limit base per capita must be calculated for the town without village powers. This is done by computing the levy year 1970 payable 1971 levy limit base per capita (see Tax L.L. 29 for the calculation of the 1971 payable 1972 levy limitations) and increasing this per capita amount by the annual six percent increase. (See Tax L.L. 38 for the annual six percent increase.) The result of this calculation is a hypothetical levy year 1971 payable 1972 levy limit base per capita for the township of $29.78. The levy limit base per capita for the

city in levy year 1971 payable 1972 was $40.33. In this case the levy year 1971 payable 1972 levy limit base per capita to be used in determining the city's levy limit base per capita for levy year 1972 payable 1973 would be $40.33, which is equal to the highest limitation applicable to one of the constituent subdivisions (the city) prior to the merger. The remaining unannexed portion of the township without village powers would not be subject to the levy limits imposed by Sections 275.50 to 275.56.

Example 3. A town without village powers incorporates into a village in 1972. In this case there was no levy limitation prior to incorporation. Therefore, a completely new levy limitation must be established for this newly incorporated village. This is done by computing the levy year 1970 payable 1971 levy limit base per capita for the dissolved township (see Tax L.L. 29 for the calculation of the 1971 payable 1972 levy limitations) and increasing this per capita amount by the annual six percent adjustment. (See Tax L.L. 38 for the annual six percent increase.) The result of this calculation is the village's levy year 1971 payable 1972 levy limit base per capita to be used in determining its levy year 1972 payable 1973 levy limit base per capita.

(b) If a function or service of one governmental subdivision is transferred to another governmental subdivision, the levy limitations established by Sections 275.50 to 275.56 shall be adjusted by the Commissioner of Revenue in

such manner as to fairly and equitably reflect the reduced or increased property tax burdens of such subdivisions resulting from such transfer. The aggregate of the adjusted limitations shall not exceed the aggregate of such limitations prior to adjustment.

The procedure for adjusting levy limitations to reflect the reduced or increased property tax burdens resulting from the transfer of a function or service is as follows:

(1) The levy in 1970, taxes payable in 1971 for the function or service subject to transfer is increased by six percent compounded for each levy year after 1970 up to and including the first levy year affected by the transfer. The levy for the function or service subject to transfer is the amount actually spread on the tax lists in 1970, taxes payable in 1971.

(2) The Exempt Property Reimbursement (pursuant to Minnesota Statutes 1969, Section 273.69) that the governmental subdivision was entitled to receive in calendar year 1971 is allocated, on a percentage distribution basis, to the levy in 1970 payable 1971 for the function or service subject to transfer. (See Tax L.L. 29, clause (c) for the determination of the Exempt Property Reimbursement that the governmental subdivision was entitled to receive in calendar year 1971.) The resulting allocated amount is increased by six percent compounded for each levy year after 1970 up to and including the first levy year affected by the transfer.

(3) The final results of steps (1) and (2) are aggregated. This total amount is the amount of levy limitation transferred along with the function or service which is transferred.

(4) The amount to be transferred, determined in step (3), is divided by the population of the governmental subdivision assuming the function or service. This is the population of such governmental subdivision in the first levy year affected by the transfer, determined pursuant to Section 275.53. (See Tax L.L. 40 for the determination of population and Tax L.L. 41 for governing population census or estimate.) The resulting per capita amount is added to the current levy year's levy limit base per capita of such governmental subdivision in the first levy year affected by the transfer. This addition is a permanent adjustment to the levy limit base per capita of the governmental subdivision assuming the function or service.

(5) The amount to be transferred determined in step (3), is divided by the population of the governmental subdivision divested of the function or service. This is the population of such governmental subdivision in the first levy year affected by the transfer, determined pursuant to Section 275.53. (See Tax L.L. 40 for the determination of population and Tax L.L. 41 for governing population census or estimate.) The resulting per capita amount is subtracted from the current levy year's levy limit base per capita of such governmental subdivision in the first levy year affected by the transfer. This subtraction is a permanent adjustment to the levy limit base per capita of

the governmental subdivision divested of the function or service.

Example. City A has had the function of maintaining the city library through 1972 while the county government has maintained a county library system for the county, excluding City A. Now for levy year 1972, taxes payable in 1973, the function of providing a library for City A is transferred to the county government. Prior to adjusting their respective levy limitations, City A had a 1972 population of 10,000, a levy year 1972 payable 1973 levy limit base per capita of $50.00 before adjustment, producing a total 1972 payable 1973 levy limit base of $500,000 before adjustment, 1973 local government aid of $130,000, and a 1972 payable 1973 overall levy limitation of $370,000 ($500,000 - $130,000) before adjustment. The county has a 1972 population of 20,000, a levy year 1972 payable 1973 levy limit base per capita of $40.00 before adjustment, producing a total 1972 payable 1973 levy limit base of $800,000 before adjustment, 1973 local government aid of $300,000 and a 1971 payable 1972 overall levy limitation of $500,000 ($800,000 - $300,000) before adjustment.

The total levy of the city in 1970, taxes payable in 1971 was $360,000, of which $36,000 was levied for the city library. The total Exempt Property Reimbursement which the city was entitled to receive in 1971 was $80,000. The allocation of the 1971 aid to the $20,000 library levy is $80,000 x (36,000 ÷ 360,000) = $80,000 x 0.1 = $8,000. The

total amount of levy and aid apportionable to the city library for levy year 1970, taxes payable in 1971 is, therefore, $20,000 + $8,000 = $28,000. This amount increased by 6% compounded for the two levy years from levy year 1970 payable 1971 to levy year 1972 payable 1973 is $28,000 x 1.1236 = $31,460.80. This is the amount of levy limitation to be transferred from City A to the county government for levy year 1972, taxes payable in 1973.

The $31,460.80 divided by the 1972 population of City A (10,000) equals $3.14 per capita. This per capita amount is subtracted from the city's 1972 payable 1973 levy limit base per capita before adjustment of $50.00, thereby reducing the effective levy limit base per capita for City A to $46.86 for levy year 1972, taxes payable in 1973. This per capita amount multiplied by the city's 1972 population of 10,000 equals a total 1972 payable 1973 levy limit base of $468,600. After subtracting the 1973 local government aid of $130,000, the effective overall levy limitation for City A in 1972 payable 1973 is $338,600. The levy limit base per capita adjustment associated with the transfer of the library function is a permanent adjustment for levy year 1972 and all future levy years.

The $31,460.80 divided by the 1972 population of the county (20,000) equals $1.57 per capita. This per capita amount is added to the county's 1972 payable 1973 levy limit base per capita before adjustment of $40.00, thereby increasing

the effective levy limit base per capita for the county to $41.57 for levy year 1972, taxes payable in 1973. This per capita amount multiplied by the county's 1972 population of 20,000 equals a total 1972 payable 1973 levy limit base of $831,400. After subtracting the 1973 local government aid of $300,000, the effective overall levy limitation for the county in 1972 payable 1973 is $531,400. The levy limit base per capita adjustment associated with the transfer of the library function is a permanent adjustment for levy year 1972 and all future levy years.

The aggregate of the adjusted total 1972 payable 1973 levy limitations ($338,000 + $531,400 = $870,000) is equal to the aggregate of the total 1972 payable 1973 levy limitations prior to the adjustment ($370,000 + $500,000 = $870,000).

The amount of non-ad valorem tax resources used to support a function or service in levy year 1970 payable 1971, except Exempt Property Reimbursement (pursuant to Minnesota Statutes 1969, Section 273.69), may not be used to adjust levy limit bases per capita when such function or service is transferred from one governmental subdivision to another.

Tax L.L. 43. Administrative Rules and Regulations.

Section 275.55 empowers the Commissioner of Revenue to issue, in accordance with the Administrative Procedures Act (Minnesota Statutes, Chapter 15), rulings interpreting the Levy Limitations Law. These rules, in addition to other purposes

relating to the Levy Limitations Law, shall be used to determine if a governmental subdivision levy qualifies as a "special levy" and to determine if a levy limitation established pursuant to Sections 275.50 to 275.56 has been exceeded.

Tax L.L. 44. Review of Levy Limitations.

Section 275.55 delegates to the Commissioner of Revenue the responsibility for the enforcement of the provisions of the Levy Limitations Law. For this reason, the Commissioner of Revenue, or his designees, are charged with the responsibility of establishing procedures by which levies of all governmental units shall be periodically reviewed. A general description of such procedures is herewith provided.

The overall levy limitation for each governmental subdivision in 1971, or any subsequent levy year, shall be determined by the Department of Revenue in accordance with the provisions of Sections 275.50 to 275.56. These limitations shall be the effective overall levy limitations for such governmental subdivisions. These overall levy limitations may be corrected and adjusted upon new information supplied by the governmental subdivision to the Department of Revenue.

Each governmental subdivision shall file with the Department of Revenue, in 1971 and subsequent levy years, on forms supplied by the Department of Revenue, a detailed explanation for each claim of a "special levy" or other levy outside the limitations established pursuant to Sections 275.50 to 275.56 (see Tax L.L. 27

for other levies outside the overall levy limitations), together with a certification of the ad valorem property tax levy certified to the county auditor for such levy year.

Upon receipt of the abstracts of tax lists transmitted by the county auditors pursuant to Minnesota Statutes, Section 275.29 the Department of Revenue shall review the taxes actually levied by the governmental subdivision, together with the certifications previously made (see above paragraph), and make determinations based on the Department's rules and regulations promulgated pursuant to Section 275.55. If the Department of Revenue determines that a "special levy" claim included in the governmental subdivision's certification and actually extended on the tax lists is not a qualified "special levy" pursuant to Section 275.50, Subdivision 5, or that a levy included in the governmental subdivision's certification and actually extended on the tax lists does not qualify under Tax L.L. 27 as outside the limitations established pursuant to Sections 275.50 to 275.56, such levy shall be included in the governmental subdivision's total levy which is subject to the overall levy limitation.

For the purpose of determining if a governmental subdivision levy in 1972, taxes payable 1973 is within the 1972 payable 1973 levy limitation of such governmental subdivision determined pursuant to Sections 275.50 to 275.56, the amount of 1973 Exempt Property Reimbursement that the governmental subdivision was entitled to receive pursuant to Minnesota Statutes 1971,

Section 477A.02 shall be added to the payable 1973 levy of such subdivision.

Tax L.L. 45. Administrative Action.

Section 275.55 empowers the Commissioner of Revenue to take such other administrative actions as he deems necessary in order to carry out the provisions of the Levy Limitations Law. This power includes, but is not limited to: (1) the withholding of state aid payments due a governmental subdivision pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid); (2) entering into a stipulation agreement whereby a governmental subdivision agrees to reduce its levy; (3) denying a "special levy" which does not qualify under Section 275.50, Subdivision 5 in order to prevent it from being used in the calculation of Local Government Aid payments to be made pursuant to Minnesota Statutes 1973, Section 477A.01; and (4) reducing Homestead Credit granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135 in lieu of withholding state aid payments paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid), when the county auditor reduced the governmental subdivision's bonded indebtedness levy by application of Local Government Aid or Taconite Municipal Aid and correspondingly increased the governmental subdivision's levy subject to the levy limitations of Sections 275.50 to 275.56. (See Tax L.L. 46 for the withholding of state aids, Tax L.L. 47

Section 477A.02 shall be added to the payable 1973 levy of such subdivision.

Tax L.L. 45. Administrative Action.

Section 275.55 empowers the Commissioner of Revenue to take such other administrative actions as he deems necessary in order to carry out the provisions of the Levy Limitations Law. This power includes, but is not limited to: (1) the withholding of state aid payments due a governmental subdivision pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid); (2) entering into a stipulation agreement whereby a governmental subdivision agrees to reduce its levy; (3) denying a "special levy" which does not qualify under Section 275.50, Subdivision 5 in order to prevent it from being used in the calculation of Local Government Aid payments to be made pursuant to Minnesota Statutes, 1973 Supplement, Section 477A.01; and (4) reducing Homestead Credit granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135 in lieu of withholding state aid payments paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid), when the county auditor reduced the governmental subdivision's bonded indebtedness levy by application of Local Government Aid or Taconite Municipal Aid and correspondingly increased the governmental subdivision's levy subject to the levy limitations of Sections 275.50 to 275.56. (See Tax L.L. 46 for the withholding of state aids, Tax L.L. 47

for the reduction of levies, and this regulation for the denial of unqualified "special levies" for the purpose of Minnesota Statutes, 1973 Supplement, Section 477A.01 and the reduction of Homestead Credit in lieu of withholding Local Government Aid or Taconite Municipal Aid.)

"If the Commissioner of Revenue takes administrative action or any other action authorized by Section 275.55" which is required in order to "enforce the provisions of Sections 275.50 to 275.55, he shall give written notice of such action to the governmental subdivision affected. Such notice shall specify the actual or impending violations by the governmental subdivision of Sections 275.50 to 275.56 or the rules and regulations of the Department of Revenue pertaining thereto, describe the corrective action required including, in the case of an excess levy, reduction of the governmental subdivision's levy in the next succeeding levy year in an amount equal to the amount of the excess levy, set a reasonable period of time within which the governmental subdivision shall correct the specified actual or impending violations and caution the governmental subdivision that if the specified correction is not made within the time allowed, the state aids to the governmental subdivision pursuant to Sections 477A.01 and 298.282, as amended, will be reduced as provided in Section 275.51, Subdivision 4. The time period first allowed for correction may be extended by the Commissioner if he finds a reasonable basis for delay."

One notice which the Commissioner of Revenue may send pursuant to Section 275.55 is an order of the Commissioner of Revenue determining an excess levy and reducing Local Government Aid. This order pertains to an ad valorem tax levy extended on the tax lists which the Department of Revenue determines is in excess of the governmental subdivision's levy limitation, established pursuant to Sections 275.50 to 275.56. Such order shall show how the Department calculated the amount of the excess levy and shall inform the governmental subdivision of the amount of reduction in its state aids distributed pursuant to Minnesota Statutes, Sections 298.282 (Taconite Municipal Aid) and 477A.01 (Local Government Aid) as penalty for such excess levy. Such order shall be effective 30 days after the date of such order, unless the governmental subdivision agrees by stipulation to reduce its levy and levy limitation in the next succeeding levy year by the amount of the excess levy specified in the order, and further agrees not to levy in excess of its overall levy limitation for such following levy year. (See Tax L.L. 47 for reduction of levies.) Such order shall also inform the governmental subdivision of its right, pursuant to Section 275.552, to dispute the Commissioner's order within 30 days of the date of such order, and of its right to a hearing before the Levy Limitations Review Board if the Commissioner adheres to his order. (See Tax L.L. 48 for contested cases.) Finally, this order shall inform the governmental subdivision that if the notice of the governing body of the

governmental subdivision disputing the Commissioner's order is not given to the Commissioner within 30 days of his order, his order shall be final and not subject to review before the Levy Limitations Review Board. (See Tax L.L. 48 for contested cases.) There shall be attached to the Commissioner's order a formal request for a redetermination of the Commissioner of Revenue's order which the governmental subdivision may choose to sign and submit to the Commissioner. There shall also be attached to the Commissioner's order a formal stipulation agreement (whereby the governmental subdivision agrees to reduce its levy and levy limitation in the next succeeding levy year by the amount of the excess levy specified in the order and further agrees not to levy in excess of its overall levy limitation for such following levy year) which the governmental subdivision may choose to sign and submit to the Commissioner.

If the governing body of a governmental subdivision disputes a Commissioner's order determining an excess levy and reducing Local Government Aid, and the Commissioner adheres to such order, the governing body of the governmental subdivision may submit a formal request for appeal to the Levy Limitations Review Board, subject to rules adopted by the Levy Limitations Review Board. (See Tax L.L. 48 for contested cases.)

Another notice which the Commissioner of Revenue may send pursuant to Section 275.55 is an order determining the disallowance of a special levy. Such order shall list the special levies claimed by the governmental subdivision which the Department of

Revenue determines do not qualify as special levies pursuant to Section 275.50, Subdivision 5. Such order shall also inform the governmental subdivision that the disallowed special levies claimed by the governmental subdivision shall not be used in the determination of Local Government Aid payments to be distributed pursuant to Minnesota Statutes, 1973 Supplement, Section 477A.01. Such order shall be effective 30 days after the date of such order. This order shall also inform the governmental subdivision of its right, pursuant to Section 275.552, to dispute the Commissioner's order within 30 days of the date of such order, and of its right to a hearing before the Levy Limitations Review Board if the Commissioner adheres to his order. (See Tax L.L. 48 for contested cases.) Finally, this order shall inform the governmental subdivision that if the notice of the governing body of the governmental subdivision disputing the Commissioner's order is not given to the Commissioner within 30 days of his order, his order shall be final and not subject to review before the Levy Limitations Review Board. There shall be attached to the Commissioner's order a formal request for a redetermination of the Commissioner of Revenue's order which the governmental subdivision may choose to sign and submit to the Commissioner.

If the governing body of a governmental subdivision disputes a Commissioner's order determining the disallowance of a special levy, and the Commissioner adheres to such order, the governing body of the governmental subdivision may submit a formal request for appeal to the Levy Limitations Review Board, subject to rules adopted by the Levy Limitations Review Board.

If the levy of a governmental subdivision, as extended on the tax lists, is in excess of the limitation imposed on such levy pursuant to Sections 275.50 to 275.56, and such excess levy is due to the county auditor having applied Local Government Aid (Minnesota Statutes, Section 477A.01) or Taconite Municipal Aid (Minnesota Statutes, Section 298.282) to the governmental subdivision's bonded indebtedness levy and correspondingly having increased the governmental subdivision's levy subject to the limitations of Sections 275.50 to 275.56, the following shall apply. With the approval of the governing body of the governmental subdivision, the Department of Revenue will determine what the levy for bonded indebtedness would have been if the governmental subdivision's Local Covernment Aid had been deducted from its non-bonded debt levies only. Such determination will result in lower computed Homestead Credit payments pursuant to Minnesota Statutes, Sections 273.13 and 273.135. An adjustment will then be made in subsequent Homestead Credit payments in lieu of withholding state aids paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid). If the governing body of such governmental subdivision does not agree to a reduction in its Homestead Credit payments, the subdivision will be subject to the withholding of state aids paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid) unless the governing body of such governmental subdivision agrees by stipulation to reduce its levy and levy limitation in the

next succeeding levy year by the amount of the excess levy specified in the Commissioner's order, and further agrees not to levy in excess of its overall levy limitation for such following levy year. (See Tax L.L. 46 for withholding state aids and Tax L.L. 47 for reduction of levies.)

Tax L.L. 46. Withholding State Aids.

Section 275.55 empowers the Commissioner of Revenue to withhold state aids where such penalties are authorized by law. State aids pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid) may be reduced as a penalty for a levy in excess of a governmental subdivision's levy limitation established pursuant to Sections 275.50 to 275.56 under the following conditions:

(a) The governmental subdivision did not submit a formal request for a redetermination of the Commissioner's order determining an excess levy and reducing Local Government Aid within 30 days of the date of such order, and did not sign a stipulation agreement whereby the governmental subdivision would reduce its levy and levy limitation in the next succeeding levy year by the amount of excess levy specified in the Commissioner's order and further agree not to levy in excess of its overall levy limitation for such following levy year;

(b) The governmental subdivision disputed the Commissioner's order within the time allowed, the Commissioner adhered to his order, but the governmental subdivision did not appeal to the Levy Limitations Review Board;

(c) The governmental subdivision disputed the Commissioner's order within the time allowed, the Commissioner adhered to his order, the governmental subdivision appealed to the Levy Limitations Review Board, and the Levy Limitations Review Board upheld the Commissioner's order after a hearing before the Board. (See Tax L.L. 45 for the Commissioner's administrative action and Tax L.L. 48 for contested cases.)

The Commissioner of Revenue, after the due process required by the Levy Limitations Law, is empowered to withhold a portion or all of one or more Local Government Aid payments (pursuant to Minnesota Statutes, Section 477A.01) or Taconite Municipal Aid payments (pursuant to Minnesota Statutes, Section 298.282) due a governmental subdivision when such governmental subdivision has exceeded its overall levy limitation as established by Sections 275.50 to 275.56. The total amount withheld is determined in accordance with Section 275.51, Subdivision 4 (see Tax L.L. 35 for penalties). The penalty assessed on an excess levy is first prorated equally against the four Local Government Aid payments due to be made to the governmental subdivision during the payment year, and then applied against the Taconite Municipal Aid payment (if any) to be made in such year, and any additional remaining penalty is carried over to the subsequent year's Local Government Aid payments. If the penalty is assessed prior to March 15 of any payment year, the penalty shall be applied to that year's aid payments. If the penalty is assessed after March 14 of any payment year, the penalty shall not be applied until the subsequent payment year.

(c) The governmental subdivision disputed the Commissioner's order within the time allowed, the Commissioner adhered to his order, the governmental subdivision appealed to the Levy Limitations Review Board, and the Levy Limitations Review Board upheld the Commissioner's order after a hearing before the Board. (See Tax L.L. 45 for the Commissioner's administrative action and Tax L.L. 50 for contested cases.)

The Commissioner of Revenue, after the due process required by the Levy Limitations Law, is empowered to withhold a portion or all of one or more Local Government Aid payments (pursuant to Minnesota Statutes, Section 477A.01) or Taconite Municipal Aid payments (pursuant to Minnesota Statutes, Section 298.282) due a governmental subdivision when such governmental subdivision has exceeded its overall levy limitation as established by Sections 275.50 to 275.56. The total amount withheld is determined in accordance with Section 275.51, Subdivision 4 (see Tax L.L. 35 for penalties). The penalty assessed on an excess levy is first prorated equally against the four Local Government Aid payments due to be made to the governmental subdivision during the payment year, and then applied against the Taconite Municipal Aid payment (if any) to be made in such year, and any additional remaining penalty is carried over to the subsequent year's Local Government Aid payments. If the penalty is assessed prior to March 15 of any payment year, the penalty shall be applied to that year's aid payments. If the penalty is assessed after March 14 of any payment year, the penalty shall not be applied until the subsequent payment year.

Example 1. City K had an overall levy limitation of $400,000 in levy year 1972, taxes payable in 1973. City K actually levied $425,000, exclusive of special levies and special assessments. The Department of Revenue reviewed the excess levy and determined that it was not a qualifying "special levy" for the Levy Limitations Law. The Commissioner of Revenue issued his order determining an excess levy and reducing City K's Local Government Aid. City K did not dispute the Commissioner's order and did not sign a stipulation agreement to reduce its levy in levy year 1973, taxes payable in 1974. Therefore, the penalty on this excess levy of $25,000, computed according to Section 275.51, Subdivision 4 (see Tax L.L. 35 for penalties), would be $3,650, derived as follows:

Levy Limitation	=	$400,000
	x	5%
Maximum Amount Subject to 10% Penalty		$ 20,000
First $20,000 of Excess Levy @ 10%	=	$ 2,000
Additional $5,000 of Excess Levy @ 33%		1,650
TOTAL PENALTY		$ 3,650

Since the effective date of the Commissioner's order was July 1, the $3,650 penalty could not be deducted from the 1973 Local Government Aid payments to City K but would be deducted from the 1974 Local Government Aid payments to the city.

Example 2. County A had a 1973 payable 1974 levy limitation of $600,000. County A levied the $600,000 and

claimed $300,000 in special levies. The Department of Revenue reviewed County A's special levies and disallowed $25,000. A Commissioner's order determining an excess levy and reducing Local Government Aid was sent to the county. Within thirty days of the date of the Commissioner's order, County A submitted to the Commissioner a formal request for a redetermination of the Commissioner's order. The Department of Revenue conducted a field audit in County A's offices, which resulted in the Commissioner adhering to his previous order. County A then submitted a formal request for appeal, signed by the county attorney, to the Levy Limitations Review Board. Notice of time and place for a hearing was sent to County A by the Levy Limitations Review Board. The hearing was held and the decision of the Levy Limitations Review Board was to affirm the Commissioner's order. County A did not appeal to the district court. In this case, the penalty on the $25,000 excess levy, determined pursuant to Section 275.51, Subdivision 4 (see Tax L.L. 35 for penalties), would be $25,000 times 33% equals $8,333. Since the decision of the Levy Limitations Review Board was issued in October of 1974, the $8,333 penalty could not be deducted from the 1974 Local Government Aid payments to County A, but would be deducted from the 1975 Local Government Aid payments to the county.

Tax L.L. 47. Reduction of Levies.

Section 275.55 provides that the Commissioner of Revenue may describe as corrective action for an excess levy, the

reduction of the governmental subdivision's levy in the next succeeding levy year in an amount equal to the amount of the excess levy. This he may do only if the governmental subdivision signs a stipulation agreement. Under a stipulation agreement, the governmental subdivision agrees by stipulation that the Commissioner's determination of an excess levy is correct and valid, and that the levy limitation and ad valorem tax levy for the next succeeding levy year, and for that one levy year only, shall be reduced by the amount of the excess levy specified in the Commissioner's order. The governmental subdivision further agrees to waive all rights of review and appeal in respect to the order of the Commissioner determining an excess levy. Under such stipulation agreement, the Commissioner agrees by stipulation not to reduce any subsequent distributions of state aids to be paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid) on account of such excess levy. (See Tax L.L. 45 for the Commissioner's administrative action.)

Example. City B had a 1972 population of 10,000, a levy year 1972 payable 1973 levy limit base per capita of $50.00 and 1973 Local Government Aid of $100,000 for a levy year 1972 payable 1973 levy limitation of $300,000 ($50.00 x 10,000 - $200,000 = $300,000). After reviewing City B's 1972 payable 1973 levy, the Department of Revenue determined that City B had an excess levy of $20,000. The Commissioner of Revenue then sent City B an order determining the excess

levy. City B decided not to dispute the Commissioner's order and further decided to sign a stipulation agreement to reduce its levy limitation and ad valorem levy in the next succeeding levy year, in lieu of the reduction of its Local Government Aid payments in 1973. Since the 1973 population of City B was 10,100, the adjustment for abolished state aids was determined to be $100,000 (see Tax L.L. 33 for the adjustment for abolished state aids) and the 1974 Local Government Aid and Attached Machinery Aid payments were calculated to be $300,000 and $10,000, respectively, the 1973 payable 1974 levy limitation for City B after the reduction agreed to by stipulation would be calculated as follows:

1972 Payable 1973 Levy Limit Base Per Capita		$50.00
Adjustments for the 6% Yearly Increase		x 106%
1973 Payable 1974 Levy Limit Base Per Capita		$53.00
1973 Population		x 10,100
1973 Payable 1974 Levy Limit Base Before Adjustments		$535,300
Adjustment for Abolished State Aids	+	100,000
Adjusted 1973 Payable 1974 Levy Limit Base		$635,300
1974 Local Government and Attached Machinery Aids	-	310,000
1973 Payable 1974 Levy Limitation Before Adjustments		$325,300
Adjustment for Excess Levy	-	20,000
Adjusted 1973 Payable 1974 Levy Limitation		$305,300

A levy limitation reduced by a stipulation agreement pursuant to this regulation is effective for one levy year only. Such reduction in no way affects the levy limitations of the governmental subdivision for future levy years, determined pursuant to Section 275.51, Subdivision 3 or 3a.

The reduction in a subsequent levy year's levy limitation and ad valorem tax levy is in lieu of a reduction of state aids to be paid to a governmental subdivision pursuant to Minnesota Statutes, Sections 477A.01 and 298.282. If a governmental subdivision chooses not to sign a stipulation agreement to reduce its levy limitation and ad valorem tax levy in the next subsequent levy year, it will be subject to a reduction in its state aids (see Tax L.L. 46 for withholding state aids).

Tax L.L. 48. Contested Cases.

The governing body of a governmental subdivision to whom a notice pursuant to Section 275.55 is given may, by a majority vote of the whole governing body, decide to dispute the Commissioner's order, whether it be an order determining an excess levy and reducing Local Government Aid or an order determining the disallowance of a special levy or any other order issued pursuant to Section 275.55 (see Tax L.L. 45 for the Commissioner's administrative action). Notice of such decision (entered on a letter of request for a redetermination of the Commissioner of Revenue's order, supplied by the Department of Revenue when such order is issued) must be given the Commissioner within 30 days of the issuance of the Commissioner's order, or else the Commissioner's determination is final and not subject to the review of the Levy Limitations Review Board. (The governmental subdivision may also choose to sign a stipulation agreement to reduce its levy and levy

limitation for the following levy year in lieu of reduction of its state aids pursuant to Section 275.51, Subdivision 4; see Tax L.L. 45 for the Commissioner's administrative action.)

Upon receipt of a formal notice from a governmental subdivision within thirty days of the date of the Commissioner's order, requesting a redetermination of the Commissioner's determination, the Commissioner shall conduct such further investigation of the disputed issues of fact as he deems necessary, which may include an audit of local government records contained in the offices of the governmental subdivision. There shall be allowed ten days from the date of receipt of the governmental subdivision's notice for the purpose of conducting such further investigation. Within seventeen days from the date of receipt of the governmental subdivision's notice, the Commissioner shall deliver his decision, in writing, to the governmental subdivision. If the Commissioner continues to adhere to his previous order, the governing body of the governmental subdivision shall be entitled to a hearing before the Levy Limitations Review Board.

Tax L.L. 49. Ranking of Limitations.

Section 275.56 provides that all statutory, special law and charter provisions establishing per capita, mill or dollar limitations on the amount of taxes that a governmental subdivision may levy for general or special purposes are superceded by the Levy Limitations Law to the extent that they authorize

property taxation in excess of the limitations established by Sections 275.50 to 275.56, but otherwise such other limitations are not affected by the Levy Limitations Law. If a special law, statute or charter limitation is more constraining on a governmental subdivision's levy than the overall levy limitation established pursuant to Sections 275.50 to 275.56, such special law, statute or charter limitation is still effective. However, if the overall levy limitation for a governmental subdivision established pursuant to Sections 275.50 to 275.56 is more constraining on a governmental subdivision's levy than a special law, statute or charter limitation, then the overall limitation established pursuant to Sections 275.50 to 275.56 supercedes such special law, statute or charter limitation.

Example 1. County A had an overall levy limitation of $1,600,000 established pursuant to Sections 275.50 to 275.56 for levy year 1972, taxes payable in 1973. A statute limitation allowed this county to levy up to $420,000 for its road and bridge fund. County A wanted to levy $430,000 for its road and bridge fund, and its proposed budget levy, excluding special levies and special assessments, was $1,586,000. In this case, County A must stay within the statutory limitation of $420,000 for its road and bridge fund, regardless of the fact that it would stay within its overall levy limitation of $1,600,000 with a $430,000 levy for such fund.

Example 2. City B had an overall levy limitation of $1,500,000 established pursuant to the Levy Limitations Law for

levy year 1972, taxes payable in 1973. On the other hand, Minnesota Statutes, Section 275.11 allowed the city to levy up to $102.60 per capita, which, when multiplied times the city's population of 16,100, was a levy of $1,651,860. In this case, the Levy Limitations Law supercedes the provisions of Minnesota Statutes, Section 275.11. The city cannot exceed its overall levy limitation of $1,500,000 without being subject to the penalty provisions of Section 275.51, Subdivision 4.

Example 3. City C had an overall levy limitation of $400,000 in levy year 1973, taxes payable in 1974. A special law applicable only to City C authorized a levy of eight mills for the purpose of operating and maintaining an airport. City C's budget levy (before the airport levy of eight mills) was $360,000. The airport levy of eight mills multiplied times the city's assessed value of $6,250,000 equaled a dollar levy for the airport of $50,000. In this case, the Levy Limitations Law supercedes the special law. The city must either reduce its airport levy or other fund levies in order to stay within the overall levy limitation of $400,000, or else be subject to the penalty provisions of Section 275.51, Subdivision 4.

Any law limiting the amount of ad valorem property taxes a governmental subdivision may levy, which was enacted subsequent to the date of final enactment of Laws of Minnesota 1971, Extra Session, Chapter 31, and which authorizes an ad valorem tax levy in excess of the limitation established for a governmental subdivision pursuant to Sections 275.50 to 275.56, shall

supercede the Levy Limitations Law only if such subsequent law expressly exempts levies from the limitations imposed by Sections 275.50 to 275.56.

Tax L.L. 50. Elections to Increase Levy.

Notwithstanding the provisions of Sections 275.50 to 275.56, the levy of a governmental subdivision, excluding special levies and special assessments, may be increased above the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 in any per capita or dollar amount which is approved by the majority of those voters of the governmental subdivision voting at a general or special election. However, any such increase is subject to other applicable statutory, special law or charter provisions establishing per capita, mill or dollar limitations on the amount of ad valorem taxes that may be levied. Section 275.58 shall not be construed as authorizing elections to increase levies above any applicable statutory, special law or charter limitation other than limitations established pursuant to Sections 275.50 to 275.56.

(a) When the governing body of a governmental subdivision determines by resolution to increase the levy of the governmental subdivision pursuant to the provisions of Section 275.58, it shall provide for submission of the proposition of an increase in the levy limit base per capita or the proposition of an additional levy, as the case may be, at a general or special election. Notice of such election shall be given in the manner

required by the law governing elections under which the governmental subdivision operates. "If the proposition is for an adjustment to the governmental subdivision's levy limit base per capita, increasing the levy limit base per capita over the per capita amount established pursuant to Section 275.51, Subdivision 3, such notice shall state the purpose of such per capita adjustment and the per capita amount of such adjustment. If the proposition is for an additional levy, such notice shall state the purpose and maximum yearly amount of such additional levy."

(b) A levy limit base per capita adjustment approved pursuant to Section 275.58, Subdivision 1, at a general or special election held prior to October 1 in any levy year shall increase the current year's levy limit base per capita for the governmental subdivision in that same levy year by the approved per capita amount and, in addition, shall provide a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. A levy limit base per capita adjustment approved pursuant to Section 275.58, Subdivision 1, at a general or special election held after September 30 in any levy year shall not increase the current year's levy limit base per capita for the governmental subdivision in that same levy year, but shall provide a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. Such adjustment to the governmental subdivision's levy limit base per capita shall not be subject to the penalty

provisions of Section 275.51, Subdivision 4, or the Commissioner's administrative action pursuant to Section 275.55, if used in accordance with the aforementioned stipulations.

Example 1. A $5.00 levy limit base per capita increase, for the purpose of hiring more policemen and providing around-the-clock police protection for City Z, was approved pursuant to Section 275.58, Subdivision 1, at a special election held prior to October 1 in levy year 1973. Prior to adjustment, the city's current levy year's levy limit base per capita for the same levy year was $40.00. The city's adjusted levy limit base per capita for levy year 1973 would then be $45.00, and such increase would be a permanent adjustment for all future levy limitations of the city computed pursuant to Section 275.51, Subdivision 3.

Example 2. A $4.00 levy limit base per capita increase, for the purpose of operating and maintaining a new park for Enterprise City, was approved pursuant to Section 275.58, Subdivision 1 at a general election held after September 30 in levy year 1974. This levy limit base per capita increase could not be used for computing the city's 1974 payable 1975 levy limitation pursuant to Sections 275.50 to 275.56. However, the city's 1974 payable 1975 levy limit base per capita of $53.00 would be increased to $57.00 and become the preceding levy year's levy limit base per capita for the purpose of determining the city's 1975 payable 1976 levy limitation pursuant to Section 275.51, Subdivision 3, and would be a permanent

adjustment to the city's levy limit base per capita for subsequent levy years.

(c) An additional levy approved pursuant to Section 275.58, Subdivision 1 at a general or special election held prior to October 1 in any levy year may be levied in that same levy year and in any levy years thereafter. An additional levy approved pursuant to Section 275.58, Subdivision 1 at a general or special election held after September 30 in any levy year shall not be levied in that same levy year, except as subject to the penalty provisions of Section 275.51, Subdivision 4, but may be levied in the subsequent levy year and in levy years thereafter. Such additional levy is over and above the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 and shall not be subject to the penalty provisions of Section 275.51, Subdivision 4 or the Commissioner's administrative action pursuant to Section 275.55, if levied in accordance with the aforementioned stipulations.

(d) Notwithstanding any statute, special law, ordinance or charter provision to the contrary, it shall require approval of a majority (50 percent plus 1) of the voters of the governmental subdivision voting on the question to accomplish a levy limit base per capita increase or an additional levy pursuant to Section 275.58, Subdivision 1.

(e) Notwithstanding any statute, special law, ordinance or charter provision to the contrary, the governing body of a governmental subdivision may call and hold special elections pursuant to Section 275.58.

Tax L.L. 51. Governmental Subdivisions Under 500 Population; Exemption From Levy Limits.

"Commencing with levy year 1973 and thereafter, taxes payable in 1974 and thereafter, the provisions of Section 275.50 to 275.56 shall not apply to any city, village, borough or town with village powers whose population according to the latest state or federal census is under 500." Metropolitan Council population estimates, Bureau of the Census population estimates, Minnesota Municipal Commission population estimates, estimates of population adopted by resolution of the governing body of a governmental subdivision or any other population estimate may not be used for this determination. Only a state or federal census population figure shall be used. For most cities, villages, boroughs or towns with village powers, this means the latest federal decennial census population, incorporating subsequent corrections made by the Bureau of the Census.

FILED
RICHARD L. BRUBACHER
Commissioner of Administration

JUL 15 1974 4:15 pm

BY Eda Staudenmaier
AUTH. SIGNATURE (EJ)

APPROVED AS TO FORM AND LEGALITY
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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 15 1974 — 4:00 pm
Arlen I. Erdahl
Secretary of State

PROPOSED
RULES AND REGULATIONS OF
THE DEPARTMENT OF REVENUE

(As Presented at the Hearing)

Local Government Levy Limitations
Minnesota Statutes 1971,
Sections 275.50 to 275.56
As Amended By
Laws of Minnesota 1973,
Chapter 650, Article IV

Minnesota Department of Revenue
Division of Research and Planning
November 16, 1973

P U R P O S E

The purpose of these proposed rules and regulations is to satisfy the requirements of Minnesota Statutes 1971, Sections 15.0412 and 275.55.

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To Local Government Levy Limitations

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Tax L.L. 1. Introduction.

Minnesota Statutes, Sections 275.50 to 275.56, hereinafter referred to as the Levy Limitations Law, imposes levy limitations on certain local units of government. Minnesota Statutes, Section 275.58 provides the procedure for elections to increase levies, without penalty, above the limits established by Minnesota Statutes, Sections 275.50 to 275.56. Minnesota Statutes, Section 275.59 exempts certain governmental subdivisions from the provisions of Minnesota Statutes, Sections 275.50 to 275.56.

Tax L.L. 2. Definitions.

Section 275.50, Subdivision 1 states, "As used in Sections 275.50 to 275.56, the terms defined herein have the meanings given to them." Terms not specifically defined in the Levy Limitations Law or in these regulations will be given the meaning ascribed to them in accordance with legal, governmental finance, accounting, or common usage.

Tax L.L. 3. Governmental Subdivision.

The term "governmental subdivision" is defined in Section 275.50, Subdivision 2 as "any county, city, village, borough, or town having the powers of a village pursuant to Minnesota Statutes 1971, Section 368.01 or

Section 368.61, or by special law." School districts, towns without village powers, and special taxing districts are specifically excluded from the term "governmental subdivision."

For the purpose of the Levy Limitations Law, those towns granted village powers by special law shall be deemed to be "governmental subdivisions" only if such special law adopts, by reference, all of the provisions of Minnesota Statutes, Section 368.01 or Minnesota Statutes, Section 368.61. All other towns granted village powers by special act shall not be deemed to be "governmental subdivisions."

The Department of Revenue has determined that the following are "special taxing districts" and are thereby excluded from the term "governmental subdivision":

(1) Metropolitan Mosquito Control District (Minnesota Statutes 1971, Chapter 399);

(2) Hospital districts (Minnesota Statutes 1971, Sections 355.80, 447.34, 447.35, 447.476; Laws of Minnesota 1957, Chapter 3; Laws of Minnesota 1961, Chapter 372; Laws of Minnesota 1963, Chapters 118 and 276);

(3) Housing and redevelopment authorities (Minnesota Statutes 1971, Sections 462.425 to 462.575; Laws of Minnesota 1961, Chapter 200);

(4) Metropolitan Airports Commission (Minnesota Statutes 1971, Sections 360.101 to 360.144);

(5) Metropolitan Council (Minnesota Statutes 1971, Section 473.11 and Chapters 473B and 473C);

(6) Metropolitan Transit Commission (Minnesota Statutes 1971, Chapter 473A; Laws of Minnesota 1971, Chapter 830, Sections 6 and 12);

(7) Park districts (Minnesota Statutes 1971, Sections 398.01 to 398.21; Laws of Minnesota 1971, Chapter 954);

(8) Port authorities (Minnesota Statutes 1971, Sections 458.09 to 458.1991);

(9) Regional development commissions (Minnesota Statutes 1971, Sections 462.381 to 462.396; Laws of Minnesota 1971, Chapter 153);

(10) Regional sanitary sewer districts (Minnesota Statutes 1971, Sections 115.61 to 115.67);

(11) Dover, Eyota and St. Charles Area Sanitary District (Laws of Minnesota 1973, Chapter 160);

(12) St. Cloud Metropolitan Transit Commission (Laws of Minnesota 1969, Chapter 1134);

(13) Sanitary districts (Minnesota Statutes 1971, Sections 115.18 to 115.37 and Section 115.46; Laws of Minnesota 1971, Chapter 824);

(14) Alexandria Lake Area Sanitary District (Laws of Minnesota 1971, Chapter 869);

(15) Western Lake Superior Sanitary District (Laws of Minnesota 1971, Chapter 478);

(16) Watershed districts (Minnesota Statutes 1971, Chapter 112; Laws of Minnesota 1971, Chapter 662).

All of the aforementioned taxing districts are deemed to be "special taxing districts" since they are political entities and taxing entities separate from any county, city, village, borough or town with village powers. However, housing and redevelopment authorities which are a department within a municipal government are not "special taxing districts" and are subject to the levy limitation, established pursuant to Sections 275.50 to 275.56, of the municipality in which they principally operate.

The boards and commissions of a county, city, village, borough or town with village powers are not separate "governmental subdivisions" for the Levy Limitations Law, but instead are included in such county, city, village, borough or town with village powers governmental subdivision.

Example 1. County park boards and county hospital boards are not "governmental subdivisions."

Example 2. County library boards are not "governmental subdivisions" even though the ad valorem levy for them may not be county-wide (i.e., the mill rate may not be applied in certain assessment districts).

Tax L.L. 4. Governing Body of a Town.

The term "governing body" of a town is defined in Section 275.50, Subdivision 3, as the board of supervisors of the town.

Tax L.L. 5. Special Assessments.

The term "special assessments" is defined in Section 275.50, Subdivision 4 as those "assessments made against real property for purposes of financing, wholly or in part, only those types of improvements enumerated in Minnesota Statutes 1971, Sections 429.021, Subdivision 1 and 429.101, whether imposed pursuant to such sections or pursuant to home rule charter provisions." General tax levies to finance the aforementioned improvements which are spread upon real estate not specifically benefited by the improvements, and on the benefited real estate as part of the taxable valuation of the governmental subdivision, are not considered special assessments.

Example 1. An ad valorem levy by rate in a city, village, borough or town to pay the cost of a judicial ditch, county ditch, or joint county ditch assessment against such city, village, borough or town is not a "special assessment" because it is a mill levy and it is imposed on more than the specifically benefited property.

Example 2. General obligation improvement bonds are issued by a governmental subdivision to pay the cost of

street and curbing improvements. The bond agreement specifies that 80% of bond principal and interest is to be repaid by ad valorem levy and 20% is to be repaid by special assessments on benefited property. In this instance, only the 20% of the cost of bond principal and interest raised by special assessments against benefited property is included in the term "special assessments" as used in the Levy Limitations Law. However, the remaining 80% of bond principal and interest raised by ad valorem levy would qualify as a "special levy" outside the levy limitations imposed by the Levy Limitations Law. (See Tax L.L. 16 below for bonded indebtedness special levies.)

If a general or special law enacted after 1971 provides that a governmental subdivision must finance certain improvements by an ad valorem tax levy, when improvements of such type were financed by special assessments in levy year 1970, taxes payable in 1971, the governmental subdivision's levy limit base per capita is adjusted to reflect the change in financing. (See Tax L.L. 32 for adjustments to the base for public improvements required to be financed by ad valorem taxation and which previously were financed by special assessments.)

Tax L.L. 6. Special Levies.

The term "special levies" is defined in Section 275.50, Subdivision 5 as those portions of ad valorem taxes levied

by governmental subdivisions for the purposes enumerated in Section 275.50, Subdivision 5. (See Tax L.L. 7 through Tax L.L. 26 for the rules concerning the several "special levies.") These "special levies" are not subject to the levy limitations imposed by the Levy Limitations Law.

The term "special levies" does not include a levy claimed for any of the purposes enumerated in Minnesota Statutes, Section 275.50, Subdivision 5 when such levy is intended to be used for some other purpose. The term "special levies" also does not include a levy claimed for any of the purposes enumerated in Minnesota Statutes, Section 275.50, Subdivision 5, when such levy is in actuality an unused or unclaimed authorized "special levy" for a previous levy year, but which was levied in such previous levy year subject to the levy limitation of the governmental subdivision for such levy year as established pursuant to Minnesota Statutes, Sections 275.50 to 275.56.

For the purpose of determining the "special levies" pursuant to Section 275.50, Subdivision 5, and for the purpose of the rules Tax L.L. 7 through Tax L.L. 26 of these rules and regulations, the term "levy" or "levies" shall have the following meanings:

(1) For levy year 1970, taxes payable in 1971, the term "levy" or "levies" or "amount levied" shall mean the ad valorem tax voted by the governing body of the governmental subdivision and certified to the county auditor, before any reduction by the Exempt Property Reimbursement paid pursuant to Minnesota Statutes 1969, Section 273.69; and

(2) For levy years 1971 and thereafter, taxes payable in 1972 and thereafter, the term "levy" or "levies" or "amount levied" shall mean the ad valorem tax voted by the governing body of the governmental subdivision and certified to the county auditor.

Tax L.L. 7. Judgments.

Levies to "satisfy judgments rendered against the governmental subdivision by a court of competent jurisdiction in any action other than an action on an express contract, or to pay the costs of settlements out of court against the governmental subdivision in any action other than an action on an express contract when substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision," are special levies to "the extent of the increase in levy for such judgments and out of court settlements over levy year 1970, taxes payable in 1971."

For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (a), the following items increase the special levy:

(1) A levy to pay the costs of court judgments and out of court settlements not paid either by liability insurance procured pursuant to Minnesota Statutes, Section 466.06 or by self insurance (from a contingency fund established for such purpose);

(2) A levy for the total premium costs of liability insurance procured pursuant to Minnesota Statutes, Section 466.06, excluding the premium costs of insurance for protection in excess of the limit of liability imposed by Minnesota Statutes, Section 466.04 and excluding any insurance procured to cover workmen's compensation claims;

(3) A levy for self insurance (contingency fund established for the purpose of paying court judgments and out of court settlements against the governmental subdivision), minus the amount of self insurance to be levied to cover workmen's compensation claims and minus the amount of unused self insurance levied in the immediately preceding levy year for all purposes except workmen's compensation.

For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (a), the following items decrease the special levy:

(1) The levy in 1970, taxes payable in 1971, to pay the costs of court judgments and out of court settlements;

(2) The levy in 1970, taxes payable in 1971, for the total premium costs of liability insurance procured pursuant to Minnesota Statutes, Section 466.06, excluding the premium costs of insurance for protection in excess of the limits of liability imposed by Minnesota Statutes, Section 466.04 and excluding any insurance procured to cover workmen's compensation claims;

(3) The levy in 1970, taxes payable in 1971, for self insurance (contingency fund established for the purpose of paying court judgments and out of court settlements against the governmental subdivision) minus the amount of self insurance levied to cover workmen's compensation claims.

For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (a), the aforementioned items which increase or decrease the special levy are limited to those levies which cover or pay for tort liability within the scope of Minnesota Statutes, Sections 466.02 and 466.03 (excluding workmen's compensation claims) and within the maximum liability amounts specified in Minnesota Statutes, Section 466.04.

Example 1. A levy to pay the cost of a tort judgment for false arrest would be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a).

Example 2. A levy to pay the cost of a settlement out of court against a governmental subdivision in a condemnation of real estate proceeding, substantiated by a stipulation for the dismissal of the action filed with the court of competent jurisdiction and signed by both the plaintiff and the legal representative of the governmental subdivision, would be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a).

Levies to satisfy judgments or out of court settlements resulting from a governmental subdivision defaulting on

its obligations under express contract are not "special levies" pursuant to Section 275.50, Subdivision 5 (a). For example, a levy to pay the cost of a judgment resulting from the default of a governmental subdivision to pay for services rendered for maintenance of streets under a previously agreed contract would not be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a). However, levies to satisfy judgments or out of court settlements against the governmental subdivision in actions on implied contracts are included in determining the special levy pursuant to Section 275.50, Subdivision 5 (a).

Tax L.L. 8. Lawful Orders.

A levy to "pay the costs of complying with any written lawful order issued by the state of Minnesota, or the United States, or any agency or subdivision thereof, which is authorized by law, statute, special act or ordinance and is enforceable in a court of competent jurisdiction, or any stipulation agreement or permit for treatment works or disposal system for pollution abatement in lieu of a lawful order signed by the governmental subdivision and the state of Minnesota, or the United States, or any agency or subdivision thereof which is enforceable in a court of competent jurisdiction," is a "special levy" to the extent that such lawful order, stipulation agreement or permit requires a new or altered activity which results in an increase in expenditures.

Example 1. A levy to pay the cost of complying with an order from the Minnesota Department of Health, ordering the governmental subdivision to install fluoridation equipment to its waterworks system, would be a "special levy" to the extent of the additional expense resulting from such installation. Also, a levy to pay the cost of complying with an order to increase an existing fluoridation level would be a special levy to the extent of the additional expenditure for increased chemical usage or plant modification (excluding machine adjustment).

Example 2. A levy to pay the cost of closing a dump, in compliance with a stipulation agreement signed by the Minnesota Pollution Control Agency and the governing body of the governmental subdivision would be a special levy. However, the cost of a grader or tractor which was purchased to use in closing a dump may not be levied as a special levy under Section 275.50, Subdivision 5 (b). However, if such equipment was financed by bonds, or by certificates of indebtedness pursuant to Minnesota Statutes, Sections 412.301 or 411.50, the principal and interest on such bonds or certificates could be claimed as a special levy. (See Tax L.L. 16 and Tax L.L. 17.)

Example 3. A city levy to pay the cost of complying with an order from the county government to take specific action with respect to applicable county ordinances established pursuant to the Solid Waste Management Act

(Minnesota Statutes, Chapter 400) would be a special levy to the extent of the incremental cost attributable to such lawful order.

Example 4. A levy to pay the cost of starting and operating a sanitary landfill system which is authorized by a permit issued by the Minnesota Pollution Control Agency is a special levy to the extent of the increased costs for such sanitary landfill over the amount levied for a sanitary landfill system or dump in levy year 1970, payable 1971.

Example 5. A village has a written stipulation agreement with the Minnesota Pollution Control agency to construct secondary and tertiary treatment facilities in order to comply with the Agency's rules and regulations. A levy to pay the cost of the village in complying with such stipulation agreement would be a special levy to the extent of the increased cost of the required activity over the levy for the same activity in 1970, taxes payable in 1971.

Example 6. The Federal Emergency Employment Act of 1971 requires that after the matching fund program has ended, the governmental subdivision must retain at least 50% of the employees hired under the Act. This requirement will be considered as a "stipulation agreement" for the purpose of the Levy Limitations Law. After the matching fund program under the Emergency Employment Act of 1971 is

ended, the governmental subdivision may levy the salaries, expenses and other costs of such employees retained as a special levy.

Example 7. A levy to pay the costs of helmets and boots for an organized fire department in order to qualify for state aid to firetowns, under the State Fire Marshall's rules and regulations, is not a "special levy." Such a levy is not the result of a lawful order, stipulation agreement or permit requiring certain new equipment but instead is a voluntary levy.

For the purpose of the Levy Limitations Law, the "costs" to a governmental subdivision of complying with a permit issued for a disposal system for pollution abatement shall be deemed to include the user fee imposed on the governmental subdivision pursuant to Laws of Minnesota 1973, Chapter 748. Such "costs" shall also be deemed to include the user fee imposed, pursuant to the same law, on the operator of a privately owned solid waste disposal facility, when the contract between the governmental subdivision and the operator of the disposal facility is renegotiated to reflect the increased costs due to such user fee. This "special levy" shall be limited to the extent that such user fee is not paid by service charges, special assessments or any other non-ad valorem tax revenue.

Finally, a governmental subdivision cannot default on its financial obligations, get a court order or any

other lawful order to levy an ad valorem property tax, and then levy such tax as a "special levy" under the Levy Limitations Law.

The Commissioner of Revenue shall, in consultation with other state departments and agencies, develop a suggested form which may serve as a model for all lawful orders issued by the State of Minnesota and its agencies or subdivisions.

Tax L.L. 9. Compliance With Laws of the Minnesota Legislature.

Levies to "pay the costs of complying with any law enacted by the 1971 legislature or a prior or subsequent year's legislature which specifically and directly requires a new or altered activity after levy year 1970" is a special levy to the "extent of the increased cost for such activity after levy year 1970, taxes payable in 1971."

In order to qualify as a special levy, the language of such law must be mandatory and not permissive and must specifically and directly require a new or altered activity which necessarily results in increased expenditures for the governmental subdivision. In addition, it must be a law of the Minnesota legislature which does not require a new or altered activity until after levy year 1970, taxes payable in 1971. Finally, it cannot be a law which sets the standards that a governmental subdivision must meet in order to qualify for a state aid. Such a law does not

specifically and directly require a new or altered activity, and compliance by the governmental subdivision with such standards is not mandated by the State.

Only the additional costs of the new or altered activity at the required level after levy year 1970, taxes payable in 1971 may be levied as a "special levy."

Example 1. A county government levy to pay the cost of its share of a detoxification center required by Laws of Minnesota 1971, Chapter 892 would be a "special levy."

Example 2. A levy to pay the cost of preparation and mailing of the notices to be sent out by the county assessor's office to the owners of taxable real estate, showing the increase in assessed value, as required by Laws of Minnesota 1971, Extra Session, Chapter 31, Article 23, Section 2 is a "special levy."

Example 3. A levy to pay the salaries and expenses of a building official, an activity specifically required by Laws of Minnesota 1971, Chapter 561 is a "special levy" to the extent that the costs as a result of this law exceed the 1970 payable in 1971 levy for such activity.

Example 4. Laws of Minnesota 1971, Chapter 403 provides that certain counties shall regulate solid waste collection, storage transportation and disposal facilities. The effect of this provision, if the regulation is a new activity, might be to force a county government into

garbage collection. However, Chapter 403 does not specifically or directly require a county government to collect, transport and dispose of garbage. Therefore, a county government cannot claim a special levy for garbage collection, transportation and disposal under Section 275.50, Subdivision 5 (c). However, if such county government obtained a permit from the Minnesota Pollution Control Agency to operate a sanitary landfill site or facility, the cost of operating such sanitary landfill site or facility could be levied as a special levy under Section 275.50, Subdivision 5 (b). (See Tax L.L. 8 for lawful order special levies.) Furthermore, the increased cost for the regulation function over the 1971 budget level may be levied as a special levy to the extent that the increased cost of regulation is attributable to Laws of Minnesota 1971, Chapter 403.

Example 5. Laws of Minnesota 1973, Chapter 23, requires that unemployment compensation must be paid to employees who are laid off for reason of a strike or labor dispute, provided that the employee is not participating in such strike or dispute. A levy to pay the costs of unemployment compensation for these employees is a "special levy."

Example 6. A levy to pay the litigation costs and fees for indigents that are charged to the governmental subdivision by any court of the State of Minnesota, pursuant to Laws of Minnesota 1973, Chapter 205, is a "special levy."

Example 7. A levy to pay the cost of adopting a local flood management ordinance as required under Laws of Minnesota 1973, Chapter 351 is a "special levy."

Example 8. A levy by a governmental subdivision to pay the cost of adopting a local ordinance affecting the use and development of its shoreland, as required under Laws of Minnesota 1973, Chapter 379 is a "special levy."

Example 9. Laws of Minnesota 1973, Chapter 559 requires that before an amendment to a zoning ordinance may be adopted, involving changes in district boundaries affecting an area of five acres or less, mailed notice must be sent to the owners of property located within 350 feet (previously 200) from the property to which the amendment relates. A levy to pay the increased cost of mailed notices resulting from this law is a "special levy."

Example 10. Pursuant to Laws of Minnesota 1973, Chapter 604, a governmental subdivision acting as an acquiring authority shall provide all relocation assistance, services, payments and benefits required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and any regulations adopted pursuant thereto by the United States Department of Housing and Urban Development or the United States Department of Transportation, even though Federal aid is not available. A levy by a governmental subdivision to pay the costs of such required relocation assistance, services, payments and benefits when Federal aid is not available is a "special levy."

Example 11. A levy to pay the costs of complying with the Minnesota Fair Labor Standards Act (Laws of Minnesota 1973, Chapter 721), is a "special levy" to the extent that the provisions of the law regarding minimum wages and overtime cause the level of payroll costs to the governmental subdivision to exceed the levy year 1972, taxes payable in 1973 level.

Example 12. A levy by a governmental subdivision to pay the cost of complying with occupational safety and health standards or regulations promulgated pursuant to Laws of Minnesota 1973, Chapter 732 is a "special levy."

Example 13. Laws of Minnesota 1973, Chapter 752 provides that the Governor of the State of Minnesota designates an "area of critical concern" by written order. After receiving notification of such designation, a local unit of government with an "area of critical concern" within its jurisdiction must adopt plans and regulations to protect the area. A levy to pay the cost of adopting such plans and regulations concerning an "area of critical concern" would be a "special levy."

Tax L.L. 10. Expanded County Court Systems.

A levy by a county government to pay the costs of an expanded county court system is a special levy to the extent of the increase in costs to the county government, after subtracting the amount of the county's anticipated collections of fees, fines and forfeits from the county's share of total

court costs, over the amount levied in support of a county court or a probate court in levy year 1970, taxes payable in 1971. In general, any additional cost to the county government over the payable 1971 budget level, remaining after the subtraction of the county's anticipated collections of fees, fines and forfeits in the taxes payable year, is a "special levy."

Example 1. A probate judge was salaried the first half of 1971 at the yearly rate of $16,500. After becoming county court judge on July 1, 1971, his salary was increased to $24,000 in accordance with Laws of Minnesota 1971, Chapter 951, Section 5. Thus his salary for calendar year 1971 was $16,500/2 + $24,000/2 = $20,250. For levy year 1971 taxes payable in 1972 the county government could include both the increase in annual salary for 1971 ($20,250 - $16,500 = $3,750) and the increase in annual salary for 1972 ($24,000 - $16,500 = $7,500) in determining the "special levy" pursuant to Section 275.50, Subdivision 5 (d). In subsequent years, only the increase in salary over the budget year 1971 level can be included in determining this "special levy."

Example 2. A county court becomes operative on July 1, 1972 and several new employees (bailiff, deputy and clerk for Clerk of Court's Office) are hired effective July 1, 1972. A 1971 levy payable in 1972 to pay the cost of the salaries for the last half of calendar year 1972

and their associated supplies and expenses for that period would be included in determining the "special levy" for the increased costs of an expanded county court system. In subsequent years the total levy to pay the salaries, supplies, and expenses of these new employees would be included in determining this "special levy."

Example 3. A county court judge reports that more employees are needed for the court and that new office space must be provided for them as a result of the expanded county court system. A levy to pay the cost of remodeling or new construction for office space for the new court employees would be included in determining the "special levy" for the increased costs of an expanded county court system.

Example 4. The estimated total cost of a county court for budget year 1974 is $300,000. County A's share of the cost is $180,000. The anticipated amount of fines, fees and forfeits which will be paid to County A in budget year 1974 is $45,000. Since County A levied $100,000 for its probate court in levy year 1970, taxes payable in 1971, it would be entitled to a $35,000 "special levy" ($180,000 - $45,000 - $100,000) in levy year 1973, taxes payable in 1974, to pay the cost of an expanded county court system.

This special levy applies only to county governments. Cities, villages and boroughs may not claim as a "special levy" under Section 275.50, Subdivision 5 (d), a levy to pay the increased expenses for lawyers' services or to compensate for the loss of

municipal court fines or the municipality's share of the fines collected by a justice of the peace, due to the elimination of a municipal court or a justice of the peace by the County Court Law (Laws of Minnesota 1971, Chapter 951). However, the loss of municipal court fines or the municipality's share of fines collected by a justice of the peace may be included in the calculation of the special levy pursuant to Section 275.50, Subdivision 5 (n). (See Tax L.L. 20 for decreased non-tax revenues.)

Tax L.L. 11. Employer's Contributions to Public Pension Plans.

A levy to "pay amounts required by any public pension plan to the extent that operation of the Laws of the State of Minnesota or the United States governing such fund directly causes the level of governmental financial support to exceed the level of such support prior to July 1, 1971," is a special levy "provided that such increases are not the result of amendment by any means to the benefit plan after July 1, 1971, which required the approval of the governing body of the governmental subdivision."

To qualify as a special levy, the language of the law must be mandatory and not permissive and must specifically and directly require an increase in the level of governmental financial support over the level of such support prior to July 1, 1971.

In general any increase in levy for the minimum required employer's contribution to a public pension plan

over the levy year 1970, taxes payable 1971 level is a special levy, if not the result of amendment by any means to the benefit plan after July 1, 1971, which required the approval of the governing body of the governmental subdivision. The laws relating to this special levy include:

(1) The Social Security Act, including Public Laws 92-5, 92-336, 92-603, 93-66 and any subsequent amendment to the act;

(2) Minnesota Statutes, Section 353.27, relating to the payment of employer contributions to the Public Employees Retirement Association.

(3) Minnesota Statutes, Section 353.65, relating to employer contributions to the "Public Employees Police and Fire Fund" of the Public Employees Retirement Association.

(4) Minnesota Statutes, Section 69.77 (the "Police and Firemen's Relief Association Guidelines Act of 1969").

(5) Any special or local acts of the Minnesota legislature which established local pension plans, and the amendments to such acts.

For purposes of the special levy pursuant to Section 275.50, Subdivision 5 (e), the increase in levy for employer contributions to a public pension plan is calculated as the total increase in the levy for the minimum required employer's contribution (pursuant to the

forementioned laws) in the current levy year over the levy year 1970, taxes payable in 1971 level, without regard to whether or not a portion of such increased cost is attributable to salary increases or expanded manpower levels.

No portion of the employer cost for employees' group insurance may be levied as a special levy under Section 275.50, Subdivision 5 (e).

Tax L.L. 12. Employer's Contributions to Volunteer Firemen's Relief Associations.

A levy to pay the increase in amounts required in support of a volunteer firemen's relief association is a special levy if the increase in required amounts results from the operation of Minnesota Statutes, Section 69.772 or 69.773.

In effect, the levy for the minimum amount of employer contributions required in support of a volunteer firemen's relief association, pursuant to Minnesota Statutes, Sections 69.772 or 69.773 would be a special levy to the extent of the increase in levy over the amount levied in support of a volunteer firemen's relief association in levy year 1970, taxes payable in 1971. This special levy is calculated without regard to whether or not a portion of the required increase in employer's contributions is correlated with wage or salary increases or with an expansion of manpower levels.

Tax L.L. 13. Local Share of Matching Fund Programs.

A levy to pay the costs to a governmental subdivision for its share of any program otherwise authorized by law, for which matching funds have been appropriated by the State of Minnesota or the United States, is a special levy, but only to the extent that the minimum required local share for the program exceeds the levy for the local share of the same program in levy year 1970, taxes payable in 1971.

Levies to pay a local share may be a "special levy" both in the case of a matching fund program with Federal or state grants fixed by ratio and also in the case of a matching fund program with flat amounts of Federal or State grants. However, the term "special levy," for the purpose of Section 275.50, Subdivision 5 (g), does not in any way pertain to levies associated with State highway trunk fund aids and similar type aids (except grants for the administrative costs of categorical welfare aids and general assistance programs and the costs of administration of social services and the purchase of social services) which do not specifically require a stipulated local share amount.

The amount of the allowable special levy shall be calculated for each matching fund program individually. Likewise, in the case of segmented projects, the amount of the allowable special levy shall be calculated for each matching fund project individually. Separate determination

shall be made for each program or project whether old or new, different from all the rest or similar or identical to other programs or projects.

With the exception of the administration of categorical welfare aids, and general assistance programs and the administration of social services and purchase of social services, only that portion of a levy for a matching fund program local share shown in the final agreement as approved by the state of Minnesota or the United States, whichever has authority for final approval, can be used in determining this special levy. If a governmental subdivision levies in excess of its minimum required local share for the taxes payable year, the excess levy over the minimum required local share amount cannot be considered for a special levy. In determining this special levy, however, the governmental subdivision may include a levy to reimburse itself for tax revenues borrowed from other funds and expended on the minimum required local share of a matching fund program or project in the current or last preceding calendar year. This applies only if the governmental subdivision made expenditures on the minimum required local share of a matching fund program or project in anticipation of State or Federal grants and did not levy taxes payable in the current or last preceding calendar year for such program or project. A governmental subdivision may levy as a special levy the <u>increase</u> in levy for the minimum required local share of a matching fund

program or project over the levy in 1970, taxes payable in 1971 for the same program or project. A governmental subdivision may levy as a special levy the entire minimum required share of a matching fund program or project if no levy was extended in 1970 for taxes payable in 1971 for such program or project.

A governmental subdivision may levy for a matching fund program or project in anticipation of State or Federal grants and consider the minimum required local share of such levy as a "special levy" to the extent that it exceeds the levy, if any, for the program or project in 1970, taxes payable in 1971. If the program or project is approved by the State of Minnesota or the United States, whichever has final authority, but the local share amounts for each year shown in the agreement are less than the amounts actually levied, the "special levies" will be adjusted down to the amounts shown in the approved matching fund program agreement. However, if the program is not approved, and no grants are forthcoming, the unspent balance of money so raised may be held in anticipation of a future grant. Otherwise such levies can no longer be considered as "special levies," and to the extent that the unspent balance exceeds the overall levy limitation for the governmental subdivision, it shall be subject to the Commissioner's administrative action pursuant to Section 275.55. (See Tax L.L. 45 for the Commissioner's administrative action.)

Example 1. A governmental subdivision hires several employees in 1971 under the Federal Emergency Employment Act of 1971. The federal government has appropriated funds to pay 8/9ths of the cost of the authorized program. This is the first year for the program and there were no levies made for it in 1970, taxes payable in 1971. The governmental subdivision now wants to levy taxes in 1971, payable in 1972 to cover both the unreimbursed, unfunded, local share expenditures of the current year and the local share for next year. Such levy for the minimum required local share for the two years would be a "special levy" for the Levy Limitations Law.

Example 2. A governmental subdivision will be installing police radio communications equipment under a matching fund program with the Governor's Crime Commission. The governmental subdivision wishes to levy in 1971 to pay its minimum required local share of the cost of such equipment in 1972. Such levy would be a "special levy."

Example 3. A county government spent $100,000 in 1970 in anticipation of grants from the United States for a matching fund program of land acquisition and improvements for the purpose of a county park. The matching fund program was given final approval by the United States in September of 1970. The authorized program provided for expenditures of $80,000 in each of the years 1970, 1971 and 1972. The minimum required local shares were to be $20,000

(25%) in 1970, $40,000 (50%) in 1971 and $60,000 (75%) in 1972. The county government levied $80,000 in 1970, taxes payable in 1971 to pay the cost of the stipulated local share of $40,000 for budget year 1971 and to reimburse its general fund for the cost of the program in 1970 which was not reimbursed by the Federal government ($100,000 - $60,000 = $40,000). Since the $80,000 levy in 1970 is in the county government's levy limit base per capita for levy year 1971 (see Tax L.L. 28 and Tax L.L. 29 for the determination of levy limits), and since this amount is greater than the minimum required local share of $60,000 for levy year 1971 payable in 1972, no amount can be taken as a special levy for this matching fund program in levy year 1971 payable 1972.

Example 4. A governmental subdivision spent money in 1972 in anticipation of funds from the United States for a matching fund program. A levy was made in 1972 for taxes payable in 1973 to reimburse the unfunded local share of expenditures for the program and to fund the expected local share for 1973, and was levied as a "special levy." In 1973 the Federal government denied approval of the matching fund program. In such a situation, the unspent balance of money raised by ad valorem levy for the program could be held in anticipation of some future grant and still be considered a "special levy." Otherwise, it would no longer be a "special levy" for the Levy

Limitations Law, and to the extent that the unspent balance exceeded the overall levy limitation for the governmental subdivision in levy year 1972, it would be subject to the Commissioner's administrative action pursuant to Section 275.55.

Included in the special levy for matching fund programs is the entire levy for the local costs of administration of categorical aids and general assistance programs and the local costs of administration of social services and purchase of social services. Only county governments may claim a special levy for such welfare costs. The term "special levy" does not apply to any levy for the administrative costs of township welfare systems or the City of Minneapolis' welfare department. (The township system of poor relief and the City of Minneapolis' levy for poor relief were abolished by Laws of Minnesota 1973, Chapter 650, Article XXI.)

Certain laws, such as the Federal Emergency Employment Act of 1971 or the rules and regulations of an agency of the State of Minnesota or the United States might require that a governmental subdivision continue an acitivity or function established under a matching fund agreement after the State or Federal share has ended. The additional cost of maintaining the required level of such activity or function over the levy year 1970 payable 1971 local share amount could qualify as a special levy under Section 275.50, Subdivision 5 (b). (See Tax L.L. 8 for special levies resulting from lawful orders.)

Tax L.L. 14. Natural Disasters.

A levy to pay the "expenses reasonably and necessarily incurred in preventing, preparing for or repairing the effects of natural disaster" is a special levy.

For the purpose of the Levy Limitations Law, "natural disaster" means the occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from natural causes, including and limited to fire, flood, earthquake, wind storm, tornado, wave action, oil spill, or other water contamination requiring action to avert danger or damage, volcanic activity, drought or air contamination.

A levy to pay the costs related to any of the aforementioned "natural disasters" is a special levy whether levied to provide funds for preventative action, levied in anticipation of an imminent natural disaster or levied after a natural disaster has occurred to reimburse other funds of the governmental subdivision or to pay principal and interest on loans from State or Federal agencies.

Example 1. A city situated next to a major river wants to build permanent dikes and repair existing ones to prevent flooding of the city. The cost of building and repairing these permanent dikes could be levied as a special levy.

Example 2. A village wants to levy a tax to reimburse funds that were used to pay the cost of

cleaning up after a tornado hit the village. This levy would qualify as a special levy.

The expenses of dutch elm disease eradication and tree removal and oak wilt eradication and tree removal do not qualify as natural disaster "special levies." Also, the additional cost of snow removal due to a greater than expected amount of snowfall does not qualify as a natural disaster "special levy." These natural phenomena are not included in the exclusive list of natural phenomena which may qualify as "natural disasters" for the Levy Limitations Law. Finally, the expenditures by a local civil defense unit which do not relate specifically to one or more types of qualifying "natural disasters," and any other activities which are of an on-going routine nature and are not immediately and directly related to a qualifying "natural disaster" do not qualify as special levies under Section 275.50, Subdivision 5 (h). A civil defense levy matched by Federal or State grants, however, might qualify as a special levy under Section 275.50, Subdivision 5 (g). (See Tax L.L. 13 for matching fund special levies.)

The Civil Defense Division of the State Department of Public Safety shall formulate standards by which the occurrence of a natural phenomena would be deemed a "natural disaster." These standards shall be confined to the exclusive list of natural phenomena which may qualify

as a "natural disaster." Such standards shall relate to levels of damage, injury or loss of life or property.

Each claim for a natural disaster "special levy" shall be investigated by the Commissioner of Revenue and compared to the standards devised by the Civil Defense Division to determine if the natural phenomenon qualifies as a "natural disaster" by reason of the level of damage, injury or loss of life or property that has occurred or would occur if preventative action was not taken. The Commissioner of Revenue shall consult with the Civil Defense Division on all such claims before approving or denying any part or all of a special levy.

Tax L.L. 15. Cash Public Assistance Programs.

A levy to pay the costs not reimbursed by the State or Federal government of payments made to or on behalf of recipients of aid under Minnesota Statutes, Sections 245.21 to 245.43 (Aid to the Disabled), Sections 256.11 to 256.43 (Old Age Assistance), Sections 256.49 to 256.71 (Aid to the Blind), Sections 256.72 to 256.87 (Aid to Families with Dependent Children), Chapter 256B (Medical Assistance), and Chapters 261, 262 and 263 (Poor Relief) is a special levy.

The entire levy by a county government for the actual aid payments to the recipients under the above programs is a special levy and thus outside the county government's

levy limitation established pursuant to Sections 275.50 to 275.56. Levies to pay the costs of general assistance payments made to recipients pursuant to Laws of Minnesota 1973, Chapter 650, Article XXI are also outside the county government's levy limitation established pursuant to Sections 275.50 to 275.56.

This special levy does not apply to the county's administrative costs of categorical welfare aids and general assistance programs or the county's administrative costs of providing social services or the purchase of social services. These costs may be levied as a "special levy" under Tax L.L. 13. (See Tax L.L. 13 for matching fund special levies.)

A levy by a city, village, borough or town with village powers in 1971 payable 1972, or 1972 payable 1973, to pay the costs of payments to recipients under Minnesota Statutes 1971, Chapters 261, 262, or 263, is a special levy. Beginning with levy year 1973 and levy years thereafter, no levy by a city, village, borough or town for the purposes cited in Minnesota Statutes 1971, Chapters 261, 262 or 263, except a levy for a fund deficit remaining from calendar year 1973 or preceding calendar years' expenditures for poor relief, can be recognized as a special levy, due to the elimination of the township system of poor relief and the City of Minneapolis' levy for poor relief by Laws of Minnesota 1973, Chapter 650, Article XXI.

Tax L.L. 16. Principal and Interest on Bonded Indebtedness.

The entire levy to pay the cost of principal and interest on bonded indebtedness is a "special levy" for the Levy Limitations Law. The amount of this special levy is the same amount that is excluded from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Effective for taxes levied in 1973 and levy years thereafter, a levy to reimburse for the amount of liquor store revenues used to pay the principal and interest due on municipal liquor store bonds in the calendar year immediately preceding the current levy year is a special levy. For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, such levy shall be considered as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded along with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Example. A city owns and operates a municipal liquor store. In calendar year 1972, liquor store revenues are used to pay the principal and interest due in 1972 on the city's municipal liquor store bonds. In levy year

1973, taxes payable in 1974, the city may levy a tax to reimburse itself for the amount of liquor store revenues used to make such payments in 1972 and consider such levy as a bonded indebtedness "special levy."

Tax L.L. 17. Principal and Interest on Certificates of Indebtedness.

A levy to pay the costs of principal and interest on certificates of indebtedness is a special levy, with the following exceptions. Levies to pay the costs of principal and interest on tax anticipation certificates of indebtedness, aid anticipation certificates of indebtedness, certificates issued to fund an insufficiency in receipts from taxes or other sources, or to fund extraordinary expenditures resulting from a public emergency, are not "special levies" under Section 275.50, Subdivision 5 (k). However, a qualified special levy to compensate for certain decreased non-tax revenues (see Tax L.L. 20) or a qualified special levy to pay the costs of preventing, preparing for or repairing the effects of a public emergency which qualifies as a the principal and interest on certificates of indebtedness previously issued to fund such insufficiency in receipts or to fund the extraordinary expenditures resulting from such public emergency.

Example 1. A village financed the purchase of fire equipment by issuing certificates of indebtedness pursuant to Minnesota Statutes, Section 412.301. An ad valorem tax levy to pay the principal and interest on these certificates would be a special levy.

Example 2. A fourth class city operating under Minnesota Statutes, Chapter 411, financed the purchase of street maintenance equipment by issuing certificates of indebtedness pursuant to Minnesota Statutes, Section 411.50, Subdivision 2. An ad valorem tax levy to pay the principal and interest on these certificates would be a special levy.

For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, a special levy pursuant to Section 275.50, Subdivision 5 (k) shall be considered the same as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded in addition with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Tax L.L. 18. Principal and Interest on Armory Construction Bonds.

A levy to fund the payments made to the Minnesota State Armory Building Commission pursuant to Minnesota Statutes,

Section 193.145, Subdivision 2, is a special levy to the extent that such payments are for the purpose of retiring the principal and interest on armory construction bonds.

For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, a special levy pursuant to Section 275.50, Subdivision 5 (1) shall be considered the same as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded in addition with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Tax L.L. 19. Bonded Indebtedness Portion of Payments Made to Another Political Subdivision.

A levy to fund the payments made to another political subdivision of the State of Minnesota is a special levy to the extent that such payments are used to retire the principal and interest on bonds or certificates of indebtedness of the type which qualify for a special levy pursuant to Section 275.50, Subdivision 5 (k).

Example. A county government contracts with the board of directors of a city library, in accordance with Minnesota Statutes, Section 134.12, Subdivision 3, for the use of the library by the residents of the county outside

the city. A county levy on the taxable value outside the city, for the purpose of payment to the city library board for the library service provided, and which is used by the library board to pay the principal and interest on library construction bonds, would qualify as a "special levy" under Section 275.50, Subdivision 5 (m).

For the purposes of the Levy Limitations Law and the homestead property tax relief granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135, a special levy pursuant to Section 275.50, Subdivision 5 (m) shall be considered the same as a levy for the principal and interest on bonded indebtedness. This means that the amount of this special levy is the same amount that is excluded in addition with other bonded indebtedness levies from the total ad valorem levy of the governmental subdivision in determining the 45% Homestead Credit and the Taconite Homestead Credit.

Tax L.L. 20. Compensation for Certain Decreased Non-Tax Revenues.

Section 275.50, Subdivision 5 (n) provides that a qualifying governmental subdivision may levy as a "special levy" the amount necessary to compensate for certain decreased non-tax revenues. These revenues are revenues from all public service enterprises, municipal liquor stores, licenses, permits, fees, fines and forfeits and no other.

"Public service enterprises," for the purpose of the Levy Limitations Law, are defined as governmental activities which

are primarily (in excess of 50%) self-supporting on a user charge, service fee or admittance fee basis. In addition, the accounting for such activities must make it possible to show whether they are operated at a profit or loss in similarity to comparable private enterprises.

"Public service enterprises" includes, but is not limited to, water utilities, electric utilities, electric distribution systems, heat utilities, gas utilities, municipally owned cable television systems, public hospitals and public nursing homes.

"Revenues" from a public service enterprise or a municipal liquor store means the net income or loss of such public service enterprise or municipal liquor store, determined by subtracting total expenses (excluding any expenses taken as a "special levy" pursuant to Section 275.50, Subdivision 5, and excluding any bond principal not taken as a "special levy" pursuant to Section 275.50, Subdivision 5 (j)) from total revenues, and before any contribution to or from the governmental subdivision. "Fees, fines, and forfeits" for a municipal court means the net amount remaining after subtracting total municipal court expenses from total collections of municipal court fees, fines, and forfeits. "Fines" for a justice of the peace means the net amount remaining after subtracting these amounts from the total collections of fines by the justice of the peace: (1) that portion of the fines which

he retains, and (2) his expenses in performance of his duties which were reimbursed by the governmental subdivision.

The forementioned "revenues" of the governmental subdivision for the calendar year preceding the current levy year are aggregated and compared to the aggregate of these "revenues" for the governmental subdivision in calendar year 1971 to determine the decrease, if any, in these revenues from the calendar year 1971 level. The "revenues for all public service enterprises must be included in this calculation. If there was a decrease, such amount is then divided by the population of the governmental subdivision in the preceding levy year, determined pursuant to Section 275.53. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) If the resulting per capita amount is equal to or greater than two percent of the governmental subdivision's levy limit base per capita for the preceding levy year, the governmental subdivision shall qualify for the special levy pursuant to Section 275.50, Subdivision 5 (n). If the resulting per capita amount is less than two percent of the governmental subdivision's levy limit base per capita for the preceding levy year, the governmental subdivision shall not qualify for the special levy pursuant to Section 275.50, Subdivision 5 (n).

A qualifying governmental subdivision shall be allowed a special levy to compensate for the entire amount of the

decrease in aggregate revenues as computed pursuant to Section 275.50, Subdivision 5 (n).

Example. A city of 8,000 persons in 1972 (determined pursuant to Section 275.53) owns and operates a water utility and a municipal liquor store. The city also had a municipal court for the entire calendar year 1971. In calendar year 1971, the water utility had total revenues of $1,000,000 and total expenses of $850,000 for a "net income" of $150,000. In the same year the municipal liquor store had total revenues of $800,000 and total expenses of $700,000 for a "net income" of $100,000. Finally, the municipal court, in calendar year 1971, had total collections of municipal court fines of $100,000 and total municipal court expenses of $80,000 for net "fines" of $20,000. The aggregate of revenues from these three sources in calendar year 1971 was $270,000. In calendar year 1972, the water utility had total revenues of $1,100,000, and total expenses of $925,000 for a "net income" of $175,000. In the same year, the municipal liquor store had total revenues of $825,000 and total expenses of $760,000 for a "net income" of $65,000. Finally, the municipal court, which was abolished as of July 1, 1972 (due to the provisions of the County Court Law, Laws of Minnesota 1971, Chapter 951), had total collections of municipal court fines in calendar year 1972 of $50,000 and total municipal court expenses of $40,000 for net "fines" of $10,000. The aggregate of revenues

from these three sources in calendar year 1972 was $250,000. The difference in aggregate "revenues" for the calendar years 1971 and 1972 is $20,000, a decrease for calendar year 1972. This decrease divided by the city's 1972 population of 8,000 is a per capita dollar amount of $2.50. This per capita amount is 5% of the city's 1972 payable 1973 levy limit base per capita of $50.00. Since the per capita decrease of $2.50 is in excess of 2% of the city's 1972 payable 1973 levy limit base per capita, the city is entitled to a special levy pursuant to Section 275.50, Subdivision 5 (n) for levy year 1973, taxes payable in 1974. The city may, therefore, levy up to $20,000 as a special levy to compensate for certain decreased non-tax revenues.

Tax L.L. 21. Compensation for Decreased Mobile Homes Property Tax Receipts.

A levy to compensate for a decrease in mobile homes property tax receipts is a special levy to the extent that the governmental subdivision's portion of the actual total levy in the current levy year, pursuant to Minnesota Statutes, Section 273.13, Subdivision 3, as amended, is less than the distribution of mobile homes tax the governmental subdivision was entitled to receive pursuant to Minnesota Statutes, Section 273.13, Subdivision 3, in calendar year 1971.

Example. A governmental subdivision was entitled to receive a mobile homes tax distribution of $10,000 in

calendar year 1971. In levy year 1972, taxes payable in 1973, the governmental subdivision levied 15 mills on all taxable property excluding mobile homes. Pursuant to Minnesota Statutes, Section 273.13, Subdivision 3, the mobile homes property tax for the governmental subdivision in levy year 1973 and payable in 1973, is based on the governmental subdivision's rate of levy in the preceding levy year applied to the 1973 taxable value of mobile homes located within the governmental subdivision's territory. Since the 1973 taxable value of mobile homes within the governmental subdivision is $600,000, the mobile homes property tax levied and collected by the governmental subdivision in 1973 is $600,000 times 15 mills or $9,000. This is a decrease of $1,000 from the calendar year 1971 mobile homes tax which the governmental subdivision was entitled to receive. Therefore, the governmental subdivision may levy $1,000 as a special levy in levy year 1973, taxes payable in 1974, to compensate for a decrease in mobile homes property tax receipts.

Tax L.L. 22. Compensation for Decreased Gross Earnings Tax Aids.

A levy to compensate for a decrease in gross earnings tax aids pursuant to Minnesota Statutes, Sections 276.15 to 276.18; 295.38; 368.39 to 368.42; or 373.20 to 373.24 is a special levy to the extent that the distribution of these aids to which the governmental subdivision was entitled to

receive in the calendar year immediately preceding the current levy year is less than the distribution of these aids to which the governmental subdivision was entitled to receive in calendar year 1971.

Laws of Minnesota 1973, Chapter 650, Article XXVII abolished these aids for all payments required to be made thereunder subsequent to December 31, 1973. The last payment that a governmental subdivision will be entitled to receive will be for calendar year 1973 (whether actually paid in calendar year 1973 or in calendar year 1974). This means that for levy year 1975 and thereafter, taxes payable in 1976 and thereafter, a governmental subdivision may levy as a special levy an amount equal to the entire amount of gross earnings tax aids it was entitled to receive in calendar year 1971 pursuant to Minnesota Statutes, Sections 276.15 to 276.18; 295.38; 368.39 to 368.42; or 373.20 to 373.24.

Example. A village was entitled to receive $20,000 in gross earnings tax aids for calendar year 1971 pursuant to Minnesota Statutes, Sections 276.15 to 276.18. For calendar year 1973 the village was entitled to $18,000 in gross earnings tax aids, a decrease of $2,000 from the calendar year 1971 level. This $2,000 decrease could be compensated for by a special levy in levy year 1974, taxes payable in 1975. Due to the elimination of the village's gross earnings aids after calendar year 1973 (pursuant to Laws of Minnesota 1973, Chapter 650, Article XXVII), the

village would be entitled to a $20,000 special levy in levy year 1975 and each levy year thereafter, to compensate for the elimination of its gross earnings tax aids paid pursuant to Minnesota Statutes, Sections 276.15 to 276.18.

Laws of Minnesota 1973, Chapter 650, Article XXVII also abolished the trust company gross earnings tax aids (paid pursuant to Minnesota Statutes, Section 295.38) for all payments required to be made after calendar year 1973. Therefore, a decrease in these aids in the calendar year immediately preceding the current levy year from the calendar year 1971 level is included in the special levy pursuant to Section 275.50, Subdivision 5 (p).

Tax L.L. 23. Compensation for a County Auditor's Error of Omission.

A levy to pay the amounts required, in accordance with Minnesota Statutes, Section 275.075, to correct for a county auditor's error of omission in levy year 1971 or a subsequent levy year, is a special levy to the extent that when added to the certified budget levy of the governmental subdivision in the levy year such error occurred, it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 in such levy year.

The term "county auditor's error of omission," for the purpose of the Levy Limitations Law, includes, but is not limited to: (1) the failure to include a part or all of a

tax amount certified by the governing body of a governmental subdivision; (2) the computation of an incorrect mill rate which results in a smaller amount of property taxes being extended on the tax lists than was certified by the governing body of a governmental subdivision, except when the reduced tax and the reduced mill rate are the result of the county auditor reducing the certified budget levy by the 1973 reimbursement aid distributed pursuant to Minnesota Statutes 1971, Section 477A.02; and (3) the deduction, by the county auditor, of a state aid from a tax levy when such state aid had already been deducted by the State of Minnesota or the governing body of the governmental subdivision in determining its tax levy, and such deduction was not the responsibility of the county auditor. For the purposes of the Levy Limitations Law, the term "county auditor's error of omission" does not include tax amounts purposely omitted from the tax lists by the county auditor because such amounts were in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56.

Example 1. A village certified to the county auditor a $4,000 levy for the purpose of controlling insect pests and Dutch Elm disease. Such levy was within all applicable limitations on the per capita, mill and dollar amount of taxes the village was permitted to levy, and this amount should have been spread on the tax lists for taxes

payable in 1972. However, the county auditor failed to extend the levy on the appropriate tax lists. In levy year 1972, taxes payable in 1973, no amount was levied to correct for the county auditor's error of omission. In levy year 1973, taxes payable in 1974, the village would be entitled to a special levy of $4,000 to compensate for the county auditor's error of omission in levy year 1971, taxes payable in 1972.

Example 2. A city certified a total levy of $10,000,000 to the county auditor for levy year 1972, taxes payable in 1973, from which the county auditor was to deduct $150,000 in reimbursement aid to be paid in 1973 pursuant to Minnesota Statutes 1971, Section 477A.02. In determining the mill rates for the city, however, a taxable value of $549,720,000 was used instead of the actual taxable value of $548,860,000. This error was due to the double counting of a manufacturing plant with a taxable value of $860,000. The result for the $9,850,000 spread levy was a computed mill rate of 17.919 instead of the correct mill rate of 17.947. In the process of spreading the taxes on the tax lists, the double counting error was discovered. Due to this county auditor's error of omission, the city had a spread levy amount of $9,835,022 instead of the correct amount of $9,850,000. The difference of $14,978 could be compensated for by a special levy in that amount in levy year 1973, taxes payable in 1974.

Example 3. In levy year 1973, taxes payable in 1974, the Department of Revenue certified a 1973 payable 1974 levy limitation (pursuant to Sections 275.50 to 275.56) of $150,000 to Village of the North. This amount was after deduction of $45,000 in Local Government Aid and $500 of Attached Machinery Aid to be paid in calendar year 1974. Village of the North voted a tax levy of $150,000 plus $30,000 of special levies for a total levy of $180,000 and certified this levy to the county auditor. However, the county auditor deducted the $45,000 Local Government Aid once again and spread only $135,000 on the tax lists. Because of this county auditor's error of omission, Village of the North would be entitled to a special levy of $45,000 in levy year 1974, taxes payable in 1975, as compensation for such error.

A county auditor's error of omission in levy year 1970, taxes payable in 1971 cannot be compensated for by a "special levy" since it is a permanent adjustment to the governmental subdivision's levy limit base per capita for levy year 1973 and levy years thereafter. (See Tax L.L. 31 for adjustments to levy limit bases per capita to compensate for errors of omission in levy year 1970, taxes payable in 1971.)

Tax L.L. 24. Compensation for an Error of Omission in the Levy Certified to the County Auditor.

A levy to compensate for an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city, village, borough or town with village powers in levy year 1971 or a subsequent levy year is a special levy to the extent that when added to the certified budget levy of the governmental subdivision in the levy year such error occurred, it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 in such levy year.

For the purpose of the Levy Limitations Law, these errors of omission include, but are not limited to: (1) failure to certify to the county auditor a tax which was voted by the governing body of the governmental subdivision; (2) inadvertently certifying a lesser tax levy than the tax levy voted by the governing body of the governmental subdivision; and (3) deducting a state aid from a tax levy when such deduction is the responsibility of the county auditor and the county auditor subsequently reduces the tax levy further by the amount of the state aid.

For the purpose of the Levy Limitations Law, these errors of omission do not include tax amounts which were not voted by the governing body of the governmental subdivision. Also, these errors of omission do not include tax amounts

voted by the governing body of the governmental subdivision which were purposely not certified to the county auditor because such amounts were in excess of an applicable statutory, special law, or charter limitation, or the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56.

Example 1. In levy year 1972, taxes payable in 1973, the clerk of a village failed to certify the tax levy voted by the village council to the county auditor. In levy year 1973, taxes payable in 1974, the village could levy a "special levy" in the amount of the omitted levy to compensate for the error.

Example 2. In levy year 1972, taxes payable in 1973, the council of a city voted a tax levy of $200,000. From this amount the city clerk deducted $15,000 of reimbursement aid to be paid to the city in 1973 pursuant to Minnesota Statutes 1971, Section 477A.02. The amount certified to the county auditor was then $185,000. The county auditor, unaware of what the city clerk had done, deducted the $15,000 reimbursement aid from the certified budget levy of $185,000, as was his duty pursuant to Minneosta Statutes 1971, Section 477A.02 (c). The reduced amount of $170,000 was then spread on the tax lists. Due to the city clerk's error, the city would be entitled to levy a $15,000 special levy in levy year 1973, taxes payable in 1974 to compensate for such error.

Example 3. Village A has a levy limitation of $25,000 pursuant to the Levy Limitations Law for levy year 1973, taxes payable in 1974. The village wants to levy $25,000 plus special levies and in addition wants to levy $2,000 for advertising. However, the $2,000 levy for advertising does not qualify as a special levy and would be in excess of the village's levy limitation when added to the $25,000 levy subject to the limitation. In looking at the village's 1972 payable 1973 levy, it was discovered that the village had certified a tax levy of $21,500 (in addition to special levies), which was $2,100 below the 1972 payable 1973 levy limitation of $23,600. Since no amount was levied for advertising in levy year 1972 payable 1973, and since the village levied $2,100 below its levy limitation in levy year 1972 payable 1973, the village council wanted to claim a $2,000 "special levy" in levy year 1973 payable 1974 as compensation for an error of omission in the levy certified to the county auditor in levy year 1972 payable in 1973. However, this levy would not qualify as a "special levy" under the Levy Limitations Law.

An error of omission by the governing body of a city, village, borough or town with village powers in levy year 1970, taxes payable in 1971 cannot be compensated for by a "special levy" since it is a permanent adjustment to the governmental subdivision's levy limit base per capita for levy year 1973 and levy years thereafter. (See Tax L.L. 31

for adjustments to levy limit bases per capita to compensate for errors of omission in levy year 1970, taxes payable in 1971.)

Tax L.L. 25. Increased Costs Resulting From Minnesota Municipal Commission Orders.

A levy to pay the increased costs of municipal services as the result of an annexation or consolidation ordered by the Minnesota Municipal Commission in levy year 1971 or a subsequent levy year is a special levy but only to the extent and for the levy years provided by the Commission in its order pursuant to Minnesota Statutes, Section 414.01, Subdivision 15.

This special levy relates to Minnesota Municipal Commission orders which enlarge an existing municipality or create a new municipality. In each case the Commission is charged with the responsibility of determining the increased costs of municipal services associated with extending such services to newly acquired territory or developing such services in a newly created municipality. This special levy does not relate in any way to annexations by ordinance but is confined entirely to annexations and consolidations which are ordered by the Minnesota Municipal Commission pursuant to Minnesota Statutes, Chapter 414.

The special levy pursuant to Section 275.50, Subdivision 5 (s) is retroactive to Minnesota Municipal Commission orders in levy years 1971 and 1972. This means

that the Minnesota Municipal Commission will estimate the increased costs of municipal services due to Commission orders issued in levy years 1971 and 1972. Provided that a revised order is issued, a municipality entitled to special levies for the increased costs of municipal services due to a Commission order issued in levy year 1971 or 1972 will be allowed in levy year 1973, taxes payable in 1974, a special levy to compensate for the computed "special levies" for such prior years, in addition to the computed special levy for levy year 1973, subject to the years for which the municipality is allowed a special levy by the Minnesota Municipal Commission in its revised order.

For the purpose of the Levy Limitations Law, the special levy for an enlarged municipality shall be the yearly increased costs of municipal services as estimated by the Minnesota Municipal Commission pursuant to Minnesota Statutes, Section 414.01, Subdivision 15, minus: (1) an amount equal to the acquiring municipality's current levy year's levy limit base per capita in the year of annexation multiplied times the population of the annexed territory as contained in the Minnesota Municipal Commission's order, and (2) the increased costs of municipal services extended to the annexed territory paid for through special assessments or through bonded indebtedness or any other "special levy" pursuant to Section 275.50, Subdivision 5, other than the "special levy" pursuant to Section 275.50, Subdivision 5 (s).

Example. City W annexed a portion of Township Z, a town without village powers, following a Minnesota Municipal Commission order issued in levy year 1971. According to the Commission order, the population of the annexed territory was 450 persons. This number multiplied times the city's 1971 payable 1972 levy limit base per capita of $38.00 increased the city's 1971 payable 1972 levy limit base by $17,100. In levy year 1973, pursuant to Minnesota Statutes, Section 414.01, Subdivision 15, the Minnesota Municipal Commission revised its order to City W to estimate the increased cost of municipal services due to such order. The increased cost of these municipal services for the purpose of Section 275.50, Subdivision 5 (s) was found to be $25,000 per year for the levy years 1971 through 1975. Since $3,000 of the increased yearly costs of municipal services were being paid for through bonded indebtedness and special assessments, the special levy for levy years 1971, 1972 and 1973 would be $4,900 each year ($25,000 - $17,100 - $3,000 = $4,900). Therefore, in levy year 1973, taxes payable in 1974, City W would be entitled to a special levy of $14,700 (for levy years 1971-1973) to pay the increased costs of municipal services due to a Minnesota Municipal Commission order.

For the purpose of the Levy Limitations Law, the special levy for a newly created municipality shall be the yearly costs of municipal services as estimated by the Minnesota Municipal Commission pursuant to Minnesota Statutes,

Section 414.01, Subdivision 15, minus: (1) an amount equal to the current levy year's levy limit base per capita for the newly formed municipality in the year of consolidation (see Tax L.L. 42 for the determination of levy limitations for newly created municipalities) multiplied times the population of the newly created municipality as contained in the Minnesota Municipal Commission's order, and (2) the increased costs of municipal services for the newly created municipality paid for through special assessments or through bonded indebtedness or any other "special levy" pursuant to Section 275.50, Subdivision 5, other than the "special levy" pursuant to Section 275.50, Subdivision 5 (s).

Example. In levy year 1973, the Minnesota Municipal Commission ordered the consolidation of Township J into an entirely new village, Village J. The estimated total cost of all municipal services, including increased costs due to the Commission's order, was determined by the Commission to be $100,000 in levy year 1973 decreased by $5,000 in each of the next four levy years. The population of Village J as contained in the Commission's order was 1,100. This amount multiplied times the new village's 1973 payable 1974 levy limit base per capita of $34.00 (see Tax L.L. 42 for the determination of levy limitations for newly created municipalities) produced a 1973 payable 1974 levy limit base of $37,400. Since none of the increased costs of municipal services will be paid for

through bonded indebtedness or special assessments in levy year 1973 payable 1974, the special levy for levy year 1973 payable 1974 would be $62,600 ($100,000 - $37,400).

Tax L.L. 26. Increased Costs Resulting From Extending Municipal Services to New Private Industrial and Nonresidential Commercial Development.

Subject to the limitations of Section 275.50, Subdivision 5 (t), a levy to pay the increased costs resulting from extending municipal services to new private industrial and nonresidential commercial development is a special levy insofar as the extension of such services are not paid by bonded indebtedness, special assessments, or user service charges, or any "special levy" pursuant to Section 275.50, Subdivision 5, other than the special levy pursuant to Section 275.50, Subdivision 5 (t). For the purpose of determining the special levy pursuant to Section 275.50, Subdivision 5 (t), the term "development" means the construction of totally new structures or buildings and the enlarging of previously existing structures or buildings, but does not include internal alterations and improvements of previously existing structures or buildings.

This special levy shall be calculated separately for each new private industrial or nonresidential commercial development. For the purpose of the Levy Limitations Law, there is a separate and distinct "new private industrial or nonresidential commercial development" associated with

each building permit issued, in calendar year 1970 or calendar years thereafter, for the purpose of such private industrial or nonresidential commercial construction as included in ther term "development" defined in the preceding paragraph. After the special levy for each new private industrial or nonresidential commercial development has been calculated, the governmental subdivision may aggregate them to derive one total amount.

Included in the special levy pursuant to Section 275.50, Subdivision 5 (t) is the increased expenditures, commonly called "front money" or "site preparation costs," necessary in preparation for the delivering of municipal services to a new private industrial and nonresidential commercial development. These are primarily construction costs, such as the costs of building roads out to the development or extending water and sewer lines to it. For each separate new private industrial or nonresidential commercial development, only one year's expenditures (the expenditures for 365 days or one calendar year, at the choice of the governmental subdivision) necessary in preparation for the delivering of municipal services may be included in the special levy pursuant to Section 275.50, Subdivision 5 (t), and in only one levy year. The one year's site preparation costs for a private industrial or nonresidential commercial development may be levied in only one levy year, except that such costs may be apportioned between two levy years, so that a portion of the costs is levied in each of

the two selected levy years. Only expenses actually incurred after December 31, 1972, may be used in determining this inclusion in the special levy pursuant to Section 275.50, Subdivision 5 (t). This may include expenses incurred prior to the issuance of the building permit as well as expenditures made subsequent to the issuance of the building permit. Estimated future site preparation costs may not be included in determining the special levy pursuant to Section 275.50, Subdivision 5 (t).

Also included in the special levy pursuant to Section 275.50, Subdivision 5 (t) is an allowance for the increased costs of police and fire protection, the increased costs of maintaining new roads, water and sewer lines, and the increased costs of other municipal services extended to a new private industrial and nonresidential commercial development. This amount is calculated by applying a mill rate times the increased assessed value of the new private industrial or nonresidential commercial development located within the governmental subdivision. The mill rate is the overall levy limitation of the governmental subdivision for the current levy year, established pursuant to Sections 275.50 to 275.56, divided by the total taxable value of the governmental subdivision for the current levy year. The increase in assessed value of the new private industrial or nonresidential commercial development is calculated as the increase in assessed value for the current levy year (after levy year 1972, taxes payable in 1973)

over the assessed value of the real estate parcels within the governmental subdivision subject to such private development as most recently determined before the building permit was issued. The term "real estate parcels" as used here includes buildings and structures as well as the land. For the purpose of Section 275.50, Subdivision 5 (t), the assessed value of property for an assessment year prior to assessment year 1972 shall be an amount equal to the assessor's value for the property in such prior year multiplied times 3. In the fourth levy year subsequent to the levy year in which the building permit was issued, the governmental subdivision shall no longer be entitled to a special levy for the increased costs of providing municipal services to that particular private industrial or nonresidential commercial development.

The aggregate of the foregoing amounts, less any portion paid or to be paid by bonded indebtedness or special assessments, or by user service charges imposed on the developer of the industrial or nonresidential commercial development equals the maximum amount that a governmental subdivision may levy as a "special levy" pursuant to Section 275.50, Subdivision 5 (t).

Example 1. A city issued a building permit in 1973 for a new industrial plant. The city subsequently widened the road out to the industrial plant, installed traffic signals, and ran sewer and water lines to the

construction site. The costs of these improvements to the city totaled $40,000 in calendar year 1973. Of this amount, $30,000 was being paid for by bonds and special assessments. The remaining $10,000 would qualify as a "special levy" for one levy year only, or could be apportioned between two levy years.

Example 2. A large discount department store was built subsequent to the city issuing its permit in April of 1970. The January 2, 1970 assessed value of the parcels subject to this development, multiplied by 3, was $60,000. In levy year 1973, the first and last levy year that the city may claim a special levy for the cost of extending municipal services to this particular development, the assessed value of the property is $1,000,000, a $940,000 increase. The 1973 payable 1974 levy limitation for the governmental subdivision, established pursuant to Sections 275.50 to 275.56, is $300,000. The total taxable value of the governmental subdivision, including the $1,000,000 assessed value of the discount department store, for taxes levied in 1973, is $20,000,000. The levy limitation of $300,000 divided by the total taxable value of $20,000,000 equals a mill rate of 15 mills. This mill rate multiplied times the $940,000 increase in assessed value of the discount department store equals $14,100, the amount which the governmental subdivision can levy in 1973 as a special levy to pay the increased costs of providing

municipal services to this particular new discount department store.

Tax L.L. 27. Other Levies Outside of the Overall Levy Limitations.

In addition to the special levies provided in Section 275.50, Subdivision 5, certain other levies may be levied outside a governmental subdivision's overall levy limitation without being subject to the penalty provisions of Section 275.51, Subdivision 4. These are levies which are authorized in excess of the levy limitations pursuant to Sections 275.50 to 275.56 by laws of the 1971 or subsequent years' legislatures. The entire amount levied for any of the following purposes is outside the levy limitations pursuant to Sections 275.50 to 275.56:

(1) A levy pursuant to Minnesota Statutes, Section 275.57, for the removal of property condemned as hazardous to health, safety or welfare;

(2) A levy by either thy City of Mankato or the City of North Mankato, pursuant to Laws of Minnesota 1973, Chapter 81, in an amount not to exceed one-tenth of one mill, to provide funds for musical entertainment;

(3) A levy by a governmental subdivision, pursuant to Laws of Minnesota 1973, Chapter 160, Section 10, Subdivision 3, to pay the costs charged to it by the Dover, Eyota and St. Charles Area Sanitary District;

(4) A levy by a city or village, pursuant to Laws of Minnesota 1973, Chapter 322, Section 1, to provide for the payment of all special assessments and other charges imposed upon the area of such city or village served by a public water or sewer system established pursuant to Minnesota Statutes, Secitons 116A.01 to 116A.26;

(5) A levy by the City of Brainerd pursuant to Laws of Minnesota 1973, Chapter 445, in an amount not to exceed 2 mills on taxable value, $3 per capita or $15,000, whichever is less, for the purpose of supporting a program of public recreation and playgrounds or other recreational facilities;

(6) A levy by the City of St. Paul, pursuant to Laws of Minnesota 1973, Chapter 719, Section 3, to repay the amount which was borrowed (not to exceed $300,000) in calendar year 1973 for the support of social service programs.

Tax L.L. 28. Imposition of Levy Limitations.

Section 275.51, Subdivision 1 provides that the levies of governmental subdivisions for levy years 1971, 1972 and subsequent levy years, for all purposes except special levies and special assessments, shall be subject to the levy limits determined in accordance with the procedures set forth in Section 275.51. Subject to Section 275.56, the levy limits determined pursuant to Section 275.51 supercede all provisions

of law or municipal charter to the contrary (except laws of the 1973 legislature or a subsequent year's legislature which expressly exempt levies from the limitations imposed by Sections 275.50 to 275.56) which would otherwise authorize ad valorem levies in excess of the limitations established by Sections 275.50 to 275.56.

Tax L.L. 29. Calculation of the 1971 Payable 1972 Levy Limitations.

The property tax levy limitation for each governmental subdivision in 1971 for taxes payable in 1972 is calculated as follows:

(a) The first step is to take the total amount of ad valorem taxes actually levied by the governmental subdivision in 1970 for taxes payable in 1971. This is not the amount certified to the county auditor but is the actual amount that was spread by him on taxable value before any reduction prescribed by Sections 273.13 and 273.135 in respect to homestead property. Special assessments on benefited property are excluded from this amount. Levies for any of the special taxing districts enumerated in Tax L.L. 3 of these rules and regulations are excluded from the governmental subdivision's levy. Levies for another taxing district (including county school tuition and transportion levies) are excluded from the governmental subdivision's levy. Levies for functions of the governmental subdivision (including county library levies and other taxing district levies that do not encompass

the entire taxing district) which were levied separately are included in the governmental subdivision's levy.

Example 1. The ad valorem levy of a housing and redevelopment authority was included in the ad valorem levy of a city in a 1971 Abstract of Tax Lists. The housing and redevelopment authority is not a board, department of function of the city governmental subdivision. It is one of the special taxing districts listed in Tax L.L. 3 of these rules and regulations. Therefore, the levy by and for the housing and redevelopment authority shall be excluded from the levy of the city as reported in the 1971 Abstract of Tax Lists.

Example 2. The ad valorem levy by a township on the taxable valuation of a contiguous village was included in the ad valorem levy of the village in a 1971 Abstract of Tax Lists. The purpose of such a levy is to finance the cost of services provided by the township to the village (such as snow removal, town dump or voting facilities). Since this levy was by and for the township, it shall be excluded from the levy of the village (as reported in the 1971 Abstract of Tax Lists) and included in the levy of the township (as reported in the 1971 Abstract of Tax Lists).

Example 3. A township ad valorem levy for a special fire protection district within the township was shown separately as a special district levy in a 1971 Abstract of Tax Lists. This levy, though not a township-wide levy, is a levy by

the township for services arranged by the township for the benefit of the special fire protection district. The special fire protection district is not a governmental subdivision and is not a special taxing district. Therefore, the levy for the special fire protection district shall be included in the levy (as shown on the 1971 Abstract of Tax Lists) of the township which levied such tax.

If the governmental subdivision levied such taxes in 1970, taxes payable in 1971, for a period shorter than 12 months, then such taxes levied in the most recent preceding year for a period of 12 months shall be used for this calculation. This applies only to those situations where a governmental subdivision switched from a fiscal to a calendar budget year for taxes levied in 1970 and payable in 1971.

Example. A city handled its finances on a July 1 to June 30 fiscal year basis for levy year 1969, at which time it levied for fiscal year July 1, 1970 to June 30, 1971. In levy year 1970 the city switched to a calendar year financial basis. Since the city had previously levied for the first half of calendar year 1971, the city levied in 1970 for just the last six months of calendar year 1971. For levy limitation purposes, the taxes levied in 1969 for the fiscal year July 1, 1970 to June 30 1971, would be used.

(b) The next step is to deduct those portions of the taxes levied in part (a) which are "special levies". These are just the items which would be special levies by

applying the definitions of "special levy" in Section 275.50, Subdivision 5 to the 1970 levy, taxes payable in 1971. By such application, the only items which would be "special levies" are the levies for welfare and bonded indebtedness. The other "special levies" pursuant to Section 275.50, Subdivision 5 do not apply to this deduction since they are all related to increases over the payable 1971 level.

For the purpose of this regulation, a levy for "welfare" includes:

(1) A levy for the administrative costs of categorical welfare aids and poor relief and the costs of administration of social services and the purchase of social services. (See Tax L.L. 13 for matching fund levies); and

(2) A levy to pay the costs of actual aid payments to recipients under the categorical welfare aids and poor relief programs. (See Tax L.L. 15 for the special levy for cash public assistance programs.)

For the purpose of this regulation, a levy for "bonded indebtedness" includes:

(1) A levy to pay the principal and interest on bonded indebtedness. (See Tax L.L. 16 for bonded indebtedness special levies);

(2) A levy to pay the principal and interest on certificates of indebtedness, except tax anticipation or aid anticipation certificates of indebtedness, issued for any corporate purpose except to pay current expenses or to fund an insufficiency

in receipts from taxes or other sources or to fund extraordinary expenditures resulting from a public emergency. (See Tax L.L. 17 for the special levy for certificates of indebtedness);

(3) A levy to fund the payments made to the Minnesota State Armory Building Commission pursuant to Minnesota Statutes, Section 193.145, Subdivision 2, to retire the principal and interest on armory construction bonds. (See Tax L.L. 18 for the special levy for armory construction bonds); and

(4) A levy to provide for the bonded indebtedness portion of payments made to another political subdivision of the State of Minnesota. (See Tax L.L. 19 for the special levy to pay principal and interest on another governmental subdivision's bonds.)

(c) The next step is to add the Exempt Property Reimbursement (pursuant to Minnesota Statutes 1969, Section 273.69) and Sales Tax Per Capita Aid (pursuant to Minnesota Statutes 1969, Sections 297A.51 to 297A.60) that the governmental subdivision was entitled to receive in calendar year 1971, minus the allocation of these aids on a percentage distribution basis to the welfare and bonded indebtedness special levies in taxes payable year 1971. These aids are the payable 1971 tax year amounts estimated by the Department of Revenue and may not necessarily be the amounts that were actually received by the governmental subdivision in 1971. The aid amounts estimated by the Department of Revenue are the amounts that the governmental subdivision should have

received in 1971 without regard for adjustments to previous years' payments. For the purpose of this regulation, the terms "welfare" and "bonded indebtedness" have the meanings given them in (b) above.

(1) The 1971 Exempt Property Reimbursement amount added to the ad valorem levy of part (a) above is the total amount paid as estimated by the Department of Revenue minus the following allocation:

$$\frac{\text{Welfare and bonded indebtedness special levies from part (b)}}{\text{Total 1970 ad valorem levy payable in 1971 from part (a)}} \times \text{Total 1971 estimated governmental subdivision's Exempt Property Reimbursement}$$

(2) The 1971 Sales Tax Per Capita Aid amount added to the ad valorem levy of part (a) is the amount estimated by the Department of Revenue minus the following allocation:

$$\frac{\text{Welfare special levy from part (b)}}{\text{Total 1970 ad valorem levy payable in 1971 from part (a)}} \times \text{Total 1971 estimated governmental subdivision's Sales Tax Per Capita Aid}$$

(d) The total 1970 ad valorem levy payable in 1971 of part (a) minus the special levies of part (b) plus the Exempt Property Reimbursement and Sales Tax Per Capita Aid of part (c) of the governmental subdivision is divided by the 1970 population of the governmental subdivision pursuant to

Section 275.53 in order to derive the 1970 payable 1971 levy limit base per capita. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) The 1970 Federal census figures (corrected final figures) are used for this step since none of the other methods of determining population authorized by Section 275.53 are applicable to 1970.

(e) The 1970 payable 1971 levy limit base per capita determined in part (d) is then multiplied by the annual 6% increase in accordance with Section 275.52, Subdivision 2 in order to derive the levy year 1971 payable 1972 levy limit base per capita increase. (See Tax L.L. 38 for the annual 6% increase.)

(f) The levy year 1971 payable 1972 levy limit base per capita increase is added to the 1970 payable 1971 levy limit base per capita to derive the 1971 payable 1972 levy limit base per capita.

(g) The 1971 payable 1972 levy limit base per capita is then multiplied by the most recent 1971 population figure to produce the total 1971 payable 1972 levy limit base for the governmental subdivision. The population figure used is the 1970 Federal census figure, or for the seven county metropolitan area, estimates by the Metropolitan Council, unless a different population for the governmental subdivision was established by one of the allowable methods pursuant to Section 275.53, and such population was governing for the purpose of the Levy Limitations Law.

(h) Next, the 1972 amounts of the aids to local units of government enacted by the 1971 legislature are deducted from the governmental subdivision's total 1971 payable 1972 levy limit base.

(1) The Local Government Aid due and payable to the governmental subdivision in 1972, as determined by the Department of Revenue pursuant to Minnesota Statutes, Section 477A.01, is deducted. For most governmental subdivisions, this is the only aid deducted.

(2) Certain municipalities in the iron range counties qualify for Taconite Municipal Aid. The amount of this aid, as determined by the Department of Revenue pursuant to Minnesota Statutes, Section 298.282, is deducted from the 1971 payable 1972 levy limit base of the qualifying municipalities.

(i) The 1971 payable 1972 levy limit base of the governmental subdivision minus its 1972 amount of the aforementioned aids of part (h) is the 1971 payable 1972 overall levy limitation for the governmental subdivision, exclusive of special levies and special assessments. The governmental subdivision could not levy more than the sum of its overall levy limitation plus its special levies and special assessments without being subject to the penalty provisions of Section 275.51, Subdivision 4 and the administrative action of the Commissioner of Revenue pursuant to Section 275.55. Other statutory and charter limitations on tax levies may have prohibited the governmental subdivision from having a levy as large as its

overall levy limitation established pursuant to Sections 275.50 to 275.56.

Tax L.L. 30. Calculation of Levy Limits in Subsequent Levy Years.

The property tax levy limitation for a governmental subdivision in 1972 and subsequent levy years is calculated as follows:

(a) The governmental subdivision's levy limit base per capita for the immediately preceding levy year is increased by the annual 6% adjustment pursuant to Section 275.52, Subdivision 2. (See Tax L.L. 38 for the annual 6% increase.) The resulting product of this operation is the governmental subdivision's current levy year's levy limit base per capita.

(b) The current year's levy limit base per capita of part (a) is then multiplied by the current levy year's population of the governmental subdivision according to the latest Federal or state census, or an estimate as established pursuant to Section 275.53, whichever is the most recent. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) This produces the total current year's levy limit base for the governmental subdivision.

(c) The total current year's levy limit base of part (b) is reduced by the amounts of the Local Government Aid (determined pursuant to Minnesota Statutes, Section 477A.01) and the Taconite Municipal Aid (determined pursuant to

Minnesota Statutes, Section 298.282), if any, which the Department of Revenue estimates as due and payable to the governmental subdivision during the tax collection year to which the current year's levy limit base applies. These aids do not reflect any adjustments for penalties assessed pursuant to Section 275.51, Subdivision 4. (See Tax L.L. 35 for penalties.) Commencing with levy year 1973 and levy years thereafter, the total current year's levy limit base of part (b) is also reduced by the amount of Attached Machinery Aid which the Department of Revenue estimates as due and payable to the governmental subdivision, pursuant to Laws of Minnesota 1973, Chapter 650, Article XXIV, Section 5, during the tax collection year to which the current year's levy limit base applies. The resulting figure of this calculation is then the current year's overall levy limitation for the governmental subdivision, exclusive of special levies and special assessments. The governmental subdivision cannot levy more than the sum of its overall levy limitation plus its special levies and special assessments without being subject to the penalty provisions of Section 275.51, Subdivision 4, and the Commissioner of Revenue's administrative action pursuant to Section 275.55.

The amount actually levied by a governmental subdivision in 1971 or subsequent levy year, for all purposes except special levies and special assessments, in no way affects its levy limitation. That is, the levy limitation for 1972 or

subsequent levy year is based on the previous year's levy limit base per capita and not on the previous year's actual levy for all purposes, exclusive of special levies and special assessments. If the governmental subdivision levies in excess of its overall levy limitation, such levy in no way builds up the overall levy limitation for the subsequent levy year, unless it is approved by the voters of the governmental subdivision at a general or special election pursuant to Section 275.51, Subdivision 4 or Section 275.58. (See Tax L.L. 44 for review of levy limitations, and Tax L.L. 52 for adjusting levy limit bases per capita by election.)

Tax L.L. 31. Adjustments to the Base for Errors of Omission in Levy Year 1970, Taxes Payable in 1971.

For the purpose of determining levy limitations for levy year 1973 and subsequent levy years, the following adjustment is made to a governmental subdivision's levy limit base per capita to include errors of omission committed in levy year 1970, taxes payable in 1971:

(a) The first step is to take the amount of a county auditor's error of omission in the ad valorem taxes extended in levy year 1970, taxes payable in 1971, but only to the extent that when included in the governmental subdivision's levy in 1970, taxes payable in 1971, such amount is not in excess of an applicable statutory, special law or charter limitation imposed on the governmental subdivision in levy year

1970. The term "county auditor's error of omission" has the same meaning as given to it in Tax L.L. 23 of these Rules and Regulations. (See Tax L.L. 23 for the "special levy" for a county auditor's error of omission.)

(b) The second step is to take the amount of an error of omission in the levy certified to the appropriate county auditor or auditors by the governing body of a city, village, borough or town with village powers in levy year 1970, taxes payable in 1971, but only to the extent that when included in the governmental subdivision's levy in 1970, taxes payable in 1971, such amount is not in excess of any applicable statutory, special law or charter limitation imposed on the governmental subdivision in levy year 1970. The term "error of omission" as used herein has the same meaning as given to it in Tax L.L. 24 of these Rules and Regulations. (See Tax L.L. 24 for the "special levy" for an error of omission in the levy certified to the county auditor.)

(c) The next step is to aggregate the amounts from parts (a) and (b) and increase them by 12.36 percent.

(d) The product of part (c) is divided by the 1972 population of the governmental subdivision established pursuant to Section 275.53 to derive the per capita adjustment. The 1972 population is used instead of the 1973 population since this per capita adjustment is to be added to the governmental subdivision's 1972 payable 1973 levy limit base per capita, which is calculated using the governmental

subdivision's 1972 population. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.)

(e) The per capita amount calculated in part (d) is added to the governmental subdivision's 1972 payable 1973 levy limit base per capita. (See Tax L.L. 30 for calculation of levy limits in levy year 1972 and subsequent levy years.) This is a permanent adjustment to the governmental subdivision's levy limit base per capita and is increased yearly (as part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for levy year 1973 and thereafter, taxes payable in 1973 and thereafter.

This adjustment shall not be construed to alter in any way the amount of Local Government Aid estimated by the Department of Revenue to be paid the governmental subdivision pursuant to Minnesota Statutes, Section 477A.01 in calendar years 1972 and 1973, nor shall it be construed to affect in any way the Local Government Aid determinations for calendar year 1974.

Tax L.L. 32. Adjustments to the Base for Public Improvements Required to be Financed by Ad Valorem Taxation and Which Previously Were Financed by Special Assessments.

For the purpose of determining levy limitations for levy year 1973 and thereafter, a governmental subdivision shall have

its levy limit base per capita adjusted for laws of the Minnesota Legislature which require that public improvements be financed by ad valorem taxation, which are of a type financed by special assessments in calendar year 1971. As used in this regulation, "public improvements" means only those types of improvements enumerated in Minnesota Statutes, Sections 429.021, Subdivision 1 and 429.101. "Laws" referred to by this regulation mean laws which make the conversion from special assessment to ad valorem taxation mandatory, but permissive laws are included in this regulation if they stipulate that the governmental subdivision cannot revert to special assessments once it chooses to finance certain public improvements by ad valorem taxation.

Whenever (after levy year 1972) a governmental subdivision, acting pursuant to a law of the Minnesota legislature, provides that certain public improvements will henceforth be financed by ad valorem taxation, the total amount of special assessments levied in the immediately preceding levy year for such improvements shall be divided by the population of the governmental subdivision in the preceding levy year (determined pursuant to Section 275.53) and added to the governmental subdivision's levy limit base per capita for such preceding levy year. (See Tax L.L. 40 for determination of population, Tax L.L. 41 for governing population census or estimate, and Tax L.L. 30 for calculation of levy limits in levy year 1972 and subsequent levy years.) This is a permanent adjustment

to the governmental subdivision's levy limit base per capita and is increased yearly (as a part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for the current and subsequent levy years.

Example. Laws of Minnesota 1973, Chapter 393, provides that the City of Minneapolis may pay the costs of maintenance of streets and street lighting by levying ad valorem taxes. The law also provides that if the City of Minneapolis acts pursuant to the authority of such law, the city shall no longer specially assess the costs of these improvements. If the City of Minneapolis acts pursuant to Laws of Minnesota 1973, Chapter 393, the total amount of special assessments levied for maintenance of streets and street lighting in the year preceding such action shall be divided by the population of the City of Minneapolis in the npreceding levy year and shall be added to the city's levy limit base per capita for such preceding levy year. This would be a permanent adjustment to the City of Minneapolis' levy limit base per capita and would be increased yearly (as a part of such levy limit base per capita) pursuant to Section 275.52, Subdivision 2 for the purpose of determining levy limitations for all levy years subsequent to the last levy year that the cost of maintenance of streets and street lighting were specially assessed.

Tax L.L. 33. Adjusting Levy Limitations for Certain Abolished State Aids.

For levy year 1973 and thereafter, taxes payable in 1974 and thereafter, the current levy year's levy limit base for the governmental subdivision (see Tax L.L. 30 for the calculation of levy limits in levy year 1972 and subsequent levy years) shall be increased by the following amounts:

(1) Calendar year 1973 cigarette tax distribution aids pursuant to Minnesota Statutes 1971, Section 297.13;

(2) Calendar year 1973 liquor tax distribution aids pursuant to Minnesota Statutes 1971, Section 340.60;

(3) November 30, 1972 and May 31, 1973, bank excise tax distribution aids pursuant to Minnesota Statutes 1971, Section 290.361;

(4) Seventy percent (if a county government) or 100 percent (if a city, village or town government) of the mortgage registry tax distribution the governmental subdivision was entitled to receive in fiscal year 1973 (July 1, 1972 through June 30, 1973).

These are the amounts, as estimated by the Department of Revenue, which the governmental subdivision was entitled to receive from the state for such payment dates or periods, as the case may be, and are not necessarily the actual amounts paid. Also, these amounts do not reflect any adjustments for prior payments.

This adjustment shall not be construed to alter in any way the governmental subdivision's levy limit base per capita,

and it is not subject to the yearly 6% compounded adjustment pursuant to Minnesota Statutes, Section 275.52, Subdivision 2. The foregoing addition shall be made to the governmental subdivision's current levy year's levy limit base before the deduction of the aids estimated by the Department of Revenue to be paid to the governmental subdivision pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid), as amended, during the tax collection year to which the current levy year's levy limit base applies.

Tax L.L. 34. Minimum Property Tax Levy Limitation.

Notwithstanding the provisions of Section 275.51, Subdivision 3 (see Tax L.L. 30 for the calculation of levy limits in levy year 1972 and subsequent levy years), but subject to any other statute, special act or charter limitation, each governmental subdivision shall be entitled, in levy year 1973 and subsequent levy years, to a minimum property tax levy limitation equal to six percent of its state aids estimated by the Department of Revenue to be paid, pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid), to the governmental subdivision during the tax collection year to which the property tax levy limitation applies. These state aids are the same amounts that are deducted, in addition with Attached Machinery Aid (Laws of Minnesota 1973, Chapter 650, Article XXIV, Section 5),

from the current levy year's levy limit base of the governmental subdivision in determining the current year's levy limitation for the governmental subdivision under the provisions of Section 275.51, Subdivision 3.

A governmental subdivision which would maximize its property tax levy limitation under this minimum allowance shall qualify for the provisions of Section 275.51, Subdivision 3a, and the provisions of Section 275.51, Subdivision 3 shall not apply to such governmental subdivision. Any year in which a governmental subdivision qualifies for the provisions of Section 275.51, Subdivision 3a shall be known as a "qualifying levy year."

In addition to the minimum property tax levy limitation, Section 275.51, Subdivision 3a also provides a means for establishing a new levy limit base per capita for use under the provisions of Section 275.51, Subdivision 3. The new levy limit base per capita is determined as follows:

(a) In any levy year (qualifying levy year) that a governmental subdivision qualifies for the minimum levy limitation under Section 275.50, Subdivision 3a, the state aids estimated by the Department of Revenue to be paid, pursuant to Minnesota Statutes, Sections 477A.01 and 298.282 to the governmental subdivision in the taxes payable year to which such qualifying levy year applies shall be divided by the population of the governmental subdivision in such qualifying levy year as determined pursuant to Section 275.53.

(See Tax L.L. 40 for the determination of population and Tax L.L. 41 for governing population census or estimate.)

(b) The resulting quotient of part (a) shall be increased pursuant to Section 275.52, Subdivision 2 (see Tax L.L. 38 for the annual 6% increase) to derive the qualifying levy year's levy limit base per capita for use under the provisions of Section 275.51, Subdivision 3.

In any subsequent levy year that a governmental subdivision would maximize its property tax levy limitation under Section 275.51, Subdivision 3, using the levy limit base per capita computed under parts (a) and (b) above for the last qualifying levy year as the preceding year's levy limit base per capita for the provisions of Section 275.51, Subdivision 3, the governmental subdivision shall no longer qualify for Section 275.51, Subdivision 3a and shall resume to have its property tax levy limitation calculated pursuant to Section 275.51, Subdivision 3.

Example. A city with a 1973 population of 1,000 has a 1973 payable 1974 levy limit base of $16,000. The city's 1974 Local Government Aid will be $15,600 and its 1974 Attached Machinery Aid will be $500. This results in a zero levy limitation for levy year 1973, taxes payable in 1974 ($16,000 - $16,100 = $(100) = 0). However, under Section 275.51, Subdivision 3a, the city is entitled in levy year 1973 to a minimum property tax levy limitation equal to 6% of its 1974 aids estimated by the Department of Revenue to be paid pursuant

to Minnesota Statutes, Sections 477A.01 and 298.282. Since the city will not receive any Taconite Municipal Aid, its 1973 payable 1974 minimum levy limitation is 6% of $15,600 or $936.

In levy year 1974 payable 1975, the city still has a population of 1,000 and its 1974 payable 1975 levy limit base (pursuant to Section 275.51, Subdivision 3) is $16,960. Its 1975 Local Government Aid will be $15,700 and its 1974 Attached Machinery Aid will be $500. This results in a levy limitation of $460 pursuant to Subdivision 3. The city's minimum property tax levy limitation for levy year 1974 is 6% of $15,700 or $942. However, the city now would benefit more by resuming to have its levy limitation computed under Subdivision 3, using the preceding qualifying levy year's levy limit base per capita established under the provisions of Subdivision 3a. Under Subdivision 3a, the city's 1974 Local Government Aid of $15,600 is divided by the city's 1973 population of 1,000. The resulting per capita amount ($15.60) is increased by 6%, which produces a levy limit base per capita of $16.54 for the 1973 payable 1974 qualifying levy year under the minimum levy limitation provisions of Subdivision 3a. This per capita amount of $16.54 becomes the preceding year's levy limit base per capita for the provisions of Subdivision 3. Under Subdivision 3, the per capita amount of $16.54 would be increased by 6% pursuant to Section 275.52, Subdivision 2. The resulting current levy year's levy limit base per capita of $17.53 would then be multiplied by the

city's 1974 population of 1,000 to derive the city's current levy year's levy limit base for 1974. The city's current levy year's levy limit base of $17,530 for levy year 1974, minus its 1975 Local Government Aid of $15,700 equals $1,830. Since this amount is greater than the city's minimum levy limitation of $942, the city would be entitled to a 1974 payable 1975 property tax levy limitation of $1,830 and would continue to have its levy limitation determined under Subdivision 3, until such time that it qualifies again for the minimum levy limitation provisions of Subdivision 3a.

Tax L.L. 35. Penalties.

Pursuant to Section 275.51, Subdivision 4, penalties shall be imposed on any levy of a governmental subdivision, exclusive of special levies and special assessments, which is in excess of the governmental subdivision's overall levy limitation established pursuant to Sections 275.50 to 275.56, unless other remedy is agreed to under the provisions of Section 275.55. (See Tax L.L. 45 for the Commissioner's administrative action.) Penalties shall not be imposed under Section 275.51, Subdivision 4 for an actual levy in excess of the overall levy limitation if the excess is caused by the rounding of the mill rates of the governmental subdivision in accordance with Minnesota Statutes, Section 275.28.

If a governmental subdivision levies a tax in 1971 payable in 1972 for all purposes except special levies and special

assessments, which is in excess of its 1971 payable 1972 overall levy limitation, the Local Government Aid and Taconite Municipal Aid distributions due and payable to such governmental subdivision in calendar year 1972 or subsequent calendar years pursuant to Minnesota Statutes, Sections 477A.01 and 298.282 shall be, pursuant to Section 275.51, Subdivision 4, reduced 10 cents for each full dollar that such levy exceeds the overall levy limitation, unless other remedy is agreed to under the provisions of Section 275.55.

If a governmental subdivision levies a tax in 1972, for all purposes except special levies and special assessments, which is in excess of its 1972 overall levy limitation, the Local Government Aid and Taconite Municipal Aid distributions due and payable to such governmental subdivision in calendar year 1973 or subsequent calendar years pursuant to Sections 477A.01 and 298.282, shall be, pursuant to Section 275.51, Subdivision 4, reduced 10 cents for each full dollar that such levy exceeds the overall levy limitation by up to five percent, and 33 cents for each full dollar that such levy exceeds the overall levy limitation by more than five percent, unless other remedy is agreed to under the provisions of Section 275.55.

If a governmental subdivision levies a tax in 1973 or a subsequent levy year, for all purposes except special levies and special assessments, which is in excess of its overall levy limitation in levy year 1973 or such subsequent levy year, the Local Government Aid and Taconite Municipal Aid distributions

due and payable to such governmental subdivision in calendar year 1974 or subsequent calendar years pursuant to Sections 477A.01 and 298.282 shall be, pursuant to Section 275.51, Subdivision 4, reduced 33 cents for each full dollar that such levy exceeds the overall levy limitation, unless other remedy is agreed to under the provisions of Section 275.55.

For the purpose of determining whether or not a levy limitation has been exceeded, the levy of a metropolitan county government shall be the levy of such county before the reduction of its road and bridge fund levy as required pursuant to Minnesota Statutes, Section 163.051, Subdivision 5.

Tax L.L. 36. Resolutions and Elections to Increase Levy.

A governmental subdivision may determine to levy in excess of its overall levy limitation established by Sections 275.50 to 275.56, in an amount not to exceed 5 percent of such limitation and be subject to a penalty of 15 cents on each dollar of excess levy instead of the penalty of 33 cents on each dollar of excess levy as otherwise provided in Section 275.51, Subdivision 4.

In order to qualify for the reduced penalty, the governmental subdivision must pass a resolution stating the amount by which the levy limit is proposed to be exceeded. Such resolution shall be published for two consecutive weeks in the official newspaper of the governmental subdivision or if there be no official newspaper, then in a newspaper of general circulation

therein. With such published resolution there shall be joined a notice announcing the date for a public hearing on the proposed increase in levy. Such hearing shall be held not less than two weeks nor more than four weeks after the first publication of the resolution and notice of hearing. Following the public hearing, the governing body of the governmental subdivision may choose to adopt a resolution authorizing the levy as originally proposed, adopt a resolution authorizing a lesser amount of excess levy, or the governing body may choose to take no further action. A resolution authorizing a levy in excess of the limitation imposed by Sections 275.50 to 275.56 shall be published in the official newspaper of the governmental subdivision, or if there be no official newspaper, such resolution shall be published in a newspaper of general circulation.

If within 30 days after the publication of the resolution authorizing the excess levy, no referendum is requested by the voters of the governmental subdivision, and if the resolution was adopted prior to October 1 in any levy year, the excess levy authorized by the resolution may be levied in that same levy year. In addition, the Local Government Aid distributions and Taconite Municipal Aid distributions due and payable to such governmental subdivision in subsequent calendar years pursuant to Minnesota Statutes, Sections 477A.01 and 298.282 shall be reduced 15 cents for each full dollar that the levy exceeds the limitation by up to five percent, and 33 cents

for each full dollar that such levy exceeds the limitation by more than five percent. A levy authorized by a resolution adopted after September 30 in a given year shall not be levied in that same levy year except as subject to a penalty of 33 cents for each full dollar that such levy exceeds the limitation, unless other remedy is agreed to under the provisions of Section 275.55. However, an excess levy authorized by resolution adopted after September 30 in a given levy year may be levied in the next subsequent levy year, subject to the penalty of 15 cents for each full dollar of excess levy.

If within 30 days after the publication of the resolution authorizing the excess levy, a petition signed by voters of the governmental subdivision equal in number to five percent of the votes cast in the governmental subdivision in the last general election or 2,000 voters, whichever is less, requesting a referendum on the proposed excess levy is filed with the clerk or recorder (if the governmental subdivision is a city, village, borough or town) or the county auditor (if the governmental subdivision is county government), the resolution shall not be effective until it has been submitted to the voters at a general or special election and a majority of the votes cast on the question of approving the resolution are in the affirmative.

A levy increase approved by any such referendum at a general or special election held prior to October 1 in any levy year increases the allowable levy in that same levy

year, without penalty, and provides a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. A levy increase approved by any such referendum at a general or special election held after September 30 in a given levy year shall not be levied in that same levy year, except with a 33 percent penalty, but shall provide a permanent adjustment to the levy limit base per capita for future levy years without penalty.

A levy increase approved by the voters of the governmental subdivision at a general or special election shall become a permanent adjustment to the governmental subdivision's levy limit base per capita as follows. In the first levy year subsequent to the year in which the levy increase is approved by referendum, the amount of the approved increase is divided by the population of the governmental subidvision in the year such election was held (as established pursuant to Section 275.53). This per capita amount is then added to the current year's levy limit base per capita for the year in which such election was held. This combined amount is then adjusted pursuant to Section 275.52, Subdivision 2 (see Tax L.L. 38 for the maximum 6% allowable increase) to derive the current levy year's levy limit base per capita for the purpose of Section 275.51, Subdivision 3 for the first levy year subsequent to the levy year in which the levy increase was approved by referendum. Each year thereafter the levy limit base per capita (including the approved levy increase) shall be adjusted pursuant to

Section 275.52, Subdivision 2 for the purpose of levy limitations determined pursuant to Section 275.51, Subdivision 3. (See Tax L.L. 30 for calculation of levy limits in subsequent levy years.)

A levy increase rejected by a majority of the voters of the governmental subdivision voting at a general or special election, if levied in spite of such rejection, shall be subject to the 33 percent penalty provisions of Section 275.51, Subdivision 4.

The Commissioner of Revenue is directed to prepare a suggested form of question to be presented at a referendum held pursuant to Section 275.51, Subdivision 4. The suggested form of question to be presented at such referendum is found on page 91.

Tax L.L. 37. Recertifications in Levy Year 1971.

All governmental subdivisions were allowed to recertify their tax levies in 1971 in order to conform with the levy limitations imposed by Sections 275.50 to 275.56. This suspension of the legal deadlines for levy certifications applied to levy year 1971 only.

Tax L.L. 38. Annual Six Percent Increase in Levy Limit Base Per Capita.

The levy limit base per capita of a governmental subdivision, as determined by Section 275.51 and adjusted for previous increases pursuant to Section 275.52, is increased each year

REFERENDUM

Resolution number _____ increasing the levy of the

_____ of _____
(County, city, village, borough or town) (Name of governmental subdivision)

☐ Yes

☐ No

The following proposition shall be approved as follows.

The _____(name of governmental subdivision) shall be authorized to exceed its levy limitation for 19___, by an amount not to exceed $_____, of the taxable property within its boundaries in addition to all other taxes voted by it. In the next succeeding year and years following, such amount shall become a permanent adjustment to the levy limit base per capita of the _____ (name of governmental subdivision).

by the amount of six percent of the previous year's levy limit base per capita. The previous year's actual levy (whether above, below or at the level of the previous year's levy limitation) has no bearing on the subsequent year's overall levy limitation.

Tax L.L. 39. Population Decreases.

If the population (as established pursuant to Section 275.53) of any governmental subdivision decreases from one year to the next, the current year's population shall, for purposes of the Levy Limitations Law, be increased by an amount equal to one-half of the decrease in population from the preceding year. (See Tax L.L. 40 for determination of population and Tax L.L. 41 for governing population census or estimate.) However, such increase is effective for that one particular levy year only. This population adjustment applies to decreases in population resulting from a change in a governmental subdivision or changes in the boundaries of a governmental subdivision, as well as to other population decreases.

Example 1. A governmental subdivision's population is 100,000 in 1971, 98,000 in 1972 and 95,000 in 1973. For levy year 1972 payable 1973, the current year's population figure used for the Levy Limitations Law would be 98,000 + 1/2(100,000 - 98,000) = 99,000. For levy year 1973 payable 1974, the current year's population figure used would be 95,000 + 1/2(98,000 - 95,000) = 96,500.

Example 2. A town with village powers has a population of 3,000 in 1972. In 1973 a portion of the town is annexed into an adjoining village. The 1973 population of the town after annexation, as determined by the Minnesota Municipal Commission in its order, is 1,800, and it continues to qualify as a "town with village powers" pursuant to Minnesota Statutes, Section 368.01. In 1974, the population of the town has increased to 1,850, and no further annexation is to occur in 1974. For levy year 1973, taxes payable in 1974, the current year's population of the town for the Levy Limitations Law would be 1,800 + 1/2(3,000 - 1,800) = 2,400. For levy year 1974, taxes payable in 1975, the current year's population of the town for the Levy Limitations Law would be 1,850.

Tax L.L. 40. Determination of Population.

For the purposes of determining the amount of tax that a governmental subdivision may levy within a per capita limitation established in accordance with Sections 275.50 to 275.56, the population of a governmental subdivision shall be that established by one of the following methods:

(a) The population as established by the last Federal or state census, incorporating subsequent corrections made by the Bureau of the Census or the Secretary of State, as the case may be. Unless a more recent population figure is established subsequent to the latest Federal decennial census, by means of a special state or Federal census or by a population estimate

authorized by Section 275.53, the population of a governmental subdivision, for the purpose of determining the governmental subdivision's overall levy limitation pursuant to Sections 275.50 to 275.56, shall be the population as established by the last Federal decennial census as corrected.

(b) The population estimated by the Metropolitan Council. These estimates are developed between Federal census years, but are available only for governmental subdivisions within the seven counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington. Each non-Federal census year, the Metropolitan Council estimates the current year's April 1 population of the seven metropolitan counties and the population of each city, village, borough and township within the seven counties. These estimates are then made available the following July 1 for levy purposes in the same calendar year.

(c) The population as estimated by the Minnesota Municipal Commission pursuant to Minnesota Statutes 1971, Section 414.01, Subdivision 14, after ordering the creation of a new municipality or enlargement of an existing municipality.

(d) The population as established by a special census taken within the entire governmental subdivision pursuant to Section 275.53, Subdivision 2.

Section 275.53, Subdivision 2 provides that "the governing body of a governmental subdivision may, in any year, pass a resolution requesting the Secretary of State to take a special census for the purpose of computing the amount of

tax that it may levy. Upon receiving a certified copy of such resolution, the Secretary of State shall cause such a census to be taken under his immediate supervision and under such rules and regulations as he may prescribe. The results of the census shall be certified to the governmental subdivision within three months after the Secretary of State has received a certified copy of the resolution by which the census was requested."

"The expense of taking the census shall be paid by the governmental subdivision in which the census is taken." Such expense, however, must be levied within the levy limitations of the governmental subdivision imposed by Sections 275.50 to 275.56. Such an expense does not qualify as a "special levy" as defined for the Levy Limitations Law.

(e) The population as established by an estimate of the current population of the governmental subdivision, contained in a resolution passed by the governing body of such subdivision.

(1) "In lieu of passing a resolution pursuant to Section 275.53, Subdivision 2, the governing body of a municipality or town may pass by June 1 of any year a resolution containing an estimate of the current population of the subdivision." The resolution shall contain the name of the governmental subdivision and county where located, the estimate of the current population, the date of the population estimate, a detailed explanation of the criteria used in developing the population estimate, a statement that the estimate is made for

the purpose of increasing that governmental subdivision's levy pursuant to Minnesota Statutes 1971, Sections 275.50 to 275.56, the date that the resolution was passed and adopted by the governing body of the governmental subdivision, the signature of the clerk or recorder (if the governmental subdivision is a city, village, borough or town) or the county auditor (if the governmental subdivision is a county government) and the date of signature, and the official seal of the governmental subdivision.

(2) "The resolution shall then be submitted to the State Planning Agency. The Agency shall determine, and so inform the subdivision in writing within 30 days of receipt of the resolution, whether the criteria described therein do or do not provide a reasonable basis for the population estimate" and whether or not the resulting estimate itself is reasonable. "No determination by the Agency made pursuant to Section 275.53, Subdivision 3 shall constitute, nor shall it be represented as constituting, a determination of actual population."

(3) If the State Planning Agency determines that the criteria do not provide a reasonable basis for the population estimate, the resolution shall not be valid for purposes of the Levy Limitations Law and such estimate shall not be used for the purpose of determining the levy limitation of the governmental subdivision pursuant to Sections 275.50 to 275.56. If the Agency determines that the cirteria do provide a reasonable basis for the population estimate, the resolution,

as prepared in accordance with number (1) above and submitted to the Agency in accordance with number (2) above shall be published at least once in a legal newspaper of general circulation in the governmental subdivision. "Such estimate may then be used for computing the amount of ad valorem taxes the subdivision may levy, unless within 30 days following the publication of the resolution, 10 percent or more of the registered voters of the subdivision, or if the subdivision does not require voter registration, then 10 percent or more of its voters who voted at the subdivision's last election, sign a petition demanding a special census, and submit the petition to the governing body of the subdivision."

(4) "Attached to the petition shall be an affidavit executed by the circulator or circulators thereof, stating that he or they personally circulated the petition, stating the number of signatures thereon, and stating that all the signatures were affixed in his or their presence and that he or they believe them to be genuine signatures of the persons whose names they purport to be. Each signature need not be notarized."

(5) "Upon the receipt of a petition conforming to Section 275.53, Subdivision 3, the governing body of the governmental subdivision shall pass a resolution requesting the Secretary of State to take a special census of the governmental subdivision. The census shall be taken and financed pursuant to the provisions of Section 275.53,

Subdivision 2." Once developed, the population established by this special census supercedes the population estimate contained in the governing body's resolution.

(6) "The governing body of a governmental subdivision may not avail itself of the provisions of Section 275.53, Subdivision 3 during any year for which any State or Federal census has been taken or for which the Metropolitan Council has made a population estimate of the subdivision." If none of these census figures or estimates of population for the governmental subdivision have been developed during any year, or if the only population figure developed during the year was an estimate by the Minnesota Municipal Commission pursuant to Minnesota Statutes 1971, Section 414.01, Subdivision 14, the governing body of a governmental subdivision may then determine its population for such year pursuant to Section 275.53, Subdivision 3.

Tax L.L. 41. Governing Population Census or Estimate.

The general rule, for the purpose of determining the tax that may be levied within the per capita limitations of the Levy Limitations Law, is that the most recent population count or estimate established for the governmental subdivision, pursuant to Section 275.53, must be used. This selection pertains to the stated date of the population count or estimate and not to the date of release of the final count or estimate. If there are two population counts or estimates for a governmental

subdivision, one in each of two succeeding years, the population count or estimate for the later year must be used. If, on the other hand, there are two population counts or estimates for a governmental subdivision within the same year, the count or estimate for the latest date must be used. Once the selection is made according to this rule, the final count or estimate of population, incorporating subsequent corrections, is used.

Example 1. The 1970 Federal census population figure for a city was 50,000. The Metropolitan Council developed a population estimate of 49,500 for the same city as of April 1, 1971. No other census or population estimates have been developed in 1971. In this case the city must use the estimate developed by the Metropolitan Council for levy year 1971 payable 1972. However, this estimate would be adjusted upward to 49,750 in accordance with Section 275.52, Subdivision 3, and this adjusted population estimate would be the actual figure used.

Example 2. The 1970 Federal census population figure for a village was 12,000. In 1974 the governing body developed a population estimate of 13,000 in accordance with Section 275.53, Subdivision 3, and passed and adopted the estimate by resolution dated May 1, 1974. The population estimate was approved by the State Planning Agency and was unopposed by the voters of the governmental subdivision. No other population estimate was developed in 1974. In this case, the governmental subdivision must use the 1974 estimate of 13,000 developed in accordance

with Subdivision 3. If the governmental subdivision had not passed and adopted the resolution containing the population estimate until after June 1, 1974, such resolution, pursuant to Section 275.53, Subdivision 3 (a), would not be valid and the 1970 Federal census population figure would prevail.

The one exception to the general rule is that a governmental subdivision may not develop a population estimate pursuant to Section 275.53, Subdivision 3 in the same year that any other population census or estimate (except a population estimate developed by the Minnesota Municipal Commission) has been developed pursuant to Section 275.53. Section 275.53, Subdivision 3 is also superceded by any subsequent population census or estimate (including a population estimate developed by the Minnesota Municipal Commission) developed pursuant to Section 275.53.

In the event that a population estimate is developed pursuant to Section 275.53, having the same date of count or estimate as a Federal or State population census, the Federal or State census, as the case may be, shall prevail. In the event that two or more population estimates are developed having the same date of estimate, and they are the latest population figures developed pursuant to Section 275.53, and they differ numerically, then the governing body of the governmental subdivision shall choose, by resolution, from among these estimates the population figure which shall be governing for the purposes of the Levy Limitations Law.

Example 1. A special State census taken by the Secretary of State, pursuant to Section 275.53, Subdivision 2, counts the population of a city as of April 1, 1973, as 220,000. The Metropolitan Council estimates that the population of the city as of April 1, 1973 is 210,000. No other population estimate was developed in 1973. In this case, the population of the city established by the special State census would prevail for the purposes of the Levy Limitations Law.

Example 2. A village annexes a portion of an adjacent township. The Minnesota Municipal Commission estimates the population of the newly enlarged village as of May 1, 1972, as 8,000. A population estimate of the village developed by the village council pursuant to Section 275.53, Subdivision 3, passed and adopted by resolution dated June 1, 1972, establishes the May 1, 1972 population as 8,200. The population estimate contained in the resolution is approved by the Vital Statistics Section of the Department of Health and is unapposed by the voters of the governmental subdivision. No other population estimate or census count for the village is established for 1972. In this case, the village council must choose between the Minnesota Municipal Commission's estimate of 8,000 population and the governmental subdivision's estimate of 8,200 population.

Tax L.L. 42. Annexations, Consolidations and Transfers of Functions.

Section 275.54 provides for the determination of levy limitations when the boundaries of governmental subdivisions

change due to consolidations, mergers or other combinations and also provides for the determination of levy limitations when functions or services are transferred between governmental subdivisions.

(a) "If all or part of the area included within two or more governmental subdivisions is consolidated, merged or otherwise combined to constitute a single governmental subdivision, and differing limitations upon the amount of tax levy per capita apply to the governmental subdivisions from which the consolidated, merged or otherwise combined governmental subdivision was formed, the limitation applicable to the surviving entity for purposes of Sections 275.50 to 275.56 shall be equal to the highest limitation applicable to any one of the constituent subdivisions prior to the consolidation, merger or other combination." This applies to governmental subdivisions enlarged through mergers as well as totally new governmental subdivisions created out of all or parts of the areas of previously existing political subdivisions of the State.

Example 1. Town A with village powers and Town B with village powers operate as separate governmental subdivisions for levy year 1971, taxes payable in 1972. Portions of the two towns merge in 1972 to form Village C, a totally new governmental subdivision. The levy limit base per capita for Township A in levy year 1971 payable 1972 was $45.12 while the levy limit base per capita for Township B in levy year 1971 payable 1972 was $42.25. The levy limit base per capita for

Village C (levy year 1971 payable 1972 levy limit base per capita to be used in determining the levy limit base per capita for levy year 1972, taxes payable in 1973, pursuant to Sections 275.50 to 275.56), would be $45.12, which is equal to the highest limitation applicable to one of the constituent subdivisions (Township A) prior to the merger. The remaining portion of Township A (the portion not incorporated into Village C) would retain its levy year 1971 payable 1972 levy limit base per capita of $45.12, unless it no longer qualified as a town with village powers. Similarly, the remaining portion of Township B (the portion not incorporated into Village C) would retain its levy year 1971 payable 1972 levy limit base per capita of $42.25, unless it no longer qualified as a town with village powers. (See Tax L.L. 3 for the definition of "town with village powers".)

Example 2. In 1972 a city annexes a portion of a town without village powers. In this case, a hypothetical levy limit base per capita must be calculated for the town without village powers. This is done by computing the levy year 1970 payable 1971 levy limit base per capita (see Tax L.L. 29 for the calculation of the 1971 payable 1972 levy limitations) and increasing this per capita amount by the annual six percent increase. (See Tax L.L. 38 for the annual six percent increase.) The result of this calculation is a hypothetical levy year 1971 payable 1972 levy limit base per capita for the township of $29.78. The levy limit base per capita for the

city in levy year 1971 payable 1972 was $40.33. In this case the levy year 1971 payable 1972 levy limit base per capita to be used in determining the city's levy limit base per capita for levy year 1972 payable 1973 would be $40.33, which is equal to the highest limitation applicable to one of the constituent subdivisions (the city) prior to the merger. The remaining unannexed portion of the township without village powers would not be subject to the levy limits imposed by Sections 275.50 to 275.56.

Example 3. A town without village powers incorporates into a village in 1972. In this case there was no levy limitation prior to incorporation. Therefore, a completely new levy limitation must be established for this newly incorporated village. This is done by computing the levy year 1970 payable 1971 levy limit base per capita for the dissolved township (see Tax L.L. 29 for the calculation of the 1971 payable 1972 levy limitations) and increasing this per capita amount by the annual six percent adjustment. (See Tax L.L. 38 for the annual six percent increase.) The result of this calculation is the village's levy year 1971 payable 1972 levy limit base per capita to be used in determining its levy year 1972 payable 1973 levy limit base per capita.

(b) If a function or service of one governmental subdivision is transferred to another governmental subdivision, the levy limitations established by Sections 275.50 to 275.56 shall be adjusted by the Commissioner of Revenue in

such manner as to fairly and equitably reflect the reduced or increased property tax burdens of such subdivisions resulting from such transfer. The aggregate of the adjusted limitations shall not exceed the aggregate of such limitations prior to adjustment.

The procedure for adjusting levy limitations to reflect the reduced or increased property tax burdens resulting from the transfer of a function or service is as follows:

(1) The levy in 1970, taxes payable in 1971 for the function or service subject to transfer is increased by six percent compounded for each levy year after 1970 up to and including the first levy year affected by the transfer. The levy for the function or service subject to transfer is the amount actually spread on the tax lists in 1970, taxes payable in 1971.

(2) The Exempt Property Reimbursement (pursuant to Minnesota Statutes 1969, Section 273.69) that the governmental subdivision was entitled to receive in calendar year 1971 is allocated, on a percentage distribution basis, to the levy in 1970 payable 1971 for the function or service subject to transfer. (See Tax L.L. 29, clause (c) for the determination of the Exempt Property Reimbursement that the governmental subdivision was entitled to receive in calendar year 1971.) The resulting allocated amount is increased by six percent compounded for each levy year after 1970 up to and including the first levy year affected by the transfer.

(3) The final results of steps (1) and (2) are aggregated. This total amount is the amount of levy limitation transferred along with the function or service which is transferred.

(4) The amount to be transferred, determined in step (3), is divided by the population of the governmental subdivision assuming the function or service. This is the population of such governmental subdivision in the first levy year affected by the transfer, determined pursuant to Section 275.53. (See Tax L.L. 40 for the determination of population and Tax L.L. 41 for governing population census or estimate.) The resulting per capita amount is added to the current levy year's levy limit base per capita of such governmental subdivision in the first levy year affected by the transfer. This addition is a permanent adjustment to the levy limit base per capita of the governmental subdivision assuming the function or service.

(5) The amount to be transferred determined in step (3), is divided by the population of the governmental subdivision divested of the function or service. This is the population of such governmental subdivision in the first levy year affected by the transfer, determined pursuant to Section 275.53. (See Tax L.L. 40 for the determination of population and Tax L.L. 41 for governing population census or estimate.) The resulting per capita amount is subtracted from the current levy year's levy limit base per capita of such governmental subdivision in the first levy year affected by the transfer. This subtraction is a permanent adjustment to the levy limit base per capita of

the governmental subdivision divested of the function or service.

Example. City A has had the function of maintaining the city library through 1972 while the county government has maintained a county library system for the county, excluding City A. Now for levy year 1972, taxes payable in 1973, the function of providing a library for City A is transferred to the county government. Prior to adjusting their respective levy limitations, City A had a 1972 population of 10,000, a levy year 1972 payable 1973 levy limit base per capita of $50.00 before adjustment, producing a total 1972 payable 1973 levy limit base of $500,000 before adjustment, 1973 local government aid of $130,000, and a 1972 payable 1973 overall levy limitation of $370,000 ($500,000 - $130,000) before adjustment. The county has a 1972 population of 20,000, a levy year 1972 payable 1973 levy limit base per capita of $40.00 before adjustment, producing a total 1972 payable 1973 levy limit base of $800,000 before adjustment, 1973 local government aid of $300,000 and a 1971 payable 1972 overall levy limitation of $500,000 ($800,000 - $300,000) before adjustment.

The total levy of the city in 1970, taxes payable in 1971 was $360,000, of which $36,000 was levied for the city library. The total Exempt Property Reimbursement which the city was entitled to receive in 1971 was $80,000. The allocation of the 1971 aid to the $20,000 library levy is $80,000 x (36,000 ÷ 360,000) = $80,000 x 0.1 = $8,000. The

total amount of levy and aid apportionable to the city library for levy year 1970, taxes payable in 1971 is, therefore, $20,000 + $8,000 = $28,000. This amount increased by 6% compounded for the two levy years from levy year 1970 payable 1971 to levy year 1972 payable 1973 is $28,000 x 1.1236 = $31,460.80. This is the amount of levy limitation to be transferred from City A to the county government for levy year 1972, taxes payable in 1973.

The $31,460.80 divided by the 1972 population of City A (10,000) equals $3.14 per capita. This per capita amount is subtracted from the city's 1972 payable 1973 levy limit base per capita before adjustment of $50.00, thereby reducing the effective levy limit base per capita for City A to $46.86 for levy year 1972, taxes payable in 1973. This per capita amount multiplied by the city's 1972 population of 10,000 equals a total 1972 payable 1973 levy limit base of $468,600. After subtracting the 1973 local government aid of $130,000, the effective overall levy limitation for City A in 1972 payable 1973 is $338,600. The levy limit base per capita adjustment associated with the transfer of the library function is a permanent adjustment for levy year 1972 and all future levy years.

The $31,460.80 divided by the 1972 population of the county (20,000) equals $1.57 per capita. This per capita amount is added to the county's 1972 payable 1973 levy limit base per capita before adjustment of $40.00, thereby increasing

the effective levy limit base per capita for the county to $41.57 for levy year 1972, taxes payable in 1973. This per capita amount multiplied by the county's 1972 population of 20,000 equals a total 1972 payable 1973 levy limit base of $831,400. After subtracting the 1973 local government aid of $300,000, the effective overall levy limitation for the county in 1972 payable 1973 is $531,400. The levy limit base per capita adjustment associated with the transfer of the library function is a permanent adjustment for levy year 1972 and all future levy years.

The aggregate of the adjusted total 1972 payable 1973 levy limitations ($338,000 + $531,400 = $870,000) is equal to the aggregate of the total 1972 payable 1973 levy limitations prior to the adjustment ($370,000 + $500,000 = $870,000).

The amount of non-ad valorem tax resources used to support a function or service in levy year 1970 payable 1971, except Exempt Property Reimbursement (pursuant to Minnesota Statutes 1969, Section 273.69), may not be used to adjust levy limit bases per capita when such function or service is transferred from one governmental subdivision to another.

Tax L.L. 43. Administrative Rules and Regulations.

Section 275.55 empowers the Commissioner of Revenue to issue, in accordance with the Administrative Procedures Act (Minnesota Statutes, Chapter 15), rulings interpreting the Levy Limitations Law. These rules, in addition to other purposes

relating to the Levy Limitations Law, shall be used to determine if a governmental subdivision levy qualifies as a "special levy" and to determine if a levy limitation established pursuant to Sections 275.50 to 275.56 has been exceeded.

Tax L.L. 44. Review of Levy Limitations.

Section 275.55 delegates to the Commissioner of Revenue the responsibility for the enforcement of the provisions of the Levy Limitations Law. For this reason, the Commissioner of Revenue, or his designees, are charged with the responsibility of establishing procedures by which levies of all governmental units shall be periodically reviewed. A general description of such procedures is herewith provided.

The overall levy limitation for each governmental subdivision in 1971, or any subsequent levy year, shall be determined by the Department of Revenue in accordance with the provisions of Sections 275.50 to 275.56. These limitations shall be the effective overall levy limitations for such governmental subdivisions. These overall levy limitations may be corrected and adjusted upon new information supplied by the governmental subdivision to the Department of Revenue.

Each governmental subdivision shall file with the Department of Revenue, in 1971 and subsequent levy years, on forms supplied by the Department of Revenue, a detailed explanation for each claim of a "special levy" or other levy outside the limitations established pursuant to Sections 275.50 to 275.56 (see Tax L.L. 27

for other levies outside the overall levy limitations), together with a certification of the ad valorem property tax levy certified to the county auditor for such levy year.

Upon receipt of the abstracts of tax lists transmitted by the county auditors pursuant to Minnesota Statutes, Section 275.29, the Department of Revenue shall review the taxes actually levied by the governmental subdivision, together with the certifications previously made (see above paragraph), and make determinations based on the Department's rules and regulations promulgated pursuant to Section 275.55. If the Department of Revenue determines that a "special levy' claim included in the governmental subdivision's certification and actually extended on the tax lists is not a qualified "special levy" pursuant to Section 275.50, Subdivision 5, or that a levy included in the governmental subdivision's certification and actually extended on the tax lists does not qualify under Tax L.L. 27 as outside the limitations established pursuant to Sections 275.50 to 275.56, such levy shall be included in the governmental subdivision's total levy which is subject to the overall levy limitation.

For the purpose of determining if a governmental subdivision levy in 1972, taxes payable 1973 is within the 1972 payable 1973 levy limitation of such governmental subdivision determined pursuant to Sections 275.50 to 275.56, the amount of 1973 Exempt Property Reimbursement that the governmental subdivision was entitled to receive pursuant to Minnesota Statutes 1971,

Section 477A.02 shall be added to the payable 1973 levy of such subdivision.

Tax L.L. 45. Administrative Action.

Section 275.55 empowers the Commissioner of Revenue to take such other administrative actions as he deems necessary in order to carry out the provisions of the Levy Limitations Law. This power includes, but is not limited to: (1) the withholding of state aid payments due a governmental subdivision pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid); (2) entering into a stipulation agreement whereby a governmental subdivision agrees to reduce its levy; (3) denying a "special levy" which does not qualify under Section 275.50, Subdivision 5 in order to prevent it from being used in the calculation of Local Government Aid payments to be made pursuant to Minnesota Statutes 1973, Section 477A.01; and (4) reducing Homestead Credit granted pursuant to Minnesota Statutes, Sections 273.13 and 273.135 in lieu of withholding state aid payments paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid), when the county auditor reduced the governmental subdivision's bonded indebtedness levy by application of Local Government Aid or Taconite Municipal Aid and correspondingly increased the governmental subdivision's levy subject to the levy limitations of Sections 275.50 to 275.56. (See Tax L.L. 46 for the withholding of state aids, Tax L.L. 47

for the reduction of levies, and this regulation for the denial of unqualified "special levies" for the purpose of Minnesota Statutes 1973, Section 477A.01 and the reduction of Homestead Credit in lieu of withholding Local Government Aid or Taconite Municipal Aid.)

"If the Commissioner of Revenue takes administrative action or any other action authorized by Section 275.55" which is required in order to "enforce the provisions of Sections 275.50 to 275.55, he shall give written notice of such action to the governmental subdivision affected. Such notice shall specify the actual or impending violations by the governmental subdivision of Sections 275.50 to 275.56 or the rules and regulations of the Department of Revenue pertaining thereto, describe the corrective action required including, in the case of an excess levy, reduction of the governmental subdivision's levy in the next succeeding levy year in an amount equal to the amount of the excess levy, set a reasonable period of time within which the governmental subdivision shall correct the specified actual or impending violations and caution the governmental subdivision that if the specified correction is not made within the time allowed, the state aids to the governmental subdivision pursuant to Sections 477A.01 and 298.282, as amended, will be reduced as provided in Section 275.51, Subdivision 4. The time period first allowed for correction may be extended by the Commissioner if he finds a reasonable basis for delay."

One notice which the Commissioner of Revenue may send pursuant to Section 275.55 is an order of the Commissioner of Revenue determining an excess levy and reducing Local Government Aid. This order pertains to an ad valorem tax levy extended on the tax lists which the Department of Revenue determines is in excess of the governmental subdivision's levy limitation, established pursuant to Sections 275.50 to 275.56. Such order shall show how the Department calculated the amount of the excess levy and shall inform the governmental subdivision of the amount of reduction in its state aids distributed pursuant to Minnesota Statutes, Sections 298.282 (Taconite Municipal Aid) and 477A.01 (Local Government Aid) as penalty for such excess levy. Such order shall be effective 30 days after the date of such order, unless the governmental subdivision agrees by stipulation to reduce its levy and levy limitation in the next succeeding levy year by the amount of the excess levy specified in the order, and further agrees not to levy in excess of its overall levy limitation for such following levy year. (See Tax L.L. 47 for reduction of levies.) Such order shall also inform the governmental subdivision of its right, pursuant to Section 275.552, to dispute the Commissioner's order within 30 days of the date of such order, and of its right to a hearing before the Levy Limitations Review Board if the Commissioner adheres to his order. (See Tax L.L. 50 for contested cases.) Finally, this order shall inform the governmental subdivision that if the notice of the governing body of the

governmental subdivision disputing the Commissioner's order is not given to the Commissioner within 30 days of his order, his order shall be final and not subject to review before the Levy Limitations Review Board. (See Tax L.L. 50 for contested cases.) There shall be attached to the Commissioner's order a formal request for a redetermination of the Commissioner of Revenue's order which the governmental subdivision may choose to sign and submit to the Commissioner. There shall also be attached to the Commissioner's order a formal stipulation agreement (whereby the governmental subdivision agrees to reduce its levy and levy limitation in the next succeeding levy year by the amount of the excess levy specified in the order and further agrees not to levy in excess of its overall levy limitation for such following levy year) which the governmental subdivision may choose to sign and submit to the Commissioner.

If the governing body of a governmental subdivision disputes a Commissioner's order determining an excess levy and reducing Local Government Aid, and the Commissioner adheres to such order, the governing body of the governmental subdivision may submit a formal request for appeal to the Levy Limitations Review Board, subject to rules adopted by the Levy Limitations Review Board. (See Tax L.L. 50 for contested cases.)

Another notice which the Commissioner of Revenue may send pursuant to Section 275.55 is an order determining the disallowance of a special levy. Such order shall list the special levies claimed by the governmental subdivision which the Department of

Revenue determines do not qualify as special levies pursuant to Section 275.50, Subdivision 5. Such order shall also inform the governmental subdivision that the disallowed special levies claimed by the governmental subdivision shall not be used in the determination of Local Government Aid payments to be distributed pursuant to Minnesota Statutes 1973, Section 477A.01. Such order shall be effective 30 days after the date of such order. This order shall also inform the governmental subdivision of its right, pursuant to Section 275.552, to dispute the Commissioner's order within 30 days of the date of such order, and of its right to a hearing before the Levy Limitations Review Board if the Commissioner adheres to his order. (See Tax L.L. 50 for contested cases.) Finally, this order shall inform the governmental subdivision that if the notice of the governing body of the governmental subdivision disputing the Commissioner's order is not given to the Commissioner within 30 days of his order, his order shall be final and not subject to review before the Levy Limitations Review Board. There shall be attached to the Commissioner's order a formal request for a redetermination of the Commissioner of Revenue's order which the governmental subdivision may choose to sign and submit to the Commissioner.

If the governing body of a governmental subdivision disputes a Commissioner's order determining the disallowance of a special levy, and the Commissioner adheres to such order, the governing body of the governmental subdivision may submit a formal request for appeal to the Levy Limitations Review Board, subject to rules adopted by the Levy Limitations Review Board.

If the levy of a governmental subdivision, as extended on the tax lists, is in excess of the limitation imposed on such levy pursuant to Sections 275.50 to 275.56, and such excess levy is due to the county auditor having applied Local Government Aid (Minnesota Statutes, Section 477A.01) or Taconite Municipal Aid (Minnesota Statutes, Section 298.282) to the governmental subdivision's bonded indebtedness levy and correspondingly having increased the governmental subdivision's levy subject to the limitations of Sections 275.50 to 275.56, the following shall apply. With the approval of the governing body of the governmental subdivision, the Department of Revenue will determine what the levy for bonded indebtedness would have been if the governmental subdivision's Local Government Aid had been deducted from its non-bonded debt levies only. Such determination will result in lower computed Homestead Credit payments pursuant to Minnesota Statutes, Sections 273.13 and 273.135. An adjustment will then be made in subsequent Homestead Credit payments in lieu of withholding state aids paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid). If the governing body of such governmental subdivision does not agree to a reduction in its Homestead Credit payments, the subdivision will be subject to the withholding of state aids paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid) unless the governing body of such governmental subdivision agrees by stipulation to reduce its levy and levy limitation in the

next succeeding levy year by the amount of the excess levy specified in the Commissioner's order, and further agrees not to levy in excess of its overall levy limitation for such following levy year. (See Tax L.L. 46 for withholding state aids and Tax L.L. 47 for reduction of levies.)

Tax L.L. 46. Withholding State Aids.

Section 275.55 empowers the Commissioner of Revenue to withhold state aids where such penalties are authorized by law. State aids pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid) may be reduced as a penalty for a levy in excess of a governmental subdivision's levy limitation established pursuant to Sections 275.50 to 275.56 under the following conditions:

(a) The governmental subdivision did not submit a formal request for a redetermination of the Commissioner's order determining an excess levy and reducing Local Government Aid within 30 days of the date of such order, and did not sign a stipulation agreement whereby the governmental subdivision would reduce its levy and levy limitation in the next succeeding levy year by the amount of excess levy specified in the Commissioner's order and further agree not to levy in excess of its overall levy limitation for such following levy year;

(b) The governmental subdivision disputed the Commissioner's order within the time allowed, the Commissioner adhered to his order, but the governmental subdivision did not appeal to the Levy Limitations Review Board;

(c) The governmental subdivision disputed the Commissioner's order within the time allowed, the Commissioner adhered to his order, the governmental subdivision appealed to the Levy Limitations Review Board, and the Levy Limitations Review Board upheld the Commissioner's order after a hearing before the Board. (See Tax L.L. 45 for the Commissioner's administrative action and Tax L.L. 50 for contested cases.)

The Commissioner of Revenue, after the due process required by the Levy Limitations Law, is empowered to withhold a portion or all of one or more Local Government Aid payments (pursuant to Minnesota Statutes, Section 477A.01) or Taconite Municipal Aid payments (pursuant to Minnesota Statutes, Section 298.282) due a governmental subdivision when such governmental subdivision has exceeded its overall levy limitation as established by Sections 275.50 to 275.56. The total amount withheld is determined in accordance with Section 275.51, Subdivision 4 (see Tax L.L. 35 for penalties). The penalty assessed on an excess levy is first prorated equally against the four Local Government Aid payments due to be made to the governmental subdivision during the payment year, and then applied against the Taconite Municipal Aid payment (if any) to be made in such year, and any additional remaining penalty is carried over to the subsequent year's Local Government Aid payments. If the penalty is assessed prior to March 15 of any payment year, the penalty shall be applied to that year's aid payments. If the penalty is assessed after March 14 of any payment year, the penalty shall not be applied until the subsequent payment year.

Example 1. City K had an overall levy limitation of $400,000 in levy year 1972, taxes payable in 1973. City K actually levied $425,000, exclusive of special levies and special assessments. The Department of Revenue reviewed the excess levy and determined that it was not a qualifying "special levy" for the Levy Limitations Law. The Commissioner of Revenue issued his order determining an excess levy and reducing City K's Local Government Aid. City K did not dispute the Commissioner's order and did not sign a stipulation agreement to reduce its levy in levy year 1973, taxes payable in 1974. Therefore, the penalty on this excess levy of $25,000, computed according to Section 275.51, Subdivision 4 (see Tax L.L. 35 for penalties), would be $3,650, derived as follows:

Levy Limitation	=	$400,000
	x	5%
Maximum Amount Subject to 10% Penalty		$ 20,000
First $20,000 of Excess Levy @ 10%	=	$ 2,000
Additional $5,000 of Excess Levy @ 33%		1,650
TOTAL PENALTY		$ 3,650

Since the effective date of the Commissioner's order was July 1, the $3,650 penalty could not be deducted from the 1973 Local Government Aid payments to City K but would be deducted from the 1974 Local Government Aid payments to the city.

Example 2. County A had a 1973 payable 1974 levy limitation of $600,000. County A levied the $600,000 and

claimed $300,000 in special levies. The Department of Revenue reviewed County A's special levies and disallowed $25,000. A Commissioner's order determining an excess levy and reducing Local Government Aid was sent to the county. Within thirty days of the date of the Commissioner's order, County A submitted to the Commissioner a formal request for a redetermination of the Commissioner's order. The Department of Revenue conducted a field audit in County A's offices, which resulted in the Commissioner adhering to his previous order. County A then submitted a formal request for appeal, signed by the county attorney, to the Levy Limitations Review Board. Notice of time and place for a hearing was sent to County A by the Levy Limitations Review Board. The hearing was held and the decision of the Levy Limitations Review Board was to affirm the Commissioner's order. County A did not appeal to the district court. In this case, the penalty on the $25,000 excess levy, determined pursuant to Section 275.51, Subdivision 4 (see Tax L.L. 35 for penalties), would be $25,000 times 33% equals $8,333. Since the decision of the Levy Limitations Review Board was issued in October of 1974, the $8,333 penalty could not be deducted from the 1974 Local Government Aid payments to County A, but would be deducted from the 1975 Local Government Aid payments to the county.

Tax L.L. 47. Reduction of Levies.

Section 275.55 provides that the Commissioner of Revenue may describe as corrective action for an excess levy, the

reduction of the governmental subdivision's levy in the next succeeding levy year in an amount equal to the amount of the excess levy. This he may do only if the governmental subdivision signs a stipulation agreement. Under a stipulation agreement, the governmental subdivision agrees by stipulation that the Commissioner's determination of an excess levy is correct and valid, and that the levy limitation and ad valorem tax levy for the next succeeding levy year, and for that one levy year only, shall be reduced by the amount of the excess levy specified in the Commissioner's order. The governmental subdivision further agrees to waive all rights of review and appeal in respect to the order of the Commissioner determining an excess levy. Under such stipulation agreement, the Commissioner agrees by stipulation not to reduce any subsequent distributions of state aids to be paid pursuant to Minnesota Statutes, Sections 477A.01 (Local Government Aid) and 298.282 (Taconite Municipal Aid) on account of such excess levy. (See Tax L.L. 45 for the Commissioner's administrative action.)

Example. City B had a 1972 population of 10,000, a levy year 1972 payable 1973 levy limit base per capita of $50.00 and 1973 Local Government Aid of $100,000 for a levy year 1972 payable 1973 levy limitation of $300,000 ($50.00 x 10,000 - $200,000 = $300,000). After reviewing City B's 1972 payable 1973 levy, the Department of Revenue determined that City B had an excess levy of $20,000. The Commissioner of Revenue then sent City B an order determining the excess

levy. City B decided not to dispute the Commissioner's order and further decided to sign a stipulation agreement to reduce its levy limitation and ad valorem levy in the next succeeding levy year, in lieu of the reduction of its Local Government Aid payments in 1973. Since the 1973 population of City B was 10,100, the adjustment for abolished state aids was determined to be $100,000 (see Tax L.L. 33 for the adjustment for abolished state aids) and the 1974 Local Government Aid and Attached Machinery Aid payments were calculated to be $300,000 and $10,000, respectively, the 1973 payable 1974 levy limitation for City B after the reduction agreed to by stipulation would be calculated as follows:

1972 Payable 1973 Levy Limit Base Per Capita		$50.00
Adjustments for the 6% Yearly Increase		x 106%
1973 Payable 1974 Levy Limit Base Per Capita		$53.00
1973 Population		x 10,100
1973 Payable 1974 Levy Limit Base Before Adjustments		$535,300
Adjustment for Abolished State Aids	+	100,000
Adjusted 1973 Payable 1974 Levy Limit Base		$635,300
1974 Local Government and Attached Machinery Aids	-	310,000
1973 Payable 1974 Levy Limitation Before Adjustments		$325,300
Adjustment for Excess Levy	-	20,000
Adjusted 1973 Payable 1974 Levy Limitation		$305,300

A levy limitation reduced by a stipulation agreement pursuant to this regulation is effective for one levy year only. Such reduction in no way affects the levy limitations of the governmental subdivision for future levy years, determined pursuant to Section 275.51, Subdivision 3 or 3a.

The reduction in a subsequent levy year's levy limitation and ad valorem tax levy is in lieu of a reduction of state aids to be paid to a governmental subdivision pursuant to Minnesota Statutes, Sections 477A.01 and 298.282. If a governmental subdivision chooses not to sign a stipulation agreement to reduce its levy limitation and ad valorem tax levy in the next subsequent levy year, it will be subject to a reduction in its state aids (see Tax L.L. 46 for withholding state aids).

Tax L.L. 48. Contested Cases.

The governing body of a governmental subdivision to whom a notice pursuant to Section 275.55 is given may, by a majority vote of the whole governing body, decide to dispute the Commissioner's order, whether it be an order determining an excess levy and reducing Local Government Aid or an order determining the disallowance of a special levy or any other order issued pursuant to Section 275.55 (see Tax L.L. 45 for the Commissioner's administrative action). Notice of such decision (entered on a letter of request for a redetermination of the Commissioner of Revenue's order, supplied by the Department of Revenue when such order is issued) must be given the Commissioner within 30 days of the issuance of the Commissioner's order, or else the Commissioner's determination is final and not subject to the review of the Levy Limitations Review Board. (The governmental subdivision may also choose to sign a stipulation agreement to reduce its levy and levy

limitation for the following levy year in lieu of reduction of its state aids pursuant to Section 275.51, Subdivision 4; see Tax L.L. 45 for the Commissioner's administrative action.)

Upon receipt of a formal notice from a governmental subdivision within thirty days of the date of the Commissioner's order, requesting a redetermination of the Commissioner's determination, the Commissioner shall conduct such further investigation of the disputed issues of fact as he deems necessary, which may include an audit of local government records contained in the offices of the governmental subdivision. There shall be allowed ten days from the date of receipt of the governmental subdivision's notice for the purpose of conducting such further investigation. Within seventeen days from the date of receipt of the governmental subdivision's notice, the Commissioner shall deliver his decision, in writing, to the governmental subdivision. If the Commissioner continues to adhere to his previous order, the governing body of the governmental subdivision shall be entitled to a hearing before the Levy Limitations Review Board.

Tax L.L. 49. Ranking of Limitations.

Section 275.56 provides that all statutory, special law and charter provisions establishing per capita, mill or dollar limitations on the amount of taxes that a governmental subdivision may levy for general or special purposes are superceded by the Levy Limitations Law to the extent that they authorize

property taxation in excess of the limitations established by Sections 275.50 to 275.56, but otherwise such other limitations are not affected by the Levy Limitations Law. If a special law, statute or charter limitation is more constraining on a governmental subdivision's levy than the overall levy limitation established pursuant to Sections 275.50 to 275.56, such special law, statute or charter limitation is still effective. However, if the overall levy limitation for a governmental subdivision established pursuant to Sections 275.50 to 275.56 is more constraining on a governmental subdivision's levy than a special law, statute or charter limitation, then the overall limitation established pursuant to Sections 275.50 to 275.56 supercedes such special law, statute or charter limitation.

Example 1. County A had an overall levy limitation of $1,600,000 established pursuant to Sections 275.50 to 275.56 for levy year 1972, taxes payable in 1973. A statute limitation allowed this county to levy up to $420,000 for its road and bridge fund. County A wanted to levy $430,000 for its road and bridge fund, and its proposed budget levy, excluding special levies and special assessments, was $1,586,000. In this case, County A must stay within the statutory limitation of $420,000 for its road and bridge fund, regardless of the fact that it would stay within its overall levy limitation of $1,600,000 with a $430,000 levy for such fund.

Example 2. City B had an overall levy limitation of $1,500,000 established pursuant to the Levy Limitations Law for

levy year 1972, taxes payable in 1973. On the other hand, Minnesota Statutes, Section 275.11 allowed the city to levy up to $102.60 per capita, which, when multiplied times the city's population of 16,100, was a levy of $1,651,860. In this case, the Levy Limitations Law supercedes the provisions of Minnesota Statutes, Section 275.11. The city cannot exceed its overall levy limitation of $1,500,000 without being subject to the penalty provisions of Section 275.51, Subdivision 4.

Example 3. City C had an overall levy limitation of $400,000 in levy year 1973, taxes payable in 1974. A special law applicable only to City C authorized a levy of eight mills for the purpose of operating and maintaining an airport. City C's budget levy (before the airport levy of eight mills) was $360,000. The airport levy of eight mills multiplied times the city's assessed value of $6,250,000 equaled a dollar levy for the airport of $50,000. In this case, the Levy Limitations Law supercedes the special law. The city must either reduce its airport levy or other fund levies in order to stay within the overall levy limitation of $400,000, or else be subject to the penalty provisions of Section 275.51, Subdivision 4.

Any law limiting the amount of ad valorem property taxes a governmental subdivision may levy, which was enacted subsequent to the date of final enactment of Laws of Minnesota 1971, Extra Session, Chapter 31, and which authorizes an ad valorem tax levy in excess of the limitation established for a governmental subdivision pursuant to Sections 275.50 to 275.56, shall

supercede the Levy Limitations Law only if such subsequent law expressly exempts levies from the limitations imposed by Sections 275.50 to 275.56.

Tax L.L. 50. Elections to Increase Levy.

Notwithstanding the provisions of Sections 275.50 to 275.56, the levy of a governmental subdivision, excluding special levies and special assessments, may be increased above the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 in any per capita or dollar amount which is approved by the majority of those voters of the governmental subdivision voting at a general or special election. However, any such increase is subject to other applicable statutory, special law or charter provisions establishing per capita, mill or dollar limitations on the amount of ad valorem taxes that may be levied. Section 275.58 shall not be construed as authorizing elections to increase levies above any applicable statutory, special law or charter limitation other than limitations established pursuant to Sections 275.50 to 275.56.

(a) When the governing body of a governmental subdivision determines by resolution to increase the levy of the governmental subdivision pursuant to the provisions of Section 275.58, it shall provide for submission of the proposition of an increase in the levy limit base per capita or the proposition of an additional levy, as the case may be, at a general or special election. Notice of such election shall be given in the manner

required by the law governing elections under which the governmental subdivision operates. "If the proposition is for an adjustment to the governmental subdivision's levy limit base per capita, increasing the levy limit base per capita over the per capita amount established pursuant to Section 275.51, Subdivision 3, such notice shall state the purpose of such per capita adjustment and the per capita amount of such adjustment. If the proposition is for an additional levy, such notice shall state the purpose and maximum yearly amount of such additional levy."

(b) A levy limit base per capita adjustment approved pursuant to Section 275.58, Subdivision 1, at a general or special election held prior to October 1 in any levy year shall increase the current year's levy limit base per capita for the governmental subdivision in that same levy year by the approved per capita amount and, in addition, shall provide a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. A levy limit base per capita adjustment approved pursuant to Section 275.58, Subdivision 1, at a general or special election held after September 30 in any levy year shall not increase the current year's levy limit base per capita for the governmental subdivision in that same levy year, but shall provide a permanent adjustment to the levy limit base per capita of the governmental subdivision for future levy years. Such adjustment to the governmental subdivision's levy limit base per capita shall not be subject to the penalty

provisions of Section 275.51, Subdivision 4, or the Commissioner's administrative action pursuant to Section 275.55, if used in accordance with the aforementioned stipulations.

Example 1. A $5.00 levy limit base per capita increase, for the purpose of hiring more policemen and providing around-the-clock police protection for City Z, was approved pursuant to Section 275.58, Subdivision 1, at a special election held prior to October 1 in levy year 1973. Prior to adjustment, the city's current levy year's levy limit base per capita for the same levy year was $40.00. The city's adjusted levy limit base per capita for levy year 1973 would then be $45.00, and such increase would be a permanent adjustment for all future levy limitations of the city computed pursuant to Section 275.51, Subdivision 3.

Example 2. A $4.00 levy limit base per capita increase, for the purpose of operating and maintaining a new park for Enterprise City, was approved pursuant to Section 275.58, Subdivision 1 at a general election held after September 30 in levy year 1974. This levy limit base per capita increase could not be used for computing the city's 1974 payable 1975 levy limitation pursuant to Sections 275.50 to 275.56. However, the city's 1974 payable 1975 levy limit base per capita of $53.00 would be increased to $57.00 and become the preceding levy year's levy limit base per capita for the purpose of determining the city's 1975 payable 1976 levy limitation pursuant to Section 275.51, Subdivision 3, and would be a permanent

adjustment to the city's levy limit base per capita for subsequent levy years.

(c) An additional levy approved pursuant to Section 275.58, Subdivision 1 at a general or special election held prior to October 1 in any levy year may be levied in that same levy year and in any levy years thereafter. An additional levy approved pursuant to Section 275.58, Subdivision 1 at a general or special election held after September 30 in any levy year shall not be levied in that same levy year, except as subject to the penalty provisions of Section 275.51, Subdivision 4, but may be levied in the subsequent levy year and in levy years thereafter. Such additional levy is over and above the limitation imposed on the governmental subdivision by Sections 275.50 to 275.56 and shall not be subject to the penalty provisions of Section 275.51, Subdivision 4 or the Commissioner's administrative action pursuant to Section 275.55, if levied in accordance with the aforementioned stipulations.

(d) Notwithstanding any statute, special law, ordinance or charter provision to the contrary, it shall require approval of a majority (50 percent plus 1) of the voters of the governmental subdivision voting on the question to accomplish a levy limit base per capita increase or an additional levy pursuant to Section 275.58, Subdivision 1.

(e) Notwithstanding any statute, special law, ordinance or charter provision to the contrary, the governing body of a governmental subdivision may call and hold special elections pursuant to Section 275.58.

Tax L.L. 51. Governmental Subdivisions Under 500 Population; Exemption From Levy Limits.

"Commencing with levy year 1973 and thereafter, taxes payable in 1974 and thereafter, the provisions of Section 275.50 to 275.56 shall not apply to any city, village, borough or town with village powers whose population according to the latest state or federal census is under 500." Metropolitan Council population estimates, Bureau of the Census population estimates, Minnesota Municipal Commission population estimates, estimates of population adopted by resolution of the governing body of a governmental subdivision or any other population estimate may not be used for this determination. Only a state or federal census population figure shall be used. For most cities, villages, boroughs or towns with village powers, this means the latest federal decennial census population, incorporating subsequent corrections made by the Bureau of the Census.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In The Matter of The Proposed Adoption of Rules and Regulations of The Department of Revenue Governing Local Government Levy Limitations

January 24, 1974

Diane E. DeNet

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In The Matter of The Proposed Adoption)
of Rules and Regulations of The)
Department of Revenue Governing Local) TRANSCRIPT
Government Levy Limitations.)

The above-entitled matter came duly on for hearing on January 24, 1974, at 10:00 a.m., before Arthur C. Roemer, Commissioner of Revenue, in Conference Room D of the Veteran's Service Building, St. Paul, Minnesota.

APPEARANCES:

Arthur C. Roemer, Commissioner of Revenue.

Gerald W. Pahl, Research Attorney, Department of Revenue.

Wallace O. Dahl, Research and Planning Director, Department of Revenue.

Louis Plutzer, Deputy Commissioner of Revenue.

Richard Gardner, Tax Examiner, Department of Revenue.

Ed Moline, Director of Finance, City of Rochester.

Leonard Olson, Supervisor of Tax Accounting, Department of Property Taxation, Ramsey County.

Jim Van Houdt, Budget and Accounting Director, Ramsey County.

Lyle Haney, Finance Director, City of Coon Rapids.

Mentor ("Duke") Addicks, Legislative Counsel, League of Minnesota Municipalities.

Arley D. Waldo, Professor, University of Minnesota.

Carole Yoho, Policy Specialist, University of Minnesota.

Gerald F. Weiszhaar, Management Analyst, Hennepin County.

Charles Darth, Finance Director, City of Brooklyn Park.

Robert J. Dolan, Property Tax Manager, Northern States Power Company.

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WHEREUPON, the following proceedings were had, to wit:

MR. ROEMER: The purpose of the meeting today is to hold a public hearing pursuant to Minnesota Statutes 1971, Section 15.0412, for the purpose of affording the public an opportunity to express themselves on the adoption of the proposed new regulations relating to the administration of the laws governing local government levy limitations. This public hearing is held pursuant to the following notice:

"Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes 1971, Section 15.0412, Subdivision 4, in the above-entitled matter in the Veteran's Service Building, Conference Room D, St. Paul, Minnesota, on January 24, 1974, commencing at 10:00 a.m., and continuing until all representatives or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed regulations captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner proposes to adopt rules and regulations to effectively implement legislation relating to local government levy limitations. Copies of the proposed rules and regulations (one hundred and thirty-two pages, double spaced) are available for review at the office of the Director of Research and Planning, Centennial Office Building, St. Paul, Minnesota 55145. Copies

will also be available at the door on the date of the hearing. An index of the proposed rules is enclosed.

Persons who wish to present oral comments in addition to written comments or suggestions should submit to the Director of Research and Planning by January 17, 1973, an outline of the topics and the time they wish to devote to each topic."

There was one slight error in that announcement. In the quoted announcement it asks that written comments be submitted by January 17, 1973. This obviously was a typographical error and we are allowing written comments until February 20, 1974. So, if anybody chooses to present written comments, we will await that date. I will ask the reporter to mark this notice as Department of Revenue Exhibit "A", which will become a part of the record of this hearing.

The notice was also mailed on December 18, 1973, to the accredited representatives of trade associations and other groups and individuals who registered their names with the Secretary of State as desiring to be notified of hearings of this kind in regard to tax matters, as shown by the latest list furnished by the Secretary of State. The mailing of these notices is evidenced by an Affidavit of Gerald Pahl, Research Attorney for the Department of Revenue. I have here this Affidavit, which I will ask the reporter to mark as Exhibit "B", which will also become a part of the record of this hearing. Notices of this hearing were also mailed to the Senate Standing Committees of local government and taxes and tax laws, and to the House Standing Committees on local government and taxes.

I'd like to call your attention to one error that occurred in the proposed rules and regulations that were distributed and which were handed out to those individuals who requested a copy, and that error is the omission of a line on page 36. On page 36, in Tax L.L. 17, a full line was omitted on the fifth line from the bottom, and that line should read: "'natural disaster' (see Tax L.L. 14) could be used to pay". In other words, it would follow the line which reads: "the effect of a public emergency which qualifies as a", and then the line that should be filled in: "'natural disaster' (see Tax L.L. 14) could be used to pay". And the next line continues: "the principal and interest of certificates of indebtedness." Is there any question about the omission of that line from the text? We're sorry that this happened, but in retyping on the MTST somehow the whole line was omitted.

We did allow an opportunity to individuals to indicate if they wished to be heard and we did have one written notice to the Department asking an opportunity to be heard. That written notice is Mentor C. Addicks, Jr., Legislative Counsel, the League of Minnesota Municipalities. Mr. Addicks.

MR. ADDICKS: Thank you, Mr. Commissioner. I am not sure where you stand in here. Up there, o.k.

MR. ROEMER: Oh, I'm sorry.

MR. ADDICKS: O.k. Thank you. For the record, my name is Mentor C. Addicks, Jr., Legislative Counsel for the League of Minnesota Municipalities. As you are no doubt aware, the League has worked with the Governor and the Legislature in making the levy limit law more flexible, and the League has also worked with the

Commissioner of Revenue in the preparation and revision of the rules which are now in front of you.

The League appears to believe that the current set of proposed rules, and this is the set dated November 16, 1973, are reasonably consistent with the laws which we worked with the Governor to adopt in the 1973 Legislative Session. We have proposed many suggestions to the Commissioner, and to my knowledge, all these suggestions have been incorporated in these rules, except for a suggestion concerning the Housing and Redevelopment Authority language, which I have discussed with Mr. Wally Dahl. He has agreed to include these changes in the rules also. So, we have contacted the Commissioner with all these proposed changes that any municipality has suggested to us and to my knowledge he has agreed with substantially all these suggested changes in these rules and regulations.

Now, there may be particular problems with an individual municipality represented here today, which have not received adequate attention, and were not brought to our attention, so therefore, I would assume that some people may be bringing more comments to you at this time. But as far as the League is concerned, these rules, as they have been revised, are reasonably consistent with the 1973 Legislation. That's all I have. Thank you.

MR. ROEMER: Thank you, Mr. Addicks. As I indicated, Mr. Addicks is the only one who has, to my knowledge, requested previous to this hearing an opportunity to be heard. The floor is now open to anyone else that may not have called in that wish to

comment or to make suggestions concerning the proposed regulations. Yes, would you please step up to the microphone and identify your name and who you represent.

MR. VAN HOUDT: My name is Jim Van Houdt. I am Budget Director of Ramsey County, and I'm not sure this is the place to bring them up, but we have two items that concern us.

One is on page 79. You notice, I know a lot is involved here, but Inheritance tax to the counties is not an addition, but in effect a reduction, if you know what I'm talking about. Mr. Dahl probably will. It's a state aid that the state reduced from the county which decreased 20 percent of all inheritance collections. We now only get 10 percent. We lose approximately $500,000 a year on limitation because of this. It looks to me like this would have been a place to add it in. You did come along and deduct it as a state aid, but it was never added as a state aid. I think Hennepin County loses a lot more money than that on the limitation.

The other matter is, on October 2, 1973, we received a letter from Wallace Dahl in regards to the transfer of levy from the City of St. Paul to Ramsey County. This was for the St. Paul Arts and Science Council, which Ramsey County now has to fund. They gave Ramsey County credit for $120,000 of levy increase in our limitation. In effect, what has happened is the budget for the Arts and Science is $500,000, which was funded by receipts from the city from other sources. We actually had to come up with cash of $500,000. We got credit for $120,000 in our levy limitation.

Those are two points that I thought...when they transfer these functions from one government to another, if the receipts go,

you know it's there; but if they don't come, then the other government involved is being penalized to the extent of the receipts not coming across. Thank you.

MR. ROEMER: Thank you very much for bringing up these points.

With respect to the first one, I think we will have to review the law to see if we can include what you're contesting in the regulations pursuant to law, because we cannot legislate under the guise of regulations. So, it appears to me that this inheritance tax question is simply a question of whether this is a statutory oversight, which probably can't be corrected, or whether this is an oversight or an error in our regulations.

On the second point, this is a question of dollars transferred. It would appear that this is not related to the regulations, but merely to the question of the actual amount that should be transferred in this particular instance. Certainly our office will discuss this with you.

Is there anyone else that wishes to be heard? Yes.

MR. HANEY: My name is Lyle Haney. I am the Finance Director of the City of Coon Rapids. I guess my problem is more of a question than a statement of fact.

On pages 110 and 111, Tax L.L. 44, it sets forth the procedure for review of the municipality's determination of what they feel is the special levy or the exempt levy. I just wanted to bring to the Commissioner's attention that, the plight of some finance directors on preparing their budgets June, July and August for certification. We made determinations which now are exempt from levy limitations and that determination is set forth. We

realize that there are, that we do make errors that can be corrected by the local governmental body, but I think it would be of great assistance to local municipal finance officers if there was some form of pre-review by your Department or by Mr. Dahl's Department. I know that it could probably be an administrative nightmare to do that because of the massive number of municipalities or the massive number of requests that you might have to do, but, I'd like to suggest that the Commissioner try to accomodate the requests like this. In other words, if we could give to your Department what we feel qualifies and you could give us some ideas. I'm not sure how many municipalities would take advantage of that, but I know in our own local case because of the interpretation between myself and the city attorney I had told the council that I felt their levy limitation was X number of dollars. Mr. Dahl's Department was good to the Municipal Finance Officer's Association and members of his Department did appear before us on the 2nd of October last year, but many of us had already acted on our levy. In our particular situation, our council chose to add another $190,000 to our budget, but I think it might have been a different sum had I had the information of the interpreations of what your Department felt.

Now, we're not trying to create a battlefront, so to speak, between local municipal staffs and your department. However, I am seeking a more profound understanding of some of the technical points. It's a request rather than asking for a technical thing.

MR. ROEMER: Do you care to comment about our staff availability to engage in such a program, Mr. Dahl?

MR. DAHL: A question has come up since levy limits were passed November 1, 1971, as to what was a special levy, what isn't a special levy, and since that time we attempted to come out with what we felt our interpretations were. Over the time, especially if we go back to that first year when we were attempting to develop a levy limitation after they both had been developed and the new law existed, we didn't, in our own organization, know anything more than what the Legislature had passed and it was very difficult to answer specific questions at that time. We just didn't feel very competent to say that this was a special levy, because each day brought forth a new problem. We didn't have time to research it for all the counties.

Since last summer we've attempted, you could say, to do some of this. It becomes a question sometimes, especially over the telephone, as to what all the facts are insofar as concerning a particular fund, what is a special levy. But I think now that we have the rules and regulations and we have some experience in this area, I think probably for yourself, Mr. Haney, looking at the rules and regulations, you probably realize now more and more what our feelings are. I think we set out some, and then I think in these areas where we have not had a question and a question arises, there will be fewer requests and we should be able to spend some time, and you would probably get your answer in a period of days.

Now, there is only one problem here. We're limited really by staff too. Right now we only have one Tax Examiner and one vacancy for that position. We should have two Tax Examiners. Right now we have one Tax Examiner working in this particular area. So, to some extent we are limited by staff also and we are

answering a lot of questions. I think some of the problems may hinge as to what really is the problem. If we can get a problem defined, then I think maybe we can get the answer before the time of village certification.

MR. ROEMER: Thank you, Mr. Dahl. Is there anyone else who wishes to be heard? Yes.

MR. DARTH: Mr. Roemer, my name is Charles Darth, the Finance Director for the City of Brooklyn Park, and I represent the Municipal Finance Officer's Association. We got a copy of your proposed rules and regulations and our Legislative Review Committee went through it and we have a couple questions to ask you.

On page 57, it's the division marked Tax L.L. 26. It is the first paragraph, in the last half of the first paragraph it says: "For the purpose of determining special levies pursuant to section so and so, the term 'development' means the construction of totally new structures and buildings and the enlarging of previously existing structures and buildings, but does not include internal alterations and improvements...". There are certain communities like Hopkins and other communities that are going through urban renewal and some of their buildings, like for example, downtown Hopkins, the Surburban Chevrolet Company is moving out and they are going to build a shopping center inside the existing dealership, I believe. Now this would severely hurt them and it would, for all intents and purposes, be putting in a new interior to the building, but they would not add on to it. I would like to have some consideration given to that point.

Also, in the case of a special levy where a referendum is held, that referendum has to be held prior to September 30, I believe. Let me see what section that was in. However, we're allowed to certify our...I think it's on page 88, the top of the page, the first complete sentence: "A levy authorized by a resolution adopted after September 30 in a given year shall not be levied in that same year except as subject to a penalty..." Now, we're authorized to levy, to submit our levies to the county auditor on or before October 10. In this case if a referendum was held with respect to levies prior to September 30, we wouldn't be allowed to incorporate it as part of our regular levy. I would like this reviewed again.

And then back on page 60, your Department has interpreted the term "real estate parcels" to include both land, buildings and structures. Our committee felt that the term "real estate" should just include the term "land."

Those are my comments. Thank you.

MR. ROEMER: Thank you, Mr. Darth. We will review these three points that you brought up.

Is there anyone else that wishes to be heard? Again, if no one else appeared to be heard here, the records will be kept open until February 20 for anyone who cares to submit any comments or suggestions in writing concerning the proposed regulations. If no one wishes to be heard, then this hearing will be terminated subject to any information we may receive by then.

Thank you very much.

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations

ORDER FOR HEARING

To effectively implement the provisions of Minnesota Statutes 1971, Sections 275.50 to 275.56, as amended by Laws 1973, Chapter 650, Article IV, the Commissioner of Revenue deems it necessary to consider adoption of the proposed rules and regulations captioned above pursuant to the authority vested in me by Minnesota Statutes 1971, Chapter 15 and Section 275.55.

NOW, THEREFORE, IT IS ORDERED this 18th day of December, 1973, that a public hearing on the proposed regulations captioned above be held in the Veteran's Service Building, Conference Room D, St. Paul, Minnesota, on January 24, 1974, commencing at 10:00 a.m., and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE

Exhibit "A"

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes 1971, Section 15.0412, Subdivision 4, in the above-entitled matter, in the Veteran's Service Building, Conference Room D, St. Paul, Minnesota, on January 24, 1974, commencing at 10:00 a.m. and continuing until all representatives or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed regulations captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner proposes to adopt rules and regulations to effectively implement legislation relating to local government levy limitations. Copies of the proposed rules and regulations (one hundred and thirty two pages, double spaced) are available for review at the office of the Director of Research and Planning, Centennial Office Building, St. Paul, Minnesota 55145. Copies will also be available at the door on the date of the hearing. An index of the proposed rules is enclosed.

Persons who wish to present oral comments in addition to written comments or suggestions should submit to the Director of Research and Planning by January 17, 1973, an outline of the topics and the time they wish to devote to each topic.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE

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AFFIDAVIT

Gerald W. Pahl, being duly sworn on oath deposes and says:

1) That he is an employee of the Department of Revenue of the State of Minnesota.

2) That on the eighteenth day of December, 1973, he sent to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M.S. 15.0412.

3) That on the eighteenth day of December, 1973, in response to the above request, the Secretary of State provided him with such a list, consisting of 319 mailing labels and one sheet.

Further affiant sayeth not.

Gerald W. Pahl

Subscribed and sworn to before me this

5th day of March,

1974.

Katherine J. Zimmerman

Notary Public,

Ramsey County, Minnesota

My Commission expires April 26, 1978.

KATHERINE J. ZIMMERMAN
Notary Public, Ramsey County, Minn.
MY COMMISSION EXPIRES
April 26, 1978

Exhibit "B"

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed Adoption of Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations

AFFIDAVIT OF MAILING

Gerald W. Pahl, being first duly sworn on oath says; that he now is and at all times material hereto, was the Research Attorney of the Department of Revenue of the State of Minnesota; that on December 18, 1973, he did cause the attached notice to be mailed through the United States mails to all of the individuals or associations who are registered with the Secretary of State as desiring to be notified of hearings concerning tax matters by placing a copy of said notice in an envelope addressed to said individuals or associations at the address furnished by the Secretary of State and placing said envelope in the United States mails with adequate postage thereon.

Gerald W. Pahl
Gerald W. Pahl

Subscribed and sworn to before me
this 18th day of December, 1973.

Katherine J. Zimmerman

KATHERINE J. ZIMMERMAN
Notary Public, Ramsey County, Minn.
MY COMMISSION EXPIRES
April 26, 1978

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations

CERTIFICATE

I hereby certify that the attached list consisting of 319 labels and one sheet constitute the complete list of persons, associations and other interested groups who as of 8:15 o'clock a .M., this eighteenth day of December, 1973, have requested pursuant to M.S. 1971, Section 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Arlen I. Erdahl

Secretary of State
ARLEN I. ERDAHL

By Neil Dion

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations

FINDINGS OF FACT

The above-entitled matter came on for hearing before the Commissioner of Revenue of the State of Minnesota on the 24th day of Janaury, 1974, at 10:00 a.m. in the Veteran's Service Building, Conference Room D, St. Paul, Minnesota, after proper notice required by M.S. 1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, I find the following:

1. The Minnesota Legislature has authorized the Commissioner of Revenue by Minnesota Statutes 1971, Section 275.55 and acts amendatory thereto, to issue such interpretative rulings as he deems necessary to enforce the local levy limitation law.

2. The local governmental subdivisions have encountered significant difficulties in interpreting these provisions of

law and have sought direction from the Commissioner of Revenue in order that excess levies may be avoided, thus avoiding penalties.

3. The District Court order dated February 4, 1974, of the Second Judicial District in the case in City of Brooklyn Center v. Minnesota Department of Taxation, illustrates the requirement of the Commissioner of Revenue to issue regulations on this matter and in accordance with the Minnesota Statutes, Chapter 15.

4. The rules as proposed for adoption are the product of extensive input by the governmental subdivisions affected as evidenced by lack of negative response.

5. The proposed rules are reasonable and practical and necessary to carry out the provisions of Sections 290.50 to 275.56.

DATED this 29th day of March, 1974.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

ARTHUR C. ROEMER
Commissioner of Revenue

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Commissioner of Revenue of the State of Minnesota on the 24th day of January, 1974, at 10:00 a.m. in the Veteran's Service Building, Conference Room D, St. Paul, Minnesota, after proper notice required by M.S. 1971, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards for criteria, and having confirmed the need for the above captioned rules.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations are adopted this 29th day of March, 1974, pursuant to authority vested in me by Minnesota Statutes, 1973 Supplement, Section 275.55.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Gerald W. Pahl, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any exceptions are noted below.

Gerald W. Pahl

Research Attorney
Department of Revenue
State of Minnesota

Dated: July 10, 1974

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE ARTHUR C. ROEMER

COMMISSIONER OF REVENUE

In the Matter of the Proposed Adoption of Rules and Regulations of the Department of Revenue Governing Local Government Levy Limitations

STATEMENT OF NEED

The above-captioned rules and regulations are new.

The need to adopt these rules and regulations arises because of legislative direction contained in Minnesota Statutes 1971, Section 275.55 as amended by Laws 1973, Chapter 650, Article IV, whereby the Commissioner of Revenue shall issue interpretive rulings to effectively administer the laws relating to levy limitations of local governmental subdivisions enacted in 1971 and subsequent years.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Arthur C. Roemer

COMMISSIONER OF REVENUE