A bill for an act

relating to taxation; making policy, technical, administrative, enforcement, and other changes to individual income, corporate franchise, property, aids, payments, credits, refunds, and other taxes and tax-related provisions; conforming to changes made to the Internal Revenue Code; providing an Angel investment credit and a Minnesota business investment company credit; establishing a TECHZ business program; appropriating money; amending Minnesota Statutes 2008, sections 97A.061, by adding a subdivision; 268.19, subdivision 1; 270A.03, subdivision 7; 270B.14, subdivision 3; 270B.15; 270C.52, subdivision 2; 272.02, subdivision 42, by adding a subdivision; 273.1384, by adding a subdivision; 275.71, subdivision 5; 289A.12, by adding a subdivision; 289A.50, subdivision 1; 290.01, subdivisions 6, 29; 290.06, subdivision 1, by adding a subdivision; 290.068; 290.0921, subdivisions 1, 3; 290.095, subdivision 11; 290A.03, subdivisions 11, 13; 297A.68, by adding a subdivision; 477A.013, subdivision 9; 477A.03, subdivisions 2a, 2b; 477A.12, by adding a subdivision; 477A.14, by adding a subdivision; Minnesota Statutes 2009 Supplement, sections 275.70, subdivision 5; 289A.02, subdivision 7; 289A.08, subdivision 16; 290.01, subdivisions 19, 19b, 19d, 31; 290.06, subdivision 2c; 290.091, subdivision 2; 290A.03, subdivision 15; 290C.07; 291.005, subdivision 1; 297A.75, subdivisions 1, 2; Laws 2008, chapter 366, article 3, sections 3; 4; proposing coding for new law in Minnesota Statutes, chapters 116J; 270C; 290; 297I; 469; 477A; repealing Minnesota Statutes 2008, sections 10A.322, subdivision 4; 13.4967, subdivision 2; 290.06, subdivision 23; 477A.03, subdivision 5; Laws 2009, chapter 88, article 12, section 21.

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

ARTICLE 1

INDIVIDUAL INCOME AND CORPORATE FRANCHISE TAXES

Section 1. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

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

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed $1,625 for each qualifying child in grades kindergarten to 6 and $2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over $500 allowable

as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code,

title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed $10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325;

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; ~~and~~

(18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19a, clause (16)~~.~~;

(19) to the extent included in federal taxable income, the amount of gain on the sale or exchange of small business stock. "Small business stock" means an equity interest, held directly or indirectly, in a corporation or partnership when that interest is:

(i) purchased for money or property, not including stock or payment for services;

(ii) purchased after June 30, 2010;

(iii) less than 100 percent in a corporation or less than 50 percent by vote or value in a partnership; and

(iv) in a corporation or partnership that:

(A) is a single legal entity and not part of any unitary business of the taxpayer;

(B) has fewer than 100 employees, or in the case of a corporation or partnership that is part of a unitary business, the unitary business has fewer than 100 employees;

(C) has not issued stock listed on the New York Stock Exchange, American Stock Exchange, or National Association of Securities Dealers automated quotation system;

(D) in the year of purchase, had more than 50 percent of its property and payroll, as determined under section 290.191, within this state;

(E) in the year of purchase, derived less than $25,000 in gross receipts from rents, interest, dividends, and the sale of intangible investment assets;

(F) is not in a trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of the trade or business is the reputation or skill of one or more of its employees;

(G) is not in a trade or business involving banking, insurance, financing, leasing, investing, or similar business;

(H) is not a regulated investment company, real estate investment trust, or real estate mortgage investment conduit;

(I) is not a cooperative; and

(J) did not liquidate its assets in whole or in part for the purpose of fulfilling the requirements of this clause.

The small business stock must be held for more than five years to qualify for this subtraction;

(20) an amount not less than zero and not to exceed the applicable percent multiplied by the distributive share of income or loss, as defined in sections 703(a) and 1366(a)(2) of the Internal Revenue Code, combined from all partnerships or S corporations in which the taxpayer materially participates, as defined in section 469(h) of the Internal Revenue Code, and that have employees or tangible property located in this state. As used in this

clause, the "applicable percent" for taxable years beginning in 2011 is five percent; for taxable years beginning in 2012 is ten percent; for taxable years beginning in 2013 is 15 percent; and for taxable years beginning after December 31, 2013, is 20 percent.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 2. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19d, is amended to read:

Subd. 19d. **Corporations; modifications decreasing federal taxable income.** For corporations, there shall be subtracted from federal taxable income after the increases provided in subdivision 19c:

(1) the amount of foreign dividend gross-up added to gross income for federal income tax purposes under section 78 of the Internal Revenue Code;

(2) the amount of salary expense not allowed for federal income tax purposes due to claiming the work opportunity credit under section 51 of the Internal Revenue Code;

(3) any dividend (not including any distribution in liquidation) paid within the taxable year by a national or state bank to the United States, or to any instrumentality of the United States exempt from federal income taxes, on the preferred stock of the bank owned by the United States or the instrumentality;

(4) amounts disallowed for intangible drilling costs due to differences between this chapter and the Internal Revenue Code in taxable years beginning before January 1, 1987, as follows:

(i) to the extent the disallowed costs are represented by physical property, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7, subject to the modifications contained in subdivision 19e; and

(ii) to the extent the disallowed costs are not represented by physical property, an amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section 290.09, subdivision 8;

(5) the deduction for capital losses pursuant to sections 1211 and 1212 of the Internal Revenue Code, except that:

(i) for capital losses incurred in taxable years beginning after December 31, 1986, capital loss carrybacks shall not be allowed;

(ii) for capital losses incurred in taxable years beginning after December 31, 1986, a capital loss carryover to each of the 15 taxable years succeeding the loss year shall be allowed;

(iii) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryback to each of the three taxable years preceding the loss year, subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed; and

(iv) for capital losses incurred in taxable years beginning before January 1, 1987, a capital loss carryover to each of the five taxable years succeeding the loss year to the extent such loss was not used in a prior taxable year and subject to the provisions of Minnesota Statutes 1986, section 290.16, shall be allowed;

(6) an amount for interest and expenses relating to income not taxable for federal income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or 291 of the Internal Revenue Code in computing federal taxable income;

(7) in the case of mines, oil and gas wells, other natural deposits, and timber for which percentage depletion was disallowed pursuant to subdivision 19c, clause (9), a reasonable allowance for depletion based on actual cost. In the case of leases the deduction must be apportioned between the lessor and lessee in accordance with rules prescribed by the commissioner. In the case of property held in trust, the allowable deduction must be apportioned between the income beneficiaries and the trustee in accordance with the pertinent provisions of the trust, or if there is no provision in the instrument, on the basis of the trust's income allocable to each;

(8) for certified pollution control facilities placed in service in a taxable year beginning before December 31, 1986, and for which amortization deductions were elected under section 169 of the Internal Revenue Code of 1954, as amended through December 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes 1986, section 290.09, subdivision 7;

(9) amounts included in federal taxable income that are due to refunds of income, excise, or franchise taxes based on net income or related minimum taxes paid by the corporation to Minnesota, another state, a political subdivision of another state, the District of Columbia, or a foreign country or possession of the United States to the extent that the taxes were added to federal taxable income under section 290.01, subdivision 19c, clause (1), in a prior taxable year;

(10) 80 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation, unless the income resulting from such payments or accruals is income from sources within the United States as defined in subtitle A, chapter 1, subchapter N, part 1, of the Internal Revenue Code;

(11) income or gains from the business of mining as defined in section 290.05, subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

(12) the amount of disability access expenditures in the taxable year which are not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue Code;

(13) the amount of qualified research expenses not allowed for federal income tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent that the amount exceeds the amount of the credit allowed under section 290.068;

(14) the amount of salary expenses not allowed for federal income tax purposes due to claiming the Indian employment credit under section 45A(a) of the Internal Revenue Code;

(15) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(16) for a corporation whose foreign sales corporation, as defined in section 922 of the Internal Revenue Code, constituted a foreign operating corporation during any taxable year ending before January 1, 1995, and a return was filed by August 15, 1996, claiming the deduction under section 290.21, subdivision 4, for income received from the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of income excluded under section 114 of the Internal Revenue Code, provided the income is not income of a foreign operating company;

(17) any decrease in subpart F income, as defined in section 952(a) of the Internal Revenue Code, for the taxable year when subpart F income is calculated without regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

(18) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (15), an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19c, clause (15). The resulting delayed depreciation cannot be less than zero;

(19) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of the amount of the addition; and

(20) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19c, clause (25).

(21) to the extent included in federal taxable income, the amount of gain on the sale or exchange of small business stock assigned or apportioned to this state. "Small business stock" means an equity interest, held directly or indirectly, in a corporation or partnership when that interest is:

(i) purchased for money or property, not including stock or payment for services;

(ii) purchased after June 30, 2010;

(iii) less than 100 percent in a corporation or less than 50 percent by vote or value in a partnership; and

(iv) in a corporation or partnership that:

(A) is a single legal entity and not part of any unitary business of the taxpayer;

(B) has fewer than 100 employees, or in the case of a corporation or partnership that is part of a unitary business, the unitary business has fewer than 100 employees;

(C) has not issued stock listed on the New York Stock Exchange, American Stock Exchange, or National Association of Securities Dealers automated quotation system;

(D) in the year of purchase, had more than 50 percent of its property and payroll, as determined under section 290.191, within this state;

(E) in the year of purchase, derived less than $25,000 in gross receipts from rents, interest, dividends, and the sale of intangible investment assets;

(F) is not in a trade or business involving the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, consulting, athletics, financial services, brokerage services, or any trade or business where the principal asset of the trade or business is the reputation or skill of one or more of its employees;

(G) is not in a trade or business involving banking, insurance, financing, leasing, investing, or similar business;

(H) is not a regulated investment company, real estate investment trust, or real estate mortgage investment conduit;

(I) is not a cooperative; and

(J) did not liquidate its assets in whole or in part for the purpose of fulfilling the requirements of this clause.

The small business stock must be held for more than five years to qualify for this subtraction.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 3. Minnesota Statutes 2008, section 290.06, subdivision 1, is amended to read:

Subdivision 1. **Computation, corporations.** The franchise tax imposed upon corporations shall be computed by applying to their taxable income the rate of ~~9.8 percent.~~:

(1) 9.8 percent in taxable year 2010;

(2) 9.3 percent in taxable year 2011;

(3) 8.8 percent in taxable year 2012;

(4) 8.3 percent in taxable year 2013; and

(5) 7.8 percent in taxable years 2014 and thereafter.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 4. Minnesota Statutes 2009 Supplement, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

(1) On the first $25,680, 5.35 percent;

(2) On all over $25,680, but not over $102,030, 7.05 percent;

(3) On all over $102,030, 7.85 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

(1) On the first $17,570, 5.35 percent;

(2) On all over $17,570, but not over $57,710, 7.05 percent;

(3) On all over $57,710, 7.85 percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

(1) On the first $21,630, 5.35 percent;

(2) On all over $21,630, but not over $86,910, 7.05 percent;

(3) On all over $86,910, 7.85 percent.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than $100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to $1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), and the subtractions under section 290.01, subdivision 19b, clauses (9), (10), (14), (15), (16), and (18) to (20), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (14), (15), (16), and (18) to (20).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 5. Minnesota Statutes 2008, section 290.068, is amended to read:

290.068 CREDIT FOR INCREASING RESEARCH ACTIVITIES.

Subdivision 1. **Credit allowed.** A corporation, ~~other than~~ partners in a partnership, or shareholders in a corporation treated as an "S" corporation under section 290.9725~~,~~ ~~is~~ are allowed a credit against ~~the portion of~~ the ~~franchise~~ tax computed under section 290.06~~, subdivision 1,~~ for the taxable year equal to~~:~~

~~(a)~~ 5 percent ~~of the first $2,000,000~~ of the excess (if any) of:

(1) the qualified research expenses for the taxable year, over

(2) the base amount~~; and~~.

~~(b) 2.5 percent on all of such excess expenses over $2,000,000.~~

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Qualified research expenses" means (i) qualified research expenses and basic research payments as defined in section 41(b) and (e) of the Internal Revenue Code, except it does not include expenses incurred for qualified research or basic research conducted outside the state of Minnesota pursuant to section 41(d) and (e) of the Internal Revenue Code; and (ii) contributions to a nonprofit corporation established and operated pursuant to the provisions of chapter 317A for the purpose of promoting the establishment and expansion of business in this state, provided the contributions are invested by the nonprofit corporation for the purpose of providing funds for small, technologically innovative enterprises in Minnesota during the early stages of their development.

(b) "Qualified research" means qualified research as defined in section 41(d) of the Internal Revenue Code, except that the term does not include qualified research conducted outside the state of Minnesota.

(c) "Base amount" means base amount as defined in section 41(c) of the Internal Revenue Code, except that the average annual gross receipts must be calculated using Minnesota sales or receipts under section 290.191 and the definitions contained in clauses (a) and (b) shall apply. If a taxpayer does not have records to substantiate the aggregate qualified research expenses for the taxable years beginning after December 31, 1983, and before January 1, 1989, to compute the base amount, and is not a start-up company to which Internal Revenue Code, section 41(c)(3)(B) applies, the corporation is permitted to use a fixed-base percentage of 16 percent.

Subd. 3. **Limitation; carryover.** (a)(1) The credit for ~~the~~ a taxable year beginning before January 1, 2012, shall not exceed the liability for tax. "Liability for tax" for purposes of this section means the tax imposed under section 290.06, subdivision 1, for the taxable year reduced by the sum of the nonrefundable credits allowed under this chapter.

(2) In the case of a corporation which is a partner in a partnership, the credit allowed for the taxable year shall not exceed the lesser of the amount determined under clause (1) for the taxable year or an amount (separately computed with respect to the corporation's interest in the trade or business or entity) equal to the amount of tax attributable to that portion of taxable income which is allocable or apportionable to the corporation's interest in the trade or business or entity.

(b) If the amount of the credit determined under this section for any taxable year exceeds the limitation under clause (a), the excess shall be a research credit carryover to each of the 15 succeeding taxable years. The entire amount of the excess unused credit for the taxable year shall be carried first to the earliest of the taxable years to which the credit may be carried and then to each successive year to which the credit may be carried. The amount of the unused credit which may be added under this clause shall not exceed the taxpayer's liability for tax less the research credit for the taxable year.

Subd. 4. **Partnerships and S corporations.** In the case of partnerships the credit shall be allocated in the same manner provided by section 41(f)(2) of the Internal Revenue Code.

In the case of shareholders in S corporations the credit shall be allocated in the same manner as provided by section 1366(a) of the Internal Revenue Code.

Subd. 5. **Adjustments; acquisitions and dispositions.** If a taxpayer acquires or disposes of the major portion of a trade or business or the major portion of a separate unit of a trade or business in a transaction with another taxpayer, the taxpayer's qualified research expenses and base amount are adjusted in the same manner provided by section 41(f)(3) of the Internal Revenue Code.

Subd. 6. **Credit to be refundable.** If the amount of credit allowed in this section for qualified research expenses incurred in taxable years beginning after December 31, 2011, exceeds the taxpayer's tax liability under section 290.02 or 290.03, the commissioner shall refund the excess amount. This credit must be used before any other credit allowed under this chapter.

Subd. 7. **Appropriation.** An amount sufficient to pay the refunds required by this section is appropriated to the commissioner from the general fund.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2011.

Sec. 6. Minnesota Statutes 2009 Supplement, section 290.091, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

(i) the charitable contribution deduction under section 170 of the Internal Revenue Code;

(ii) the medical expense deduction;

(iii) the casualty, theft, and disaster loss deduction; and

(iv) the impairment-related work expenses of a disabled person;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

(6) the amount of addition required by section 290.01, subdivision 19a, clauses (7) to (9), (12), (13), (16), and (17);

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.01, subdivision 19b, clause (1);

(2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, clauses (6), (9) to (16), and (18) to (20).

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Net minimum tax" means the minimum tax imposed by this section.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.

EFFECTIVE DATE. <u>This section is effective for taxable years beginning after December 31, 2010.</u>

Sec. 7. Minnesota Statutes 2008, section 290.0921, subdivision 1, is amended to read:

Subdivision 1. **Tax imposed.** In addition to the taxes computed under this chapter without regard to this section, the franchise tax imposed on corporations includes a tax equal to the excess, if any, for the taxable year of:

(1) <u>(i)</u> 5.8 percent of Minnesota alternative minimum taxable income <u>in taxable year 2010</u>;

<u>(ii) 5.5 percent of Minnesota alternative minimum taxable income in taxable year 2011;</u>

<u>(iii) 5.2 percent of Minnesota alternative minimum taxable income in taxable year 2012;</u>

<u>(iv) 4.9 percent of Minnesota alternative minimum taxable income in taxable year 2013, and</u>

<u>(v) 4.6 percent of Minnesota alternative minimum taxable income in taxable year 2014 and thereafter;</u>

over

(2) the tax imposed under section 290.06, subdivision 1, <u>for the taxable year</u> without regard to this section.

EFFECTIVE DATE. <u>This section is effective for taxable years beginning after December 31, 2010.</u>

Sec. 8. Minnesota Statutes 2008, section 290.0921, subdivision 3, is amended to read:

Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

(1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section

290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), not previously deducted is a depreciation allowance in the first taxable year after December 31, 2000.

(2) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.01, subdivision 19c, clause (15), is disallowed in determining alternative minimum taxable income.

(3) The subtraction for depreciation allowed under section 290.01, subdivision 19d, clause (18), is allowed as a depreciation deduction in determining alternative minimum taxable income.

(4) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.

(5) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.

(6) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.

(7) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.

(8) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to subparagraph (E) and the subtraction under section 290.01, subdivision 19d, clause (4).

(9) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.

(10) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.

(11) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, not previously deducted is a depreciation or amortization allowance in the first taxable year after December 31, 2004.

(12) For purposes of calculating the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable income as defined in this subdivision, determined without regard to the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

(13) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (9), or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (10).

(14) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.

(15) Alternative minimum taxable income excludes the income from operating in a biotechnology and health sciences industry zone as provided under section 469.337.

(16) Alternative minimum taxable income excludes the income from operating in an international economic development zone as provided under section 469.326.

(17) Alternative minimum taxable income includes the subtraction for small business stock as provided under section 290.01, subdivision 19d, clause (21).

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

ARTICLE 2

FEDERAL UPDATE

Section 1. Minnesota Statutes 2009 Supplement, section 289A.02, subdivision 7, is amended to read:

Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010.

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

Sec. 2. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19, is amended to read:

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

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

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

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

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

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

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

The Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010, shall be in effect for taxable years beginning after December 31, 1996.

Except as otherwise provided, references to the Internal Revenue Code in subdivisions 19 to 19f mean the code in effect for purposes of determining net income for the applicable year.

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

Sec. 3. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

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

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed $1,625 for each qualifying child in grades kindergarten to 6 and $2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an

amount equal to 50 percent of the excess of charitable contributions over $500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1 and Public Law 111-126;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code,

title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed $10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325;

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; and

(18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19a, clause (16).

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 31, is amended to read:

Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010. Internal Revenue Code also includes any uncodified provision in federal law that relates to provisions of the Internal Revenue Code that are incorporated into Minnesota law.

EFFECTIVE DATE. This section is effective the day following final enactment except that the changes incorporated by federal changes are effective at the same time as the changes were effective for federal purposes.

Sec. 5. Minnesota Statutes 2008, section 290.095, subdivision 11, is amended to read:

Subd. 11. **Carryback or carryover adjustments.** (a) Except as provided in paragraph (c), for individuals, estates, and trusts the amount of a net operating loss that may be carried back or carried over shall be the same dollar amount allowable in the determination of federal taxable income, provided that, notwithstanding any other provision, estates and trusts must apply the following adjustments to the amount of the net operating loss that may be carried back or carried over:

(1) Nonassignable income or losses as required by section 290.17.

(2) Deductions not allocable to Minnesota under section 290.17.

(b) The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal taxable income provided that trusts and estates must apply the following modifications:

(1) Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and interest, taxes and other expenses not assignable or allowable to Minnesota incurred in the taxable year.

(2) Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year. For estates and trusts, the net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in clause (b) less the amount applied in the earlier taxable year(s). No additional net operating loss carryback or carryover shall be allowed to estates and trusts if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return.

However, if a net operating loss carryback or carryover was allowed to offset federal income in a year earlier than was possible on the Minnesota return, an estate or trust shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.

(c)(1) A net operating loss of an individual, estate, or trust that is allowed under this subdivision and for which the taxpayer elects to carry back for more than two years under section 172(b)(1)(H) of the Internal Revenue Code is a net operating loss carryback to each of the two taxable years preceding the loss, and unused portions may be carried forward for 20 taxable years after the loss.

(2) The entire amount of the net operating loss for any taxable year shall be carried to the earliest of the taxable years to which the loss may be carried. The portion of the loss which is carried to each of the other taxable years is the excess, if any, of the amount of the loss over the taxable net income for each of the taxable years to which the loss may be carried.

This paragraph does not apply to eligible small businesses that make a valid election to carry back their losses for federal purposes under section 172(b)(1)(H) of the Internal Revenue Code, as amended through March 31, 2009.

EFFECTIVE DATE. This section is effective for net operating losses generated in taxable years beginning after December 31, 2007.

Sec. 6. Minnesota Statutes 2009 Supplement, section 290A.03, subdivision 15, is amended to read:

Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010.

EFFECTIVE DATE. This section is effective for property tax refunds based on property taxes payable after December 31, 2009, and rent paid after December 31, 2008.

Sec. 7. Minnesota Statutes 2009 Supplement, section 291.005, subdivision 1, is amended to read:

Subdivision 1. **Scope.** Unless the context otherwise clearly requires, the following terms used in this chapter shall have the following meanings:

(1) "Commissioner" means the commissioner of revenue or any person to whom the commissioner has delegated functions under this chapter.

(2) "Federal gross estate" means the gross estate of a decedent as valued and otherwise determined for federal estate tax purposes by federal taxing authorities pursuant to the provisions of the Internal Revenue Code.

(3) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended through ~~March 31, 2009~~ January 22, 2010.

(4) "Minnesota adjusted taxable estate" means federal adjusted taxable estate as defined by section 2011(b)(3) of the Internal Revenue Code, increased by the amount of deduction for state death taxes allowed under section 2058 of the Internal Revenue Code.

(5) "Minnesota gross estate" means the federal gross estate of a decedent after (a) excluding therefrom any property included therein which has its situs outside Minnesota, and (b) including therein any property omitted from the federal gross estate which is includable therein, has its situs in Minnesota, and was not disclosed to federal taxing authorities.

(6) "Nonresident decedent" means an individual whose domicile at the time of death was not in Minnesota.

(7) "Personal representative" means the executor, administrator or other person appointed by the court to administer and dispose of the property of the decedent. If there is no executor, administrator or other person appointed, qualified, and acting within this state, then any person in actual or constructive possession of any property having a situs in this state which is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the Minnesota estate tax due with respect to the property.

(8) "Resident decedent" means an individual whose domicile at the time of death was in Minnesota.

(9) "Situs of property" means, with respect to real property, the state or country in which it is located; with respect to tangible personal property, the state or country in which it was normally kept or located at the time of the decedent's death; and with respect to intangible personal property, the state or country in which the decedent was domiciled at death.

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

ARTICLE 3

ANGEL INVESTMENT TAX CREDIT

Section 1. **[116J.8737] ANGEL INVESTMENT TAX CREDIT.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Qualified small business" means a business that satisfies all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota, and 51 percent of the business's total payroll is paid or incurred in the state;

(3) the business is engaged in, or is committed to engage in, innovation in Minnesota in one of the following:

(i) using proprietary technology to add value to a product, process, or service in a qualified high-technology field;

(ii) researching or developing a proprietary product, process, or service in a qualified high-technology field;

(iii) researching, developing, or producing a new proprietary technology for use in the fields of tourism, forestry, mining, or transportation; or

(iv) qualified green manufacturing;

(4) other than the activities specifically listed in clause (3), the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has fewer than 25 employees;

(6) if the business has five or more employees as measured on a full-time equivalent basis, the business must pay its employees in excess of the first five annual wages at least 175 percent of the federal poverty guideline for the year for a family of four;

(7) the business has not been in operation for more than ten consecutive years;

(8) the business has not received more than $4,000,000 in qualifying investments that have qualified for and received tax credits under this section;

(9) the business is not a member of a unitary group that employs more than 100 employees; and

(10) the business has not previously received private equity investments of more than $2,000,000.

(c) "Qualified high-technology field" includes, but is not limited to, aerospace, agricultural processing, alternative energy, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biotechnology, medical device products, pharmaceuticals, diagnostics, biologicals, and veterinary science.

(d) "Proprietary technology" means the technical innovations that are unique and legally owned or licensed by a business and includes, without limitation, those innovations that are patented, patent pending, a subject of trade secrets, or copyrighted.

(e) "Qualified green manufacturing" means a business whose primary business activity is production of products, processes, methods, technologies, or services, excluding consulting, intended to do one or more of the following:

(1) increase the use of energy from renewable sources, as defined in section 216B.1691;

(2) increase the energy efficiency of the electric utility-producing infrastructure system or to increase energy conservation related to electricity or other utility use, as provided in sections 216B.2401 and 216B.241;

(3) monitor, protect, restore, and preserve the quality of surface waters; and

(4) expand use of biofuels, including expanding the feasibility or reducing the cost of producing biofuels or the types of equipment, machinery, and vehicles that can use biofuels.

(f) "Qualified taxpayer" means an accredited investor, within the meaning of Regulation D of the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.501(a), who:

(1) does not own, control, or hold power to vote 20 percent or more of the outstanding securities of the qualified small business in which the eligible investment is proposed; or

(2) does not receive more than 50 percent of the taxpayer's gross annual income from the qualified small business in which the eligible investment is proposed.

A member of the family of a taxpayer disqualified by this subdivision is not eligible for a credit under this section.

(g)(1) "Qualified angel investment network fund" means a pooled investment fund that:

(i) invests in qualified small businesses;

(ii) is organized as a pass-through entity; and

(iii) has at least three separate investors, all of whom are qualified taxpayers as defined in paragraph (f), and that own no more than 50 percent of the outstanding ownership interests in the fund; and

(2) for purposes of determining the number of investors and the ownership interest of an investor under this paragraph, the ownership interests of an investor include those of the investor's family, and any corporation, limited liability company, partnership, or trust

in which the investor or the investor's family has a controlling equity interest or exercises management control. Investments in the fund may consist of equity investments or notes that pay interest or other fixed amounts, or any combination of both.

(h) "Qualified investment" means either a cash investment of a minimum of:

(1) $10,000 in a calendar year by a qualified taxpayer; or

(2) $50,000 in a calendar year by a qualified angel investment network fund.

The qualified investment in a qualified small business must be in exchange for common stock, a partnership or membership interest, preferred stock, debt with mandatory conversion to equity, or an equivalent ownership interest as determined by the commissioner.

(i) "Family" means a family member within the meaning of the Internal Revenue Code, section 267(c)(4).

Subd. 2. **Certification of small businesses.** (a) Businesses may apply to the commissioner for certification as a qualified small business. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of $150. The application for certification must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by November 1 of the preceding year. Application fees collected are appropriated to the commissioner to be used for personnel and administrative expenses related to administering the program.

(b) A business seeking certification must submit an application for each taxable year for which the business desires certification. If a qualified small business receives a qualified investment for which tax credits are allocated, the business must annually submit a certified small business report in the form required by the commissioner with the required fee no later than February 1 for the two years subsequent to the last qualified investment. Failure to file an annual report as required under this subdivision results in a fine of $500 and revocation of certification.

(c) The commissioner must maintain a list of businesses certified under this subdivision and make the list accessible to the public on the department's Web site.

Subd. 3. **Certification of qualified taxpayers.** (a) Taxpayers may apply to the commissioner for certification as a qualified taxpayer. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of $350. The application for certification of qualified taxpayers must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by

November 1 of the preceding year. Application fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program.

(b) A qualified taxpayer seeking certification must submit an application for each taxable year in which the qualified taxpayer seeks certification. If a qualified taxpayer receives tax credits under this section, a qualified taxpayer must submit an angel investor annual report in the form required by the commissioner with the required fee no later than February 1 of each year for two years subsequent to the last allocation of tax credits. Failure to file an angel investor annual report as required under this subdivision results in the revocation of tax credits. Once a qualified taxpayer has filed the required annual reports and accompanying fees for two subsequent years following allocation of tax credits and complied with all other requirements for that allocation, the tax credits are no longer subject to revocation.

Subd. 4. **Certification of qualified angel investment network funds.** (a) Angel investment network funds may apply to the commissioner of employment and economic development for certification as a qualified angel investment network fund. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of $1,000. The application for certification of qualified angel investor network funds must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available by November 1 of the preceding year. Application fees collected are appropriated to the commissioner to be used for personnel and administrative expenses related to administering the program.

(b) A qualified angel investment network fund seeking certification must submit an application for each taxable year for which the angel investment network fund seeks certification. If any member of a qualified angel investment network fund receives tax credits under this section for qualified investments made by the fund, the qualified angel investment network fund must annually submit an angel investor annual report in the form required by the commissioner with the required fee no later than February 1 of each year for two years subsequent to the last allocation of credits. Failure to file an angel investor annual report as required under this subdivision results in revocation of tax credits. Once a qualified angel investment network fund has filed the required annual reports and accompanying fees for two subsequent years following allocation of tax credits and complied with all other requirements for that allocation, the tax credits are no longer subject to revocation.

Subd. 5. **Credit allowed.** (a) A qualified taxpayer or angel investor network fund is allowed a credit for investment in a qualified small business in the amount determined by the certification allocated by the commissioner against the tax imposed by chapter 290. The commissioner must not allocate more than $5,000,000 in credits to qualified taxpayers or angel investment network funds in calendar year 2010, and must not allocate more than $10,000,000 in credits in calendar year 2011 and in each calendar year thereafter. Any portion of a year's credits that is not allocated by the commissioner does not cancel and may be carried forward to the subsequent year until all credits have been allocated. Applications for tax investment credits must be made available on the department's Web site by September 1, 2010, and the department must begin accepting applications by September 1, 2010. Applications for subsequent years must be made available by November 1 of the preceding year.

(b) Tax investment credits must be allocated to qualified taxpayers or angel investor network funds in the order that the tax credit request applications are filed with the department. The investment specified in the application must be made within 60 days of the allocation of the credits. If the investment is not made within 60 days, the credits are deemed revoked. A qualified taxpayer or angel investor network fund that fails to invest as specified in the application, within 60 days from allocation of the credits, must notify the department of the failure to invest within five business days of the expiration of the 60-day investment period.

(c) All tax credit request applications filed with the department on the same day must be treated as having been filed contemporaneously. In the event that two or more qualified taxpayers or angel investment network funds file tax credit request applications on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credit under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified taxpayers or angel investment network funds who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one qualified taxpayer or angel investment network fund is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified taxpayer and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the fiscal year.

(d) The commissioner must notify the commissioner of revenue of every credit allocated and every credit revoked under this section.

Subd. 6. **Annual reports.** (a) By February 1 of each year for two years subsequent to the last allocation of credits, qualified small businesses, qualified taxpayers, and qualified angel investment network funds must submit an annual report and a filing fee of

$100. All report fees collected are appropriated to the commissioner for personnel and administrative expense related to administering the program.

(b) Qualified small businesses must certify to the department in the form required by the commissioner that it satisfies the following requirements:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota, and 51 percent of the business's total payroll is paid or incurred in the state;

(3) that the business is engaged in, or is committed to engage in, innovation in Minnesota as defined under subdivision 1; and

(4) that the business meets the payroll requirements in subdivision 1, paragraph (b), clause (6).

(c) Qualified taxpayers must certify to the department in the form required by the commissioner that the investor satisfies the following requirements:

(1) the taxpayer continues to meet the requirements of subdivision 1, paragraph (f); and

(2) that the taxpayer continues to remain invested in the qualified small business as required by section 290.0692, subdivision 3.

(d) Qualified angel investment network funds must certify to the department in the form required by the commissioner that the investor satisfies the following requirements:

(1) the taxpayer continues to meet the requirements of subdivision 1, paragraph (g); and

(2) that the angel investment network fund continues to remain invested in the qualified small business as required by section 290.0692, subdivision 3.

Subd. 7. **Rulemaking exception.** The commissioner's actions in establishing procedures and requirements and in making determinations and certifications to administer this section are not a rule for purposes of chapter 14, are not subject to the Administrative Procedure Act contained in chapter 14, and are not subject to section 14.386.

Subd. 8. **Report.** Beginning in 2011, the commissioner must annually report by March 15 to the chairs of the legislative committees and divisions having jurisdiction over taxes and economic development in the senate and the house of representatives on the tax credits issued under this section. The report must include:

(1) the number and amount of the credits issued;

(2) the recipients of the credits;

(3) the number and type of each business certified as a qualified small business;

(4) to the extent determinable, the total amount of investment generated by these credits; and

(5) any other information relevant to evaluating the effect of these credits.

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

Sec. 2. **[290.0692] ANGEL INVESTMENT CREDIT; CREDIT ALLOWED; LIMITATIONS; HOLDING PERIOD; AND CARRYOVER.**

Subdivision 1. **Credit allowed.** A qualified taxpayer is allowed a credit against the tax imposed under this chapter for investments made in the year in a qualified small business as defined under section 116J.8737. The credit equals 25 percent of the qualified taxpayer's investment in the business, but not to exceed the lesser of:

(1) the liability for tax under this chapter, including the applicable alternative minimum tax, but excluding the minimum fee under section 290.0922; and

(2) the amount of the certificate provided to the qualified taxpayer under section 116J.8737.

Subd. 2. **Limitations.** No taxpayer may receive more than $125,000 in credits under this section in any one year.

Subd. 3. **Holding periods.** The credit is allowed only for investments for which a credit has been allocated by the commissioner of employment and economic development under section 116J.8737. Any credit taken by a taxpayer must be repaid, and any unused credits must be canceled, if the investment in the qualified small business is not held for at least three years. The three-year holding period does not apply if:

(1) the investment by the qualified taxpayer becomes worthless before the end of the three-year period;

(2) 80 percent or more of the assets of the qualified small business is sold before the end of the three-year period;

(3) the qualified small business is sold before the end of the three-year period; or

(4) the qualified small business's common stock begins trading on a public exchange before the end of the three-year period.

Subd. 4. **Proportional credits.** Each pass-through entity must provide each investor a statement indicating the investor's share of the credit amount certified to the pass-through entity based on its share of the pass-through entity's assets at the time of the qualified investment.

Subd. 5. **Carryover.** If the amount of the credit under this subdivision for any taxable year exceeds the liability for tax, the excess is a credit carryover to each of the ten succeeding taxable years. The entire amount of the excess unused credit for the taxable year must be carried first to the earliest of the taxable years to which the credit may be carried. The amount of the unused credit that may be added under this subdivision may not exceed the taxpayer's liability for tax less the credit for the taxable year.

Subd. 6. **Transfer of credits.** Any taxpayer who has not had liability under this chapter for the immediate past three taxable years and does not have anticipated liability for the current taxable year may transfer the entirety of the credit to any natural person of net worth, as defined in the Code of Federal Regulations, title 17, section 230.501(a). No person is entitled to a refund for the interest created under this subdivision. Only the full credit for any one taxpayer may be transferred and the interest may be transferred only one time. A credit acquired by transfer is subject to the limitations prescribed in this section. Documentation of any credit acquired by transfer must be provided by the taxpayer in the form required by the commissioner.

Subd. 7. **Audit powers.** Notwithstanding the certification eligibility issued by the commissioner of employment and economic development under section 116J.8737, the commissioner may utilize any audit and examination powers under chapters 270C or 289A to the extent necessary to verify that the taxpayer is eligible for the credit and to assess for the amount of any improperly claimed credit.

EFFECTIVE DATE. This section is effective for investments made after July 1, 2010, for taxable years beginning after December 31, 2009, and only applies to investments for which a credit has been allocated by the commissioner of employment and economic development.

ARTICLE 4

MINNESOTA BUSINESS INVESTMENT COMPANY CREDIT

Section 1. **[116J.665] MINNESOTA BUSINESS INVESTMENT COMPANY CREDIT.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Affiliate" means:

(1) any person who, directly or indirectly, beneficially owns, controls, or holds power to vote 15 percent or more of the outstanding voting securities or other voting ownership interest of a Minnesota business investment company or insurance company; or

(2) any person, 15 percent or more of whose outstanding voting securities or other voting ownership interests are directly or indirectly beneficially owned, controlled, or held with power to vote by a Minnesota business investment company or insurance company.

Notwithstanding this subdivision, an investment by a participating investor in a Minnesota business investment company pursuant to an allocation of premium tax credits under this section does not cause that Minnesota business investment company to become an affiliate of that participating investor.

(c) "Allocation date" means the date on which credits under section 297I.23 are allocated to the participating investors of a Minnesota business investment company under this section.

(d) "Designated capital" means an amount of money that:

(1) is invested by a participating investor in a Minnesota business investment company; and

(2) fully funds the purchase price of either or both participating investor's equity interest in a Minnesota business investment company or a qualified debt instrument issued by a Minnesota business investment company.

(e) "Minnesota business investment company" means a partnership, corporation, trust, or limited liability company, organized on a for-profit basis, that:

(1) has its principal office located or is headquartered in Minnesota;

(2) has as its primary business activity the investment of cash in qualified businesses; and

(3) is certified by the Department of Employment and Economic Development as meeting the criteria in this section.

(f) "Participating investor" means any insurance company as defined in section 60A.02, subdivision 4, excluding health maintenance organizations, that contributes designated capital pursuant to this section.

(g) "Person" means any natural person or entity, including, but not limited to, a corporation, general or limited partnership, trust, or limited liability company.

(h)(1) "Qualified business" means a business that is independently owned and operated and meets all of the following requirements:

(i) it is headquartered in Minnesota, its principal business operations are located in this state, and at least 80 percent of its employees are located in Minnesota;

(ii) it has no more than 100 employees;

(iii) it is not engaged in:

(A) professional services provided by accountants, doctors, or lawyers;

(B) banking or lending;

(C) real estate development;

(D) insurance;

(E) oil and gas exploration;

(F) direct gambling activities;

(G) retail sales; or

(H) making loans to or investments in a Minnesota business investment company or an affiliate; and

(iv) it is not a franchise of and has no financial relationship with a Minnesota business investment company or any affiliate of a Minnesota business investment company prior to a Minnesota business investment company's first qualified investment in the business;

(2) a business classified as a qualified business at the time of the first qualified investment in the business remains classified as a qualified business and may receive continuing qualified investments from any Minnesota business investment company. Continuing investments constitute qualified investments even though the business may not meet the definition of a qualified business at the time of the continuing investments.

(i) "Qualified debt instrument" means a debt instrument issued by a Minnesota business investment company which meets all of the following criteria:

(1) it is issued at par value or a premium; and

(2) it has an original maturity date of at least four years from the date of issuance, and a repayment schedule which is not faster than a level principal amortization over four years.

(j) "Qualified distribution" means any distribution or payment made by a Minnesota business investment company in connection with any of the following:

(1) costs and expenses of forming, syndicating, and organizing the Minnesota business investment company, including fees paid for professional services, and the costs of financing and insuring the obligations of a Minnesota business investment company, provided no payment is made to a participating investor;

(2) an annual management fee not to exceed one percent of designated capital on an annual basis to offset the costs and expenses of managing and operating a Minnesota business investment company;

(3) reasonable and necessary fees in accordance with industry custom for ongoing professional services, including, but not limited to, legal and accounting services related to the operation of a Minnesota business investment company, not including lobbying or governmental relations;

(4) any increase or projected increase in federal or state taxes, including penalties and related interest of the equity owners of a Minnesota business investment company resulting from the earnings or other tax liability of a Minnesota business investment company to the extent that the increase is related to the ownership, management, or operation of a Minnesota business investment company.

(5) Payments of principal and interest to holders of qualified debt instruments issued by a Minnesota business investment company may be made without restriction whatsoever.

(k) "Qualified investment" means the investment of money by a Minnesota business investment company in a qualified business for the purchase of any debt, debt participation, equity, or hybrid security of any nature and description whatsoever, including a debt instrument or security that has the characteristics of debt but that provides for conversion into equity or equity participation instruments such as options or warrants. Any repayment of a qualified investment prior to one year from the date of issuance shall result in the amount of the qualified investment being reduced by 50 percent for purposes of the cumulative investment requirement in subdivision 8, paragraph (d).

(l) "State premium tax liability" means any liability incurred by an insurance company under chapter 297I or in the case of a repeal or a rate reduction by the state of the liability imposed by chapter 297I, any other tax liability imposed upon an insurance company by the state, other than the tax imposed on taxpayers under section 290.05.

Subd. 2. **Certification.** (a) The department must provide a standardized format for applying for the business investment credit under section 297I.23, and for certification as a Minnesota business investment company.

(b) An applicant for certification as a Minnesota business investment company is required to:

(1) file an application with the department that includes, without limitation, a statement that the applicant has read and understands the requirements of this chapter;

(2) pay a nonrefundable application fee of $7,500 at the time of filing the application;

(3) submit as part of its application an audited balance sheet that contains an unqualified opinion of an independent certified public accountant issued not more than 35 days before the application date that states that the applicant has an equity capitalization of $500,000 or more in the form of unencumbered cash, marketable securities, or other liquid assets; and

(4) have at least two principals or persons, at least one of which is primarily located in Minnesota, employed or engaged to manage the funds who each have a minimum of five years of money management experience in the venture capital or business industry.

(c) The department may certify partnerships, corporations, trusts, or limited liability companies, organized on a for-profit basis, which submit an application to be designated as a Minnesota business investment company if the applicant is located, headquartered, and licensed or registered to conduct business in Minnesota, has as its primary business activity the investment of cash in qualified businesses, and meets the other criteria in this section.

(d) The department must review the organizational documents of each applicant for certification and the business history of each applicant and determine whether the applicant has satisfied the requirements of this section.

(e) Within 45 days after the receipt of an application, the department must issue the certification or refuse the certification and communicate in detail to the applicant the grounds for refusal, including suggestions for the removal of such grounds.

(f) The department must begin accepting applications to become a Minnesota business investment company as defined under section 297I.23 by August 1, 2010.

(g) All certification fees collected by the department under this chapter are appropriated to the commissioner to be used for personnel and administrative expenses related to administering the program.

Subd. 3. **Requirements.** (a) A participating investor or affiliate of a participating investor must not, directly or indirectly:

(1) beneficially own, whether through rights, options, convertible interest, or otherwise, 15 percent or more of the voting securities or other voting ownership interest of a Minnesota business investment company;

(2) manage a Minnesota business investment company; or

(3) control the direction of investments for a Minnesota business investment company.

(b) A Minnesota business investment company may obtain one or more guaranties, indemnities, bonds, insurance policies, or other payment undertakings for the benefit of its participating investors from any entity, except that in no case can more than one participating investor of a Minnesota business investment company on an aggregate basis with all affiliates of the participating investor be entitled to provide the guaranties, indemnities, bonds, insurance policies, or other payment undertakings in favor of the participating investors of a Minnesota business investment company and its affiliates in this state.

(c) This subdivision does not preclude a participating investor or other party from exercising its legal rights and remedies, including, without limitation, interim management of a Minnesota business investment company, in the event that a Minnesota business investment company is in default of its statutory obligations or its contractual obligations to the participating investor or other party, or from monitoring a Minnesota business investment company to ensure its compliance with this section or disallowing any investments that have not been approved by the department.

(d) The department may contract with an independent third party to review, investigate, and certify that the applications comply with this section.

Subd. 4. **Aggregate limitations on investment tax credits; allocation.** (a) The aggregate amount of investment tax credits to be allocated to all participating investors of Minnesota business investment companies under this section shall not exceed $100,000,000. No Minnesota business investment company, on an aggregate basis with its affiliates, may file credit allocation claims that exceed $100,000,000.

(b) Credits must be allocated to participating investors in the order that the credit allocation claims are filed with the department, provided that all credit allocation claims filed with the department on the same day must be treated as having been filed contemporaneously. Any credit allocation claims filed with the department prior to the initial credit allocation claim filing date are deemed to have been filed on the initial credit allocation claim filing date. The department must set the initial credit allocation claim filing date not less than 120 days and not greater than 150 days after the department begins accepting applications for certification.

(c) In the event that two or more Minnesota business investment companies file credit allocation claims with the department on behalf of their respective participating investors on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of investment tax credits under this section or the lesser amount of credits that remain unallocated on that day, then the department must allocate the credits among the participating investors who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one participating investor is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a participating investor and the denominator of which is the total of all credit allocation claims filed on behalf of all participating investors on that day, by the aggregate limit of credits under this section or the lesser amount of credits that remain unallocated on that day.

(d) Within ten business days after the department receives a credit allocation claim filed by a Minnesota business investment company on behalf of one or more of its participating investors, the department must notify the Minnesota business investment company of the amount of credits allocated to each of the participating investors of that Minnesota business investment company. In the event a Minnesota business investment company does not receive an investment of designated capital from each participating investor required to earn the amount of credits allocated to the participating investor within ten business days of the Minnesota business investment company's receipt of notice of allocation, then it shall notify the department on or before the next business day, and the credits allocated to the participating investor of the Minnesota business investment company are forfeited. The department must then reallocate those forfeited credits among the participating investors of the other Minnesota business investment companies on a pro rata basis with respect to the credit allocation claims filed on behalf of the participating investors. The commissioner is authorized, but not required, to levy a fine of not more than $50,000 on any participating investor that does not invest the full amount of designated capital required to fund the credits allocated to it by the department in accordance with the credit allocation claim filed on its behalf.

(e) No participating investor, on an aggregate basis with its affiliates, may file an allocation claim for more than 25 percent of the maximum amount of investment tax credits authorized under this subdivision, regardless of whether the claim is made in connection with one or more Minnesota business investment companies.

Subd. 5. **Requirements for continuance of certification.** (a) To maintain its certification, a Minnesota business investment company must make qualified investments as follows:

(1) within two years after the allocation date, a Minnesota business investment company must invest an amount equal to at least 35 percent of its designated capital in qualified investments; and

(2) within three years after the allocation date, a Minnesota business investment company must invest an amount equal to at least 50 percent of its designated capital in qualified investments.

(b) Prior to making a proposed qualified investment in a specific business, a Minnesota business investment company must request from the department a written determination that the proposed investment qualifies as a qualified investment in a qualified business. The department must notify a Minnesota business investment company within ten business days from the receipt of a request of its determination and an explanation thereof. If the department fails to notify the Minnesota business investment company of its determination within the ten-business-day period, the proposed investment is deemed a qualified investment in a qualified business. If the department determines that the proposed investment does not meet the definition of a qualified investment or qualified business, or both, the department may nevertheless consider the proposed investment a qualified investment and, if necessary, the business a qualified business, if the department determines that the proposed investment furthers state economic development.

(c) All designated capital not invested in qualified investments by a Minnesota business investment company shall be held or invested in such manner as the Minnesota business investment company, in its discretion, deems appropriate. Designated capital and proceeds of designated capital returned to a Minnesota business investment company after being originally invested in qualified investments may be invested again in qualified investments and the investment shall count toward the requirements of paragraph (a) with respect to making investments of designated capital in qualified investments.

(d) If, within four years after its allocation date, a Minnesota business investment company has not invested at least 60 percent of its designated capital in qualified investments, the Minnesota business investment company must not be permitted to pay management fees.

(e) If, within six years after its allocation date, a Minnesota business investment company has not invested at least 100 percent of its designated capital in qualified investments, the Minnesota business investment company must not be permitted to pay management fees.

(f) A Minnesota business investment company may not invest more than 15 percent of its designated capital in any one qualified business without the specific approval of the department.

(g) For purposes of calculating the investment percentage thresholds of paragraph (a), the cumulative amount of all qualified investments made by a Minnesota business investment company from the allocation date must be considered.

Subd. 6. **Minnesota business investment company reporting requirements.** (a) Each Minnesota business investment company must report the following to the department in the form designated by the commissioner:

(1) as soon as practicable after the receipt of designated capital:

(i) the name of each participating investor from which the designated capital was received, including such participating investor's insurance tax identification number;

(ii) the amount of each participating investor's investment of designated capital; and

(iii) the date on which the designated capital was received;

(2) on an annual basis, on or before January 31 of each year:

(i) the amount of the Minnesota business investment company's designated capital that remains to be invested in qualified investments at the end of the immediately preceding taxable year;

(ii) whether or not the Minnesota business investment company has invested more than 15 percent of its total designated capital in any one business;

(iii) all qualified investments that the Minnesota business investment company has made in the previous taxable year, including the number of employees of each qualified business in which it has made investments at the time of such investment, and as of December 1 of the preceding taxable year; and

(iv) for any qualified business where the Minnesota business investment company no longer has an investment, the Minnesota business investment company must provide employment figures for that company as of the last day before the investment was terminated;

(3) other information that the department may reasonably request that helps the department ascertain the impact of the Minnesota business investment company program both directly and indirectly on the economy of the state including, but not limited to, the number of jobs created by qualified businesses that have received qualified investments;

(4) within 90 days of the close of its fiscal year, annual audited financial statements of the Minnesota business investment company, which must include the opinion of an independent certified public accountant; and

(5) an agreed upon procedures report or equivalent regarding the operations of the Minnesota business investment company.

(b) A Minnesota business investment company must pay to the department an annual, nonrefundable certification fee of $5,000 on or before April 1, or $10,000 if later. No annual certification fee is required if the payment date for the fee is within six months of the date a Minnesota business investment company is first certified by the department.

(c) Upon satisfying the requirements of subdivision 5, paragraph (a), clause (2), a Minnesota business investment company must provide the notice to the department and the department shall, within 60 days of receipt of the notice, either confirm that the Minnesota business investment company has satisfied the requirements of subdivision 5, paragraph (a), clause (2), as of such date or provide notice of noncompliance and an explanation of any existing deficiencies. If the department does not provide notification within 60 days, the Minnesota business investment company is deemed to have met the requirements of subdivision 5, paragraph (a), clause (2).

Subd. 7. **Distributions.** (a) A Minnesota business investment company may make qualified distributions at any time. In order for a Minnesota business investment company to make a distribution other than a qualified distribution to its equity holders, the cumulative amount of all qualified investments of the Minnesota business investment company must equal or exceed 100 percent of its designated capital.

(b) The state shall receive ten percent of the net profits on qualified investments. For purposes of this paragraph, "net profits on qualified investments" means the amount of money returned to the Minnesota business investment company in exchange for or repayment of its qualified investments in qualified businesses in excess of the amount invested by the Minnesota business investment company in qualified investments. The net profits on qualified investments are the aggregate of all of the Minnesota business investment company's qualified investments where gains on qualified investments are netted against losses on qualified investments.

Subd. 8. **Decertification.** (a) The department shall conduct an annual review of each Minnesota business investment company to determine if a Minnesota business investment company is abiding by the requirements of certification and to ensure that no investment has been made in violation of this section. The cost of the annual review must be paid by each Minnesota business investment company according to a reasonable fee schedule adopted by the department.

(b) Any material violation of this section, including any material misrepresentation made to the department in connection with the application process, is grounds for decertification of a Minnesota business investment company and the disallowance of credits under section 297I.23, provided that in all instances the department shall provide notice to the Minnesota business investment company of the grounds of the proposed decertification and the opportunity to cure the violation before any decertification becomes effective.

(c) The department shall send written notice of decertification to the commissioner of revenue and to the address of each participating investor whose tax credit is subject to recapture or forfeiture, using the address shown on the last filing submitted to the department.

(d) Once a Minnesota business investment company has invested an amount cumulatively equal to 100 percent of its designated capital in qualified investments, provided that the Minnesota business investment company has met all other requirements under this section as of such date, the Minnesota business investment company is no longer subject to regulation by the department or the reporting requirements under subdivision 6. Upon receiving certification by a Minnesota business investment company that it has invested an amount equal to 100 percent of its designated capital, the department shall notify a Minnesota business investment company within 60 days that it has or has not met the requirements, with a reason for the determination if it has not. If the department does not provide notification of deregulation within 60 days, the Minnesota business investment company is deemed to have met the requirements and is deemed to no longer be subject to regulation by the department.

Subd. 9. **Registration requirements.** All investments by participating investors for which tax credits are awarded under this section must be registered or specifically exempt from registration.

Subd. 10. **Rulemaking.** The commissioner's actions in establishing procedures and requirements and in making determinations and certifications to administer this section are not a rule for purposes of chapter 14, are not subject to the Administrative Procedure Act contained in chapter 14, and are not subject to section 14.386.

Subd. 11. **Reports to governor and legislature.** The department shall make an annual report by March 15 of each year to the governor and the chairs and ranking minority members of the legislative committees and divisions having jurisdiction over taxes and economic development. The report must include:

(1) the number of Minnesota business investment companies holding designated capital;

(2) the amount of designated capital invested in each Minnesota business investment company;

(3) the cumulative amount that each Minnesota business investment company has invested as of January 1, 2011, and the cumulative total each year thereafter;

(4) the cumulative amount of follow-on capital that the investments of each Minnesota business investment company have created in terms of capital invested in qualified businesses at the same time or subsequent to investments made by a Minnesota business investment company in such businesses by sources other than Minnesota business investment companies;

(5) the total amount of investment tax credits applied under this section for each year;

(6) the performance of each Minnesota business investment company with regard to the requirements for continued certification;

(7) the classification of the companies in which each Minnesota business investment company has invested according to industrial sector and size of company;

(8) the gross number of jobs created by investments made by each Minnesota business investment company and the number of jobs retained;

(9) the location of the companies in which each Minnesota business investment company has invested;

(10) those Minnesota business investment companies that have been decertified, including the reasons for decertification; and

(11) other related information as necessary to evaluate the effect of this section on economic development.

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

Sec. 2. **[297I.23] MINNESOTA BUSINESS INVESTMENT COMPANY CREDIT.**

Subdivision 1. **Credit allowed.** (a) A participating investor as defined under section 116J.665, subdivision 1, is allowed a credit against the tax imposed in this chapter equal to 80 percent of the participating investor's investment of designated capital in a Minnesota business investment company. Beginning March 1, 2015, and ending with the tax return due March 1, 2018, a participating investor may claim yearly an amount equal to 20 percent of the participating investor's investment of designated capital against the tax liability under this chapter for the preceding calendar year.

(b) The credit for any calendar year must not exceed the liability for tax. If the amount of the credit determined under this section for any calendar year exceeds the liability for tax, the excess is an investment tax credit carryover to each of the succeeding calendar years and must be carried forward to each succeeding calendar year until the entire carryforward has been credited against the participating investor's liability for tax under this chapter. Credits may be used only on an annual premium tax return filed by a participating investor.

(c) A participating investor claiming a credit under this section is not required to pay any additional retaliatory tax levied by Minnesota as a result of claiming the credit.

(d) A participating investor is not required to reduce the amount of tax passed to the insured pursuant to the state premium tax liability included by the participating investor in connection with ratemaking for any insurance contract written in this state because of a reduction in the participating investor's tax liability based on the tax credit allowed under this section.

(e) Decertification of a Minnesota business investment company under section 116J.665 may result in the disallowance and the recapture of the credit allowed under this section. The amount disallowed and recaptured must be assessed as follows:

(1) decertification of a Minnesota business investment company within two years of the allocation date of tax credits and prior to meeting the requirements of section 116J.665, subdivision 5, paragraph (a), clause (1), shall result in the disallowance of all of the credits allowed under this section;

(2) decertification of a Minnesota business investment company after two years of the allocation date of tax credits, but prior to meeting the requirements of section 116J.665, subdivision 5, paragraph (a), clause (1), results in the disallowance of one-half of all the credits allowed under this section; and

(3) decertification of Minnesota business investment company that has already met the requirements of section 116J.665, subdivision 5, paragraph (a), clause (1), does not cause the disallowance of any credits allowed under this section nor the recapture of any portion of the credits that was previously taken.

Subd. 2. **Transfers.** A participating investor must not transfer, agree to transfer, sell, or agree to sell the credit under this section until 180 days from the date on which the participating investor invested designated capital. After 180 days from the date of investment, a participating investor, or subsequent transferee, may transfer credits to another person who is subject to tax and must notify the department in the form prescribed by the commissioner within 30 days of the transfer. A person must not transfer a credit more than once in a 12-month period. No person is entitled to a refund for the interest created under this subdivision. A credit acquired by transfer is subject to the limitations prescribed in this section. Any transfer or sale of the credits does not affect the time schedule for claiming the credit. Any tax credits recaptured under this section remain the liability of the participating investor that actually applied the credit towards its tax liability.

Subd. 3. **Repayment of tax benefits received.** (a) Decertification of a Minnesota business investment company or revocation of credits under section 116J.665, results in the disallowance to certified investors of any credits for that calendar year or future calendar years and the participating investor is required to repay any credits claimed for the previous year. Repayment must be made within 60 days of the decertification or the revocation of the certification.

(b) The provisions of chapters 270C and 297I relating to audit, assessment, refund, collection, and appeals are applicable to the credits claimed and repayment required under this section. The commissioner may impose civil penalties as provided in section 297I.85, and additional tax and penalties are subject to interest at the rate provided in section 270C.40, from the date payment was due.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

ARTICLE 5

TECHZ

Section 1. Minnesota Statutes 2008, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;

(5) human rights agencies within Minnesota that have enforcement powers;

(6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;

(7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(8) the Department of Labor and Industry and the Division of Insurance Fraud Prevention in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;

(9) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program by providing data on recipients and former recipients of food stamps or food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(10) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(11) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(12) the United States Citizenship and Immigration Services has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(13) the Department of Health for the purposes of epidemiologic investigations;

(14) the Department of Corrections for the purpose of preconfinement and postconfinement employment tracking of committed offenders for the purpose of case planning; ~~and~~

(15) the state auditor to the extent necessary to conduct audits of job opportunity building zones and TECHZ businesses as required under ~~section~~ sections 469.3201~~.~~ and 469.3701; and

(16) any agency responsible for monitoring compliance with job opportunity building zones or TECHZ business subsidy agreements.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

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

Sec. 2. Minnesota Statutes 2008, section 270B.14, subdivision 3, is amended to read:

Subd. 3. **Administration of enterprise, job opportunity, ~~and~~ biotechnology and health sciences industry zone, and TECHZ programs.** The commissioner may disclose return information relating to the taxes imposed by chapters 290 and 297A to the Department of Employment and Economic Development or a municipality receiving an enterprise zone designation under section 469.169 but only as necessary to administer the funding limitations under section 469.169, subdivision 7, or to the Department of Employment and Economic Development and appropriate officials from the local government units in which a qualified business is located but only as necessary to enforce the job opportunity building zone benefits under section 469.315, ~~or~~ biotechnology and health sciences industry zone benefits under section 469.336, or the TECHZ benefits under section 469.365.

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

Sec. 3. Minnesota Statutes 2008, section 270B.15, is amended to read:

270B.15 DISCLOSURE TO LEGISLATIVE AUDITOR AND STATE AUDITOR.

(a) Returns and return information must be disclosed to the legislative auditor to the extent necessary for the legislative auditor to carry out sections 3.97 to 3.979.

(b) The commissioner must disclose return information, including the report required under section 289A.12, subdivision 15, to the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201 and audits of TECHZ businesses and business subsidy agreements under section 469.3701.

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

Sec. 4. Minnesota Statutes 2008, section 272.02, is amended by adding a subdivision to read:

Subd. 95. **TECHZ property.** (a) Improvements to real property and personal property classified under section 273.13, subdivision 24, by a qualified TECHZ business at a TECHZ location are exempt from ad valorem taxes levied under chapter 275. The exemption applies only to improvements to the property made within two years after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362, or to any improvements if the property was not owned or occupied by the business or by a related party prior to the signing of the business subsidy agreement.

(b) For property to qualify for the exemption under paragraph (a), the occupant must be a qualified TECHZ business, as defined in section 469.360, subdivision 7.

(c) For property located outside the metropolitan area as defined in section 473.121, subdivision 2, this exemption applies to property taxes payable in the year after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362 and for the taxes payable in the ten following years. For property located within the metropolitan area as defined in section 473.121, subdivision 2, this exemption applies to property taxes payable in the year after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362 and for the taxes payable in the five following years.

To be exempt, the property must be occupied by July 1 of the assessment year by a qualified TECHZ business that has signed the business subsidy agreement by July 1 of the assessment year.

A qualified TECHZ business must notify the county assessor in writing of eligibility under this subdivision by July 1 in order to begin receiving the exemption under this subdivision for taxes payable in the following year. The business need not annually notify the county assessor of its continued exemption under this subdivision, but must notify the county assessor immediately if the exemption no longer applies.

EFFECTIVE DATE. This section is effective beginning for property taxes assessed in 2011 and payable in 2012.

Sec. 5. Minnesota Statutes 2008, section 289A.12, is amended by adding a subdivision to read:

Subd. 17. **Report of TECHZ benefits; penalty for failure to file report.** (a) By October 15 of each year, every qualified TECHZ business, as defined under section 469.360, subdivision 7, must file with the commissioner, on a form prescribed by the commissioner, a report listing the tax benefits under section 469.365 received by the business for the previous year.

(b) The commissioner shall send notice to each business that fails to timely submit the report required under paragraph (a). The notice shall demand that the business submit the report within 60 days. Where good cause exists, the commissioner may extend the period for submitting the report as long as a request for extension is filed by the business before the expiration of the 60-day period. The commissioner shall notify the commissioner of employment and economic development and the appropriate local government unit whenever notice is sent to a business under this paragraph.

(c) A business that fails to submit the report as required under paragraph (b) is no longer a qualified business under section 469.360, subdivision 7, and is subject to the repayment provisions of section 469.369.

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

Sec. 6. Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19b, is amended to read:

Subd. 19b. **Subtractions from federal taxable income.** For individuals, estates, and trusts, there shall be subtracted from federal taxable income:

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

(2) if included in federal taxable income, the amount of any overpayment of income tax to Minnesota or to any other state, for any previous taxable year, whether the amount is received as a refund or as a credit to another taxable year's income tax liability;

(3) the amount paid to others, less the amount used to claim the credit allowed under section 290.0674, not to exceed $1,625 for each qualifying child in grades kindergarten to 6 and $2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and transportation of each qualifying child in attending an elementary or secondary school

situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a resident of this state may legally fulfill the state's compulsory attendance laws, which is not operated for profit, and which adheres to the provisions of the Civil Rights Act of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause, "textbooks" includes books and other instructional materials and equipment purchased or leased for use in elementary and secondary schools in teaching only those subjects legally and commonly taught in public elementary and secondary schools in this state. Equipment expenses qualifying for deduction includes expenses as defined and limited in section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional books and materials used in the teaching of religious tenets, doctrines, or worship, the purpose of which is to instill such tenets, doctrines, or worship, nor does it include books or materials for, or transportation to, extracurricular activities including sporting events, musical or dramatic events, speech activities, driver's education, or similar programs. No deduction is permitted for any expense the taxpayer incurred in using the taxpayer's or the qualifying child's vehicle to provide such transportation for a qualifying child. For purposes of the subtraction provided by this clause, "qualifying child" has the meaning given in section 32(c)(3) of the Internal Revenue Code;

(4) income as provided under section 290.0802;

(5) to the extent included in federal adjusted gross income, income realized on disposition of property exempt from tax under section 290.491;

(6) to the extent not deducted or not deductible pursuant to section 408(d)(8)(E) of the Internal Revenue Code in determining federal taxable income by an individual who does not itemize deductions for federal income tax purposes for the taxable year, an amount equal to 50 percent of the excess of charitable contributions over $500 allowable as a deduction for the taxable year under section 170(a) of the Internal Revenue Code and under the provisions of Public Law 109-1;

(7) for taxable years beginning before January 1, 2008, the amount of the federal small ethanol producer credit allowed under section 40(a)(3) of the Internal Revenue Code which is included in gross income under section 87 of the Internal Revenue Code;

(8) for individuals who are allowed a federal foreign tax credit for taxes that do not qualify for a credit under section 290.06, subdivision 22, an amount equal to the carryover of subnational foreign taxes for the taxable year, but not to exceed the total subnational foreign taxes reported in claiming the foreign tax credit. For purposes of this clause, "federal foreign tax credit" means the credit allowed under section 27 of the Internal Revenue Code, and "carryover of subnational foreign taxes" equals the carryover allowed

under section 904(c) of the Internal Revenue Code minus national level foreign taxes to the extent they exceed the federal foreign tax credit;

(9) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (7), or 19c, clause (15), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or subdivision 19c, clause (15), in the case of a shareholder of an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. The resulting delayed depreciation cannot be less than zero;

(10) job opportunity building zone income as provided under section 469.316;

(11) to the extent included in federal taxable income, the amount of compensation paid to members of the Minnesota National Guard or other reserve components of the United States military for active service performed in Minnesota, excluding compensation for services performed under the Active Guard Reserve (AGR) program. For purposes of this clause, "active service" means (i) state active service as defined in section 190.05, subdivision 5a, clause (1); (ii) federally funded state active service as defined in section 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05, subdivision 5c, but "active service" excludes service performed in accordance with section 190.08, subdivision 3;

(12) to the extent included in federal taxable income, the amount of compensation paid to Minnesota residents who are members of the armed forces of the United States or United Nations for active duty performed outside Minnesota under United States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the authority of the United Nations;

(13) an amount, not to exceed $10,000, equal to qualified expenses related to a qualified donor's donation, while living, of one or more of the qualified donor's organs to another person for human organ transplantation. For purposes of this clause, "organ" means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow; "human organ transplantation" means the medical procedure by which transfer of a human organ is made from the body of one person to the body of another person; "qualified expenses" means unreimbursed expenses for both the individual and the qualified donor for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses may be subtracted under this clause only once; and "qualified donor" means the individual or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An

individual may claim the subtraction in this clause for each instance of organ donation for transplantation during the taxable year in which the qualified expenses occur;

(14) in each of the five tax years immediately following the tax year in which an addition is required under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause (16), in the case of a shareholder of a corporation that is an S corporation, minus the positive value of any net operating loss under section 172 of the Internal Revenue Code generated for the tax year of the addition. If the net operating loss exceeds the addition for the tax year, a subtraction is not allowed under this clause;

(15) to the extent included in federal taxable income, compensation paid to a service member as defined in United States Code, title 10, section 101(a)(5), for military service as defined in the Servicemembers Civil Relief Act, Public Law 108-189, section 101(2);

(16) international economic development zone income as provided under section 469.325;

(17) to the extent included in federal taxable income, the amount of national service educational awards received from the National Service Trust under United States Code, title 42, sections 12601 to 12604, for service in an approved Americorps National Service program; ~~and~~

(18) to the extent included in federal taxable income, discharge of indebtedness income resulting from reacquisition of business indebtedness included in federal taxable income under section 108(i) of the Internal Revenue Code. This subtraction applies only to the extent that the income was included in net income in a prior year as a result of the addition under section 290.01, subdivision 19a, clause (16)~~.~~; and

(19) TECHZ income as provided under section 469.366.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 7. Minnesota Statutes 2008, section 290.01, subdivision 29, is amended to read:

Subd. 29. **Taxable income.** The term "taxable income" means:

(1) for individuals, estates, and trusts, the same as taxable net income;

(2) for corporations, the taxable net income less

(i) the net operating loss deduction under section 290.095;

(ii) the dividends received deduction under section 290.21, subdivision 4;

(iii) the exemption for operating in a job opportunity building zone under section 469.317;

(iv) the exemption for operating in a biotechnology and health sciences industry zone under section 469.337; ~~and~~

(v) the exemption for operating in an international economic development zone under section 469.326~~.~~; and

(vi) the exemption for TECHZ income under section 469.367.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 8. Minnesota Statutes 2009 Supplement, section 290.06, subdivision 2c, is amended to read:

Subd. 2c. **Schedules of rates for individuals, estates, and trusts.** (a) The income taxes imposed by this chapter upon married individuals filing joint returns and surviving spouses as defined in section 2(a) of the Internal Revenue Code must be computed by applying to their taxable net income the following schedule of rates:

(1) On the first $25,680, 5.35 percent;

(2) On all over $25,680, but not over $102,030, 7.05 percent;

(3) On all over $102,030, 7.85 percent.

Married individuals filing separate returns, estates, and trusts must compute their income tax by applying the above rates to their taxable income, except that the income brackets will be one-half of the above amounts.

(b) The income taxes imposed by this chapter upon unmarried individuals must be computed by applying to taxable net income the following schedule of rates:

(1) On the first $17,570, 5.35 percent;

(2) On all over $17,570, but not over $57,710, 7.05 percent;

(3) On all over $57,710, 7.85 percent.

(c) The income taxes imposed by this chapter upon unmarried individuals qualifying as a head of household as defined in section 2(b) of the Internal Revenue Code must be computed by applying to taxable net income the following schedule of rates:

(1) On the first $21,630, 5.35 percent;

(2) On all over $21,630, but not over $86,910, 7.05 percent;

(3) On all over $86,910, 7.85 percent.

(d) In lieu of a tax computed according to the rates set forth in this subdivision, the tax of any individual taxpayer whose taxable net income for the taxable year is less than an amount determined by the commissioner must be computed in accordance with tables prepared and issued by the commissioner of revenue based on income brackets of not more than $100. The amount of tax for each bracket shall be computed at the rates set forth in this subdivision, provided that the commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case it may be increased to $1.

(e) An individual who is not a Minnesota resident for the entire year must compute the individual's Minnesota income tax as provided in this subdivision. After the application of the nonrefundable credits provided in this chapter, the tax liability must then be multiplied by a fraction in which:

(1) the numerator is the individual's Minnesota source federal adjusted gross income as defined in section 62 of the Internal Revenue Code and increased by the additions required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the Minnesota assignable portion of the subtraction for United States government interest under section 290.01, subdivision 19b, clause (1), and the subtractions under section 290.01, subdivision 19b, clauses (9), (10), (14), (15), (16), ~~and~~ (18), and (19), after applying the allocation and assignability provisions of section 290.081, clause (a), or 290.17; and

(2) the denominator is the individual's federal adjusted gross income as defined in section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), (13), (16), and (17), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9), (10), (14), (15), (16), ~~and~~ (18), and (19).

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 9. Minnesota Statutes 2008, section 290.06, is amended by adding a subdivision to read:

Subd. 36. **TECHZ new job creation credit.** A taxpayer that is a qualified TECHZ business, as defined in section 469.360, subdivision 7, is allowed a credit as determined under section 469.368 against the tax imposed by this chapter.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 10. Minnesota Statutes 2009 Supplement, section 290.091, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of the tax imposed by this section, the following terms have the meanings given:

(a) "Alternative minimum taxable income" means the sum of the following for the taxable year:

(1) the taxpayer's federal alternative minimum taxable income as defined in section 55(b)(2) of the Internal Revenue Code;

(2) the taxpayer's itemized deductions allowed in computing federal alternative minimum taxable income, but excluding:

(i) the charitable contribution deduction under section 170 of the Internal Revenue Code;

(ii) the medical expense deduction;

(iii) the casualty, theft, and disaster loss deduction; and

(iv) the impairment-related work expenses of a disabled person;

(3) for depletion allowances computed under section 613A(c) of the Internal Revenue Code, with respect to each property (as defined in section 614 of the Internal Revenue Code), to the extent not included in federal alternative minimum taxable income, the excess of the deduction for depletion allowable under section 611 of the Internal Revenue Code for the taxable year over the adjusted basis of the property at the end of the taxable year (determined without regard to the depletion deduction for the taxable year);

(4) to the extent not included in federal alternative minimum taxable income, the amount of the tax preference for intangible drilling cost under section 57(a)(2) of the Internal Revenue Code determined without regard to subparagraph (E);

(5) to the extent not included in federal alternative minimum taxable income, the amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and

(6) the amount of addition required by section 290.01, subdivision 19a, clauses (7) to (9), (12), (13), (16), and (17);

less the sum of the amounts determined under the following:

(1) interest income as defined in section 290.01, subdivision 19b, clause (1);

(2) an overpayment of state income tax as provided by section 290.01, subdivision 19b, clause (2), to the extent included in federal alternative minimum taxable income;

(3) the amount of investment interest paid or accrued within the taxable year on indebtedness to the extent that the amount does not exceed net investment income, as defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include amounts deducted in computing federal adjusted gross income; and

(4) amounts subtracted from federal taxable income as provided by section 290.01, subdivision 19b, clauses (6), (9) to (16), ~~and~~ (18), and (19).

In the case of an estate or trust, alternative minimum taxable income must be computed as provided in section 59(c) of the Internal Revenue Code.

(b) "Investment interest" means investment interest as defined in section 163(d)(3) of the Internal Revenue Code.

(c) "Net minimum tax" means the minimum tax imposed by this section.

(d) "Regular tax" means the tax that would be imposed under this chapter (without regard to this section and section 290.032), reduced by the sum of the nonrefundable credits allowed under this chapter.

(e) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable income after subtracting the exemption amount determined under subdivision 3.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 11. Minnesota Statutes 2008, section 290.0921, subdivision 3, is amended to read:

Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable income" is Minnesota net income as defined in section 290.01, subdivision 19, and includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e), (f), and (h) of the Internal Revenue Code. If a corporation files a separate company Minnesota tax return, the minimum tax must be computed on a separate company basis. If a corporation is part of a tax group filing a unitary return, the minimum tax must be computed on a unitary basis. The following adjustments must be made.

(1) For purposes of the depreciation adjustments under section 56(a)(1) and 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal income tax purposes, including any modification made in a taxable year under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c).

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7, paragraph (c), not previously deducted is a depreciation allowance in the first taxable year after December 31, 2000.

(2) The portion of the depreciation deduction allowed for federal income tax purposes under section 168(k) of the Internal Revenue Code that is required as an addition under section 290.01, subdivision 19c, clause (15), is disallowed in determining alternative minimum taxable income.

(3) The subtraction for depreciation allowed under section 290.01, subdivision 19d, clause (18), is allowed as a depreciation deduction in determining alternative minimum taxable income.

(4) The alternative tax net operating loss deduction under sections 56(a)(4) and 56(d) of the Internal Revenue Code does not apply.

(5) The special rule for certain dividends under section 56(g)(4)(C)(ii) of the Internal Revenue Code does not apply.

(6) The special rule for dividends from section 936 companies under section 56(g)(4)(C)(iii) does not apply.

(7) The tax preference for depletion under section 57(a)(1) of the Internal Revenue Code does not apply.

(8) The tax preference for intangible drilling costs under section 57(a)(2) of the Internal Revenue Code must be calculated without regard to subparagraph (E) and the subtraction under section 290.01, subdivision 19d, clause (4).

(9) The tax preference for tax exempt interest under section 57(a)(5) of the Internal Revenue Code does not apply.

(10) The tax preference for charitable contributions of appreciated property under section 57(a)(6) of the Internal Revenue Code does not apply.

(11) For purposes of calculating the tax preference for accelerated depreciation or amortization on certain property placed in service before January 1, 1987, under section 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the deduction allowed under section 290.01, subdivision 19e.

For taxable years beginning after December 31, 2000, the amount of any remaining modification made under section 290.01, subdivision 19e, not previously deducted is a depreciation or amortization allowance in the first taxable year after December 31, 2004.

(12) For purposes of calculating the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code, the term "alternative minimum taxable income" as it is used in section 56(g) of the Internal Revenue Code, means alternative minimum taxable income as defined in this subdivision, determined without regard to the adjustment for adjusted current earnings in section 56(g) of the Internal Revenue Code.

(13) For purposes of determining the amount of adjusted current earnings under section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the amount of refunds of income, excise, or franchise taxes subtracted as provided in section 290.01, subdivision 19d, clause (9), or (iii) the amount of royalties, fees or other like income subtracted as provided in section 290.01, subdivision 19d, clause (10).

(14) Alternative minimum taxable income excludes the income from operating in a job opportunity building zone as provided under section 469.317.

(15) Alternative minimum taxable income excludes the income from operating in a biotechnology and health sciences industry zone as provided under section 469.337.

(16) Alternative minimum taxable income excludes the income from operating in an international economic development zone as provided under section 469.326.

(17) Alternative minimum taxable income excludes the income from operating a TECHZ business as provided under section 469.367.

Items of tax preference must not be reduced below zero as a result of the modifications in this subdivision.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 12. Minnesota Statutes 2008, section 297A.68, is amended by adding a subdivision to read:

Subd. 42. **TECHZ businesses.** (a) Purchases of tangible personal property or taxable services by a qualified TECHZ business, as defined in section 469.360, subdivision 7, are exempt if the property or services are primarily used or consumed by the business in furtherance of activities described in section 469.360, subdivision 7, paragraph (d), at a location which has been approved for benefits in section 469.362. This exemption applies if the purchase was made and delivery was received within two years after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property at a location which has been approved for benefits under section 469.362 are exempt if the improvements after completion of construction are to be used by a qualified TECHZ business, in furtherance of activities described in section 469.360, subdivision 7, paragraph (d). This exemption applies regardless of whether the purchases are made by the business or a contractor. This exemption applies to items purchased and delivered to the location within three years after the later of the signing of the business subsidy agreement required under section 469.360, subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362.

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

(d) For purposes of this subdivision, the tax must be imposed and collected as if the applicable rate under section 297A.62 applied and then refunded in the manner provided in section 297A.75. The taxpayer must attach to the claim for refund information sufficient for the commissioner to be able to determine that the improvements are being occupied by a business that has signed a business subsidy agreement. The commissioner shall not pay any refunds on taxes collected under this subdivision until after June 30, 2011.

EFFECTIVE DATE. This section is effective for purchases made after December 31, 2010.

Sec. 13. Minnesota Statutes 2009 Supplement, section 297A.75, subdivision 1, is amended to read:

Subdivision 1. **Tax collected.** The tax on the gross receipts from the sale of the following exempt items must be imposed and collected as if the sale were taxable and the rate under section 297A.62, subdivision 1, applied. The exempt items include:

(1) capital equipment exempt under section 297A.68, subdivision 5;

(2) building materials for an agricultural processing facility exempt under section 297A.71, subdivision 13;

(3) building materials for mineral production facilities exempt under section 297A.71, subdivision 14;

(4) building materials for correctional facilities under section 297A.71, subdivision 3;

(5) building materials used in a residence for disabled veterans exempt under section 297A.71, subdivision 11;

(6) elevators and building materials exempt under section 297A.71, subdivision 12;

(7) building materials for the Long Lake Conservation Center exempt under section 297A.71, subdivision 17;

(8) materials and supplies for qualified low-income housing under section 297A.71, subdivision 23;

(9) materials, supplies, and equipment for municipal electric utility facilities under section 297A.71, subdivision 35;

(10) equipment and materials used for the generation, transmission, and distribution of electrical energy and an aerial camera package exempt under section 297A.68, subdivision 37;

(11) tangible personal property and taxable services and construction materials, supplies, and equipment exempt under section 297A.68, subdivision 41;

(12) commuter rail vehicle and repair parts under section 297A.70, subdivision 3, clause (11);

(13) materials, supplies, and equipment for construction or improvement of projects and facilities under section 297A.71, subdivision 40; ~~and~~

(14) materials, supplies, and equipment for construction or improvement of a meat processing facility exempt under section 297A.71, subdivision 41~~.~~; and

(15) tangible personal property and taxable services and construction materials, supplies, and equipment exempt under section 297A.68, subdivision 42.

EFFECTIVE DATE. This section is effective for goods or services purchased after December 31, 2010.

Sec. 14. Minnesota Statutes 2009 Supplement, section 297A.75, subdivision 2, is amended to read:

Subd. 2. **Refund; eligible persons.** Upon application on forms prescribed by the commissioner, a refund equal to the tax paid on the gross receipts of the exempt items must be paid to the applicant. Only the following persons may apply for the refund:

(1) for subdivision 1, clauses (1) to (3) and (15), the applicant must be the purchaser;

(2) for subdivision 1, clauses (4) and (7), the applicant must be the governmental subdivision;

(3) for subdivision 1, clause (5), the applicant must be the recipient of the benefits provided in United States Code, title 38, chapter 21;

(4) for subdivision 1, clause (6), the applicant must be the owner of the homestead property;

(5) for subdivision 1, clause (8), the owner of the qualified low-income housing project;

(6) for subdivision 1, clause (9), the applicant must be a municipal electric utility or a joint venture of municipal electric utilities;

(7) for subdivision 1, clauses (10), (11), and (14), the owner of the qualifying business; and

(8) for subdivision 1, clauses (12) and (13), the applicant must be the governmental entity that owns or contracts for the project or facility.

EFFECTIVE DATE. This section is effective for goods or services purchased after December 31, 2010.

Sec. 15. **[469.360] DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 469.360 to 469.3693, the following terms have the meanings given.

Subd. 2. **Payroll growth percentage.** "Payroll growth percentage" means payroll attributable to new employees divided by Minnesota payroll as defined in section 290.191, subdivision 12.

Subd. 3. **New employee.** A new employee is an individual who:

(1) is an employee as defined in section 290.92, subdivision 3, who works for the entire tax year at the TECHZ location of a qualified business;

(2) performs services that are primarily in furtherance of an activity included in subdivision 7, paragraph (d);

(3) was not employed in this state by the qualified TECHZ business or a related business on the later of the date of the signing of the business subsidy agreement required under subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362, unless the employee's former position was filled by another person; and

(4) did not replace an individual who was an employee of the qualified business at the TECHZ business location on the later of the signing of the business subsidy agreement required under subdivision 7, or the date of approval by the commissioner of employment and economic development under section 469.362.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of employment and economic development.

Subd. 5. **Local government unit.** "Local government unit" means a statutory or home rule charter city, county, town, Iron Range resources and rehabilitation agency, regional development commission, or a federally designated economic development district.

Subd. 6. **Person.** "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity with its primary headquarters in this state.

Subd. 7. **Qualified TECHZ business.** (a) A person carrying on a trade or business is a qualified TECHZ business for purposes of sections 469.360 to 469.3701 if the criteria in paragraphs (b) to (h) are met.

(b) A person is a qualified TECHZ business only at the TECHZ business location for which it has been approved by the commissioner of employment and economic development.

(c) Prior to execution of the business subsidy agreement, the local government unit must consider the following factors:

(1) how wages compare to the regional industry average;

(2) the number of jobs that will be provided relative to overall employment in the community;

(3) the economic outlook for the industry the business will engage in;

(4) sales that will be generated from outside Minnesota;

(5) how the business will build on existing regional strengths or diversify the regional economy; and

(6) any other criteria the commissioner deems necessary.

(d) A person must be:

(1) predominantly engaged in one or more of the following industry sectors:

(i) manufacturing;

(ii) software or Internet publishing, computer systems design and related services, architectural, engineering, and related services, or scientific research and development; or

(iii) a global, national, divisional, or regional headquarters operation that manages business operations for a minimum of a multistate territory; and

(2) a business conducting expanded business operations in at least one of the industry sectors in clause (1), by the later of the date of the signing of the business subsidy agreement, or the date of the approval by the commissioner of employment and economic development under section 469.362, in a business facility that is:

(i) a new expansion to a business facility owned by the business prior to the date of the signing of the business subsidy agreement, or the date of the approval by the commissioner of employment and economic development under section 469.362;

(ii) not owned by the business prior to the date of the signing of the business subsidy agreement, or the date of the approval by the commissioner of employment and economic development under section 469.362; or

(iii) newly constructed for the business's expansion of operations.

(e) A person must increase full-time employment in the first full year of operation at the TECHZ business location by a minimum of five jobs or 20 percent, whichever is greater, measured relative to the business operations prior to the expansion and maintain the required level of employment for each year the business is designated as a TECHZ business.

(f) A person must pay each employee compensation, including benefits not mandated by law, that on an annualized basis is equal to at least 110 percent of the federal poverty level for a family of four.

(g) A person must pay the prevailing wage for construction, installation, remodeling, and repair as required by section 116J.871.

(h) A person must enter a binding written business subsidy agreement with the commissioner that:

(1) pledges the business will meet the requirements of paragraphs (b) and (d) to (g);

(2) provides for repayment of all tax benefits enumerated under section 469.365 to the business under the procedures in section 469.369, if the requirements of this subdivision are not met for the taxable year or for taxes payable during the year in which the requirements were not met; and

(3) contains any other terms the commissioner determines appropriate.

Subd. 8. **TECHZ location.** "TECHZ location" means the property described in a business subsidy agreement that is approved by the commissioner under section 469.362 and that is occupied by the qualified TECHZ business that is a party to the agreement.

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

Sec. 16. **[469.361] TECHZ; LIMITATIONS.**

Subdivision 1. **Duration limit.** (a) The maximum duration that a qualified TECHZ business may receive a tax benefit is determined under the section that authorizes the tax benefit. The local government unit may request a shorter duration than is authorized. The commissioner may specify a shorter duration, regardless of the authorized duration, in order to ensure that benefits to the state outweigh the costs.

(b) The commissioner may not approve any business subsidy agreements after December 31, 2015.

Subd 2. **Border city development zones.** (a) A qualified TECHZ business may not operate in a TECHZ location if it is receiving benefits under sections 469.3171 to 469.1735 for being located at that location in a border city development zone.

(b) A city must not provide tax incentives under sections 469.1731 to 469.1735 to a qualified TECHZ business operating in a TECHZ location in the city.

Subd. 3. **Job opportunity building zones.** A TECHZ location cannot be located in a job opportunity building zone.

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

Sec. 17. **[469.362] APPLICATION FOR DESIGNATION.**

Subdivision 1. **Eligibility.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply to the commissioner for a business to be designated as a qualified TECHZ business.

Subd. 2. **Application.** In order for a business to receive designation as a qualified TECHZ business, a local government unit must submit an application to the commissioner. In the application, the local government unit and the qualified TECHZ business must provide the commissioner with the information that the commissioner needs to review a business subsidy agreement under section 469.360, subdivision 7, paragraph (c). The application must be in the form and manner required by the commissioner.

Subd. 3. **State review criteria.** (a) The commissioner may only approve an application after considering:

(1) whether the business has local or Minnesota competitors that will be significantly and adversely affected by the business subsidy agreement;

(2) whether the proposed job creation, job retention, and capital investment is commensurate with the estimated tax benefits provided to the business by participating as a qualified TECHZ business; and

(3) whether other financial assistance is available.

(b) Additionally, the commissioner may only approve a business subsidy agreement after considering if, without the estimated tax benefits, the business:

(1) would not have expanded operations within Minnesota;

(2) would not have relocated from outside the state to Minnesota;

(3) would have moved to another state or expanded in another state rather than remaining or expanding in Minnesota; or

(4) would not have opened a new facility in Minnesota.

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

Sec. 18. **[469.363] BUSINESS SUBSIDY AGREEMENTS; REPORTS.**

Subdivision 1. **TECHZ business subsidy agreement.** A business subsidy agreement required under section 469.360, subdivision 7, paragraph (h), must comply with this section.

Subd. 2. **Business subsidy agreement requirements.** A business subsidy agreement is not effective until the commissioner has approved the agreement in writing. The commissioner may not approve an agreement that violates sections 116J.993 to 116J.995 or 469.360 to 469.3701. The commissioner may not approve an agreement unless:

(1) the qualified TECHZ business is required to create or retain a minimum number of jobs;

(2) the agreement defines "jobs" for purposes of determining compliance with wage and job goals as all jobs that constitute "employment" for purposes of state unemployment insurance;

(3) the qualified TECHZ business is required to report all jobs created or retained because of the separate business location, if any, for purposes of section 268.044; and

(4) the qualified TECHZ business agrees to provide the appropriate data practices release so that the commissioner of revenue and the commissioner of employment and economic development can monitor compliance with the terms of the agreement.

Subd. 3. **Standard agreement.** The commissioner must develop and require the use of a standard business subsidy agreement that imposes definitive and enforceable obligations on the qualified TECHZ business.

Subd. 4. **Business subsidy reports.** (a) A local government unit must report to the commissioner on the two-year anniversary date of the business subsidy agreement on the progress of the qualified TECHZ business in meeting the goals listed in the business subsidy agreement.

(b) A local government unit must annually report to the commissioner on the progress of the qualified TECHZ business in meeting the goals listed in the business subsidy agreement as required under section 116J.994, subdivisions 7 and 8.

(c) The commissioner must hold a qualified TECHZ business out of compliance or remove the business from the program if the qualified TECHZ business fails to provide the information requested by the local government unit for the report under paragraph (a) within 30 days of written notice that the information is overdue.

Subd. 5. **Public notice and hearing.** A local government unit must provide public notice and hearing as required under section 116J.994, subdivision 5, before approving a business subsidy agreement. Public notice of a proposed business subsidy agreement must be published in a local newspaper of general circulation. The public hearing must be held in a location specified by the local government unit. Notwithstanding the requirements of section 116J.994, subdivision 5, the commissioner is not required to provide an additional public notice and hearing when entering into a business subsidy agreement with a local government unit and a qualified business.

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

Sec. 19. **[469.365] TAX INCENTIVES AVAILABLE TO TECHZ BUSINESS.**

A qualified TECHZ business, and certain property used by a qualified TECHZ business, qualifies for:

(1) exemption from individual income taxes as provided under section 469.366;

(2) exemption from corporate franchise taxes as provided under section 469.367;

(3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 42;

(4) exemption from the property tax as provided in section 272.02, subdivision 95; and

(5) the new job creation credit allowed under section 469.368.

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

Sec. 20. **[469.366] TECHZ INCOME TAX EXEMPTION.**

(a) An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified TECHZ business. This exemption is determined by multiplying its net income for the operation of the qualified TECHZ business by its payroll growth percentage and subtracting the result in determining taxable income. For a resident of Minnesota, the payroll growth percentage is calculated by using total payroll under section 290.191 rather than Minnesota payroll.

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the Minnesota payroll and Minnesota property of the qualified business.

(c) For a qualified TECHZ business located outside the metropolitan area as defined in section 473.121, subdivision 2, this exemption applies to income earned in the year that the business enters into the business subsidy agreement as required under section 469.360, subdivision 7, and the ten following taxable years. For a business located within the metropolitan area, this exemption applies to income earned in the year that the business enters into the business subsidy agreement required under section 469.360, subdivision 7, and the five following taxable years.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 21. **[469.367] CORPORATE FRANCHISE TAX EXEMPTION.**

(a) A qualified TECHZ business is exempt from taxation under section 290.02 and from the alternative minimum tax under section 290.0921 for the portion of its income attributable to operations conducted at the TECHZ business location approved by the commissioner. This exemption is determined as follows:

(1) for purposes of the tax imposed under section 290.02, by multiplying its taxable net income by its payroll growth percentage and subtracting the result from taxable net income in determining taxable income; and

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable net income by its payroll growth factor and subtracting the result from alternative minimum taxable net income.

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of Minnesota payroll and Minnesota property of the corporation.

(c) For a qualified TECHZ business located outside the metropolitan area as defined in section 273.121, subdivision 2, this exemption applies to income earned in the year that the business enters into the business subsidy agreement as required under section 469.360, subdivision 7, and the ten following taxable years for a business located within the metropolitan area this exemption applies to income earned in the year that the business enters into the business subsidy agreement required under section 469.360, subdivision 7, and the five following taxable years.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 22. **[469.368] NEW JOB CREATION CREDIT.**

Subdivision 1. **Credit allowed.** A qualified TECHZ business is allowed a credit against the taxes imposed under chapter 290. The credit equals $1,500 times the number of new employees employed by the qualified TECHZ business at the TECHZ business location.

Subd. 2. **Duration.** The credit is available for the first five full taxable years that begin after the day the business enters into the business subsidy agreement as required under section 469.360, subdivision 7.

Subd. 3. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 4. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2010.

Sec. 23. **[469.369] REPAYMENT OF TAX BENEFITS.**

Subdivision 1. **Repayment obligation.** A business must repay the total tax benefits listed in section 469.365 received during the two years immediately before it ceased to be a qualified TECHZ business. The commissioner of employment and economic development may extend for up to one year the period for meeting any goals provided in the business subsidy agreement.

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Business" means any person that received tax benefits enumerated in section 469.365.

(c) "Commissioner" means the commissioner of revenue.

Subd. 3. **Disposition of repayment.** The repayment must be paid to the state to the extent it represents a state tax reduction and to the county to the extent it represents a property tax reduction. Any amount repaid to the state must be deposited in the general fund. Any amount repaid to the county for the property tax exemption must be distributed to the taxing authorities with authority to levy taxes in the zone in the same manner provided for distribution of payment of delinquent property taxes. Any repayment of local sales taxes must be repaid to the commissioner for distribution to the city or county imposing the local sales tax.

Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must file an amended return with the commissioner of revenue and pay an taxes required to be repaid within 30 days after becoming subject to repayment under this section. The amount required to be repaid is determined by calculating the tax for the period or periods for which repayment is required without regard to the exemptions and credits allowed under section 469.365.

(b) For the repayment of property taxes, the county auditor shall prepare a tax statement for the business, applying the applicable tax extension rates for each payable year and provide a copy to the business and to the taxpayer of record. The business must pay the taxes to the county treasurer within 30 days after receipt of the tax statement. The business or the taxpayer of record may appeal the valuation and determination of the property tax to the tax court within 30 days after receipt of the tax statement.

(c) The provisions of chapters 270C and 289A relating to the commissioner's authority to audit, assess, and collect the tax and to hear appeals are applicable to the repayment under paragraphs (a) and (b). The commissioner may impose civil penalties as provided in chapter 289A, and the additional tax and penalties are subject to interest at the rate provided in section 270C.40, from 30 days after becoming subject to repayment under this section until the date the tax is paid.

(d) If a property tax is not repaid under paragraph (b), the county treasurer shall add the amount required to be repaid to the property taxes assessed against the property for payment in the year following the year in which the auditor provided the statement under paragraph (b).

(e) For determining the tax required to be repaid, a reduction of a state or local sales or use tax is deemed to have been received on the date that the good or service was purchased or first put to a taxable use. In the case of an income tax or franchise tax, including the credit payable under section 469.368, a reduction of tax is deemed to have been received for the two most recent tax years that have ended prior to the date that the business became subject to repayment under this section. In the case of a property tax, a reduction of tax is deemed to have been received for the taxes payable in the year that the business was subject to repayment under this section and for the taxes payable in the prior year.

(f) The commissioner may assess the repayment of taxes under paragraph (c) any time within two years after the business becomes subject to repayment under subdivision 1, or within any period of limitations for the assessment of tax under section 289A.38, whichever period is later. The county auditor may send the statement under paragraph (b) any time within three years after the business becomes subject to repayment under subdivision 1.

(g) A business is not entitled to any income tax or franchise tax benefits, including refundable credits, for any part of the year in which the business becomes subject to repayment under this section nor for any year thereafter. Property is not exempt from tax under section 272.02, subdivision 95, for any taxes payable in the year following the year in which the property became subject to repayment under this section nor for any year thereafter. A business is not eligible for any sales tax benefits beginning with goods or services purchases or first put to a taxable use on the day that the business becomes subject to repayment under this section.

Subd. 5. **Waiver authority.** The commissioner may waive all or part of a repayment required under subdivision 1, if the commissioner, in consultation with the commissioner of employment and economic development and appropriate officials from the local government units in which the qualified TECHZ business is located, determines that requiring repayment of the tax is not in the best interest of the state or the local government units and the business ceased operating as a qualified TECHZ business as a result of circumstances beyond its control including, but not limited to:

(1) a natural disaster;

(2) unforeseen industry trends; or

(3) loss of a major supplier or customer.

Subd. 6. **Reconciliation.** Where this section is inconsistent with section 116J.994, subdivision 3, paragraph (e), or 6, or any other provisions of sections 116J.993 to 116J.995, this section prevails.

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

Sec. 24. **[469.3692] PROHIBITION AGAINST AMENDMENTS TO BUSINESS SUBSIDY AGREEMENT.**

Under no circumstance shall terms of any agreement required as a condition for eligibility for benefits listed under section 469.365 be amended to change job creation, job retention, or wage goals included in the agreement.

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

Sec. 25. **[469.3693] CERTIFICATION OF CONTINUING ELIGIBILITY FOR TECHZ BENEFITS.**

(a) By October 15 of each year, every qualified TECHZ business must certify to the commissioner of revenue, on a form prescribed by the commissioner of revenue, whether it is in compliance with any agreement required as a condition for eligibility for benefits listed under section 469.365. A qualified TECHZ business that fails to submit the certification, or any qualified TECHZ business that submits a certification that the commissioner of revenue later determines materially misrepresents the business's compliance with the agreement, is subject to the repayment provisions under section 469.369 from January 1 of the year in which the report is due or the date that the business became subject to section 469.369, whichever is earlier. Any such business is permanently barred from obtaining benefits under section 469.365. For purposes of this section, the bar applies to an entity and also applies to any individuals or entities that have an ownership interest of at least 20 percent of the entity.

(b) Before the sanctions under paragraph (a) apply to a qualified TECHZ business that fails to submit the certification, the commissioner of revenue shall send notice to the business, demanding that the certification be submitted within 30 days and advising the business of the consequences for failing to do so. The commissioner of revenue shall notify the commissioner of employment and economic development and the appropriate local government unit whenever notice is sent to a business under this paragraph.

(c) The certification required under this section is public.

(d) The commissioner of revenue shall promptly notify the commissioner of employment and economic development of all qualified TECHZ businesses that certify that they are not in compliance with the terms of their business subsidy agreement and all qualified TECHZ businesses that fail to file the certification.

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

Sec. 26. **[469.3701] STATE AUDITOR; AUDITS OF TECHZ BUSINESSES AND BUSINESS SUBSIDY AGREEMENTS.**

The Office of the State Auditor may annually audit the creation and operation of all TECHZ businesses and business subsidy agreements entered into under sections 469.360 to 469.3693. To the extent necessary to perform this audit, the state auditor may request from the commissioner of revenue tax return information of taxpayers who are eligible to receive tax benefits authorized under section 469.365. To the extent necessary to perform this audit, the state auditor may request from the commissioner of employment and economic development wage detail report information required under section 268.044 of taxpayers eligible to receive tax benefits authorized under section 469.365.

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

ARTICLE 6

PROPERTY TAXES, AIDS, AND PAYMENTS

Section 1. Minnesota Statutes 2008, section 97A.061, is amended by adding a subdivision to read:

Subd. 6. **Reduction.** Beginning in 2010, the amount of an annual payment to a county under this section is the amount determined under subdivisions 1 to 5, reduced by six percent.

EFFECTIVE DATE. This section is effective for payment made to counties in 2010 and thereafter.

Sec. 2. Minnesota Statutes 2008, section 272.02, subdivision 42, is amended to read:

Subd. 42. **Property leased to ~~school districts~~ schools.** (a) Property that is leased or rented to a school district is exempt from taxation if it meets the following requirements:

(1) the lease must be for a period of at least 12 consecutive months;

(2) the terms of the lease must require the school district to pay a nominal consideration for use of the building;

(3) the school district must use the property to provide direct instruction in any grade from kindergarten through grade 12; special education for disabled children; adult

basic education as described in section 124D.52; preschool and early childhood family education; or community education programs, including provision of administrative services directly related to the educational program at that site; and

(4) the lease must provide that the school district has the exclusive use of the property during the lease period.

(b) Property that is leased or rented to a charter school formed and operated under section 124D.10 is exempt from taxation if it meets all of the following requirements:

(1) the lease is for a period of at least 12 consecutive months;

(2) the charter school must use the property to provide direct instruction in any grade from kindergarten through grade 12, to provide special education for disabled children, or to provide administrative services directly related to the educational program at that site; and

(3) except for lease provisions that allow for the shared use of the property by the charter school and another public or private school, by the charter school and a church, or by the charter school and the state or a political subdivision of the state, the lease must provide that the charter school has the exclusive right to use the property during the lease period.

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 3. Minnesota Statutes 2008, section 273.1384, is amended by adding a subdivision to read:

Subd. 6. **Credit reduction.** In 2011 and thereafter, the annual market value credit reimbursement amount for each taxing jurisdiction determined under subdivisions 1 to 5 is reduced by the dollar amount of the reduction in market value credit reimbursements for that taxing jurisdiction in 2010 due to allotment reductions under section 16A.152 and the reductions under section 477A.0133. No taxing jurisdiction's market value credit reimbursements are reduced to less than zero under this subdivision. The commissioner of revenue shall pay the annual market value credit reimbursement amounts, after reduction under this subdivision, to the affected taxing jurisdictions as provided in this section.

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

Sec. 4. Minnesota Statutes 2009 Supplement, section 275.70, subdivision 5, is amended to read:

Subd. 5. **Special levies.** "Special levies" means those portions of ad valorem taxes levied by a local governmental unit for the following purposes or in the following manner:

(1) to pay the costs of the principal and interest on bonded indebtedness or to reimburse for the amount of liquor store revenues used to pay the principal and interest due on municipal liquor store bonds in the year preceding the year for which the levy limit is calculated;

(2) to pay the costs of principal and interest on certificates of indebtedness issued for any corporate purpose except for the following:

(i) tax anticipation or aid anticipation certificates of indebtedness;

(ii) certificates of indebtedness issued under sections 298.28 and 298.282;

(iii) certificates of indebtedness used to fund current expenses or to pay the costs of extraordinary expenditures that result from a public emergency; or

(iv) certificates of indebtedness used to fund an insufficiency in tax receipts or an insufficiency in other revenue sources;

(3) to provide for the bonded indebtedness portion of payments made to another political subdivision of the state of Minnesota;

(4) to fund payments made to the Minnesota State Armory Building Commission under section 193.145, subdivision 2, to retire the principal and interest on armory construction bonds;

(5) property taxes approved by voters which are levied against the referendum market value as provided under section 275.61;

(6) to fund matching requirements needed to qualify for federal or state grants or programs to the extent that either (i) the matching requirement exceeds the matching requirement in calendar year 2001, or (ii) it is a new matching requirement that did not exist prior to 2002;

(7) to pay the expenses reasonably and necessarily incurred in preparing for or repairing the effects of natural disaster including the occurrence or threat of widespread or severe damage, injury, or loss of life or property resulting from natural causes, in accordance with standards formulated by the Emergency Services Division of the state Department of Public Safety, as allowed by the commissioner of revenue under section 275.74, subdivision 2;

(8) pay amounts required to correct an error in the levy certified to the county auditor by a city or county in a levy year, but only to the extent that when added to the preceding year's levy it is not in excess of an applicable statutory, special law or charter limitation, or the limitation imposed on the governmental subdivision by sections 275.70 to 275.74 in the preceding levy year;

(9) to pay an abatement under section 469.1815;

(10) to pay any costs attributable to increases in the employer contribution rates under chapter 353, or locally administered pension plans, that are effective after June 30, 2001;

(11) to pay the operating or maintenance costs of a county jail as authorized in section 641.01 or 641.262, or of a correctional facility as defined in section 241.021, subdivision 1, paragraph (f), to the extent that the county can demonstrate to the commissioner of revenue that the amount has been included in the county budget as a direct result of a rule, minimum requirement, minimum standard, or directive of the Department of Corrections, or to pay the operating or maintenance costs of a regional jail as authorized in section 641.262. For purposes of this clause, a district court order is not a rule, minimum requirement, minimum standard, or directive of the Department of Corrections. If the county utilizes this special levy, except to pay operating or maintenance costs of a new regional jail facility under sections 641.262 to 641.264 which will not replace an existing jail facility, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71, shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(12) to pay for operation of a lake improvement district, as authorized under section 103B.555. If the county utilizes this special levy, any amount levied by the county in the previous levy year for the purposes specified under this clause and included in the county's previous year's levy limitation computed under section 275.71 shall be deducted from the levy limit base under section 275.71, subdivision 2, when determining the county's current year levy limitation. The county shall provide the necessary information to the commissioner of revenue for making this determination;

(13) to repay a state or federal loan used to fund the direct or indirect required spending by the local government due to a state or federal transportation project or other state or federal capital project. This authority may only be used if the project is not a local government initiative;

(14) to pay for court administration costs as required under section 273.1398, subdivision 4b, less the (i) county's share of transferred fines and fees collected by the district courts in the county for calendar year 2001 and (ii) the aid amount certified to be paid to the county in 2004 under section 273.1398, subdivision 4c; however, for taxes levied to pay for these costs in the year in which the court financing is transferred to the

state, the amount under this clause is limited to the amount of aid the county is certified to receive under section 273.1398, subdivision 4a;

(15) to fund a police or firefighters relief association as required under section 69.77 to the extent that the required amount exceeds the amount levied for this purpose in 2001;

(16) for purposes of a storm sewer improvement district under section 444.20;

(17) to pay for the maintenance and support of a city or county society for the prevention of cruelty to animals under section 343.11, but not to exceed in any year $4,800 or the sum of $1 per capita based on the county's or city's population as of the most recent federal census, whichever is greater. If the city or county uses this special levy, any amount levied by the city or county in the previous levy year for the purposes specified in this clause and included in the city's or county's previous year's levy limit computed under section 275.71, must be deducted from the levy limit base under section 275.71, subdivision 2, in determining the city's or county's current year levy limit;

(18) for counties, to pay for the increase in their share of health and human service costs caused by reductions in federal health and human services grants effective after September 30, 2007;

(19) for a city, for the costs reasonably and necessarily incurred for securing, maintaining, or demolishing foreclosed or abandoned residential properties, as allowed by the commissioner of revenue under section 275.74, subdivision 2. A city must have either (i) a foreclosure rate of at least 1.4 percent in 2007, or (ii) a foreclosure rate in 2007 in the city or in a zip code area of the city that is at least 50 percent higher than the average foreclosure rate in the metropolitan area, as defined in section 473.121, subdivision 2, to use this special levy. For purposes of this paragraph, "foreclosure rate" means the number of foreclosures, as indicated by sheriff sales records, divided by the number of households in the city in 2007;

(20) for a city, for the unreimbursed costs of redeployed traffic-control agents and lost traffic citation revenue due to the collapse of the Interstate 35W bridge, as certified to the Federal Highway Administration;

(21) to pay costs attributable to wages and benefits for sheriff, police, and fire personnel. If a local governmental unit did not use this special levy in the previous year its levy limit base under section 275.71 shall be reduced by the amount equal to the amount it levied for the purposes specified in this clause in the previous year;

(22) an amount equal to 50 percent of any reductions in the certified aids or credits payable under sections 477A.011 to 477A.014, and section 273.1384, due to unallotment under section 16A.152 or 477A.0133. In the case of an unallotment, the amount of the levy allowed under this clause is equal to the amount unallotted or reduced in the

calendar year in which the tax is levied unless the unallotment amount is not known by September 1 of the levy year, and the local government has not adjusted its levy under section 275.065, subdivision 6, or 275.07, subdivision 6, in which case the unallotment amount may be levied in the following year;

(23) to pay for the difference between one-half of the costs of confining sex offenders undergoing the civil commitment process and any state payments for this purpose pursuant to section 253B.185, subdivision 5;

(24) for a county to pay the costs of the first year of maintaining and operating a new facility or new expansion, either of which contains courts, corrections, dispatch, criminal investigation labs, or other public safety facilities and for which all or a portion of the funding for the site acquisition, building design, site preparation, construction, and related equipment was issued or authorized prior to the imposition of levy limits in 2008. The levy limit base shall then be increased by an amount equal to the new facility's first full year's operating costs as described in this clause; and

(25) for 50 percent of the estimated amount of reduction to credits under section 273.1384 for credits payable in the year in which the levy is payable.

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 5. Minnesota Statutes 2008, section 275.71, subdivision 5, is amended to read:

Subd. 5. **Property tax levy limit.** ~~For taxes levied in 2008 through 2010,~~ (a) The property tax levy limit for a local governmental unit is equal to its adjusted levy limit base determined under subdivision 4 plus any additional levy authorized under section 275.73, which is levied against net tax capacity, reduced by the sum of (i) the total amount of aids and reimbursements that the local governmental unit is certified to receive under sections 477A.011 to 477A.014, (ii) taconite aids under sections 298.28 and 298.282 including any aid which was required to be placed in a special fund for expenditure in the next succeeding year, (iii) estimated payments to the local governmental unit under section 272.029, adjusted for any error in estimation in the preceding year, and (iv) aids under section 477A.16.

(b) If an aid, payment, or other amount used in paragraph (a) to reduce a local government unit's levy limit is reduced by allotment reduction under section 16A.152, the amount of the aid, payment, or other amount prior to unallotment is used in the computations in paragraph (a). In order for a local government unit to levy outside of its limit to offset a reduction attributable to unallotment, it must do so under, and to the extent authorized by, a special levy authority. If any amount in paragraph (a), items (i) to (iv), has decreased from the corresponding amount for the prior year other than because of an allotment reduction under section 16A.152, an amount equal to one-half of that decrease must be subtracted from the result obtained under paragraph (a).

EFFECTIVE DATE. This section is effective for taxes payable in 2011 and thereafter.

Sec. 6. Minnesota Statutes 2009 Supplement, section 290C.07, is amended to read:

290C.07 CALCULATION OF INCENTIVE PAYMENT.

An approved claimant under the sustainable forest incentive program is eligible to receive an annual payment. The payment shall equal the greater of:

(1) the difference between the property tax that would be paid on the land using the previous year's statewide average total township tax rate and a class rate of one percent, if the land were valued at (i) the average statewide managed forest land market value per acre calculated under section 290C.06, and (ii) the average statewide managed forest land current use value per acre calculated under section 290C.02, subdivision 5; or

(2) two-thirds of the property tax amount determined by using the previous year's statewide average total township tax rate, the estimated market value per acre as calculated in section 290C.06, and a class rate of one percent, provided that the payment shall be no less than $7 per acre for each acre enrolled in the sustainable forest incentive program and the maximum payment per each Social Security Number or state or federal business tax identification number shall not exceed $100,000.

EFFECTIVE DATE. This section is effective for payments made after June 30, 2011, based on certifications due in 2011 and thereafter.

Sec. 7. Minnesota Statutes 2008, section 477A.013, subdivision 9, is amended to read:

Subd. 9. **City aid distribution.** (a) ~~In calendar year 2009 and thereafter,~~ Each city shall receive an aid distribution equal to the sum of (1) the city formula aid under subdivision 8, and (2) its city aid base.

(b) For aids payable in ~~2009~~ 2011 only, the total aid for any city shall not exceed the sum of (1) 35 percent of the city's net levy for the year prior to the aid distribution, plus (2) its total aid in the previous year. For aid payable in 2011 only, the total aid for any city with a population of 2,500 or more may not be less than its total aid under this section in the previous year minus the lesser of $125 multiplied by its population, or 50 percent of its net levy in the year prior to the aid distribution. The total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus the lesser of $125 multiplied by its population, or 40 percent of its 2003 certified aid amount.

(c) For aids payable in ~~2010~~ 2012 and thereafter, the total aid for any city shall not exceed the sum of (1) ten percent of the city's net levy for the year prior to the aid distribution plus (2) its total aid in the previous year. For aids payable in ~~2009~~ 2012 and thereafter, the total aid for any city with a population of 2,500 or more may not be less than its total aid under this section in the previous year minus the lesser of $10 multiplied by its population, or ten percent of its net levy in the year prior to the aid distribution.

(d) For aids payable in ~~2010~~ 2012 and thereafter, the total aid for a city with a population less than 2,500 must not be less than the amount it was certified to receive in the previous year minus the lesser of $10 multiplied by its population, or five percent of its 2003 certified aid amount. ~~For aids payable in 2009 only, the total aid for a city with a population less than 2,500 must not be less than what it received under this section in the previous year unless its total aid in calendar year 2008 was aid under section 477A.011, subdivision 36, paragraph (s), in which case its minimum aid is zero.~~

(e) For aid payable in 2012 and thereafter, a city's aid loss under this section may not exceed $300,000 in any year in which the total city aid appropriation under section 477A.03, subdivision 2a, is equal or greater than the appropriation under that subdivision in the previous year, unless the city has an adjustment in its city net tax capacity under the process described in section 469.174, subdivision 28.

(f) If a city's net tax capacity used in calculating aid under this section has decreased in any year by more than 25 percent from its net tax capacity in the previous year due to property becoming tax-exempt Indian land, the city's maximum allowed aid increase under paragraph (c) shall be increased by an amount equal to (1) the city's tax rate in the year of the aid calculation, multiplied by (2) the amount of its net tax capacity decrease resulting from the property becoming tax exempt.

EFFECTIVE DATE. This section is effective for aid payable in 2011 and thereafter.

Sec. 8. **[477A.0133] ADDITIONAL 2010 AID AND REDUCTIONS.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them in this subdivision.

(b) The "2010 revenue base" for a county is the sum of the county's certified property tax levy for taxes payable in 2010, plus the amount of county program aid under section 477A.0124 that the county was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the county was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

(c) The "2010 revenue base" for a statutory or home rule charter city is the sum of the city's certified property tax levy for taxes payable in 2010, plus the amount of local government aid under section 477A.013, subdivision 9, that the city was certified to receive in 2010, plus the amount of taconite aids under sections 298.28 and 298.282 that the city was certified to receive in 2010 including any amounts required to be placed in a special fund for distribution in a later year.

Subd. 2. **2010 reductions; counties, cities, and towns.** After implementing any reduction of county program aid under section 477A.0124, local government aid under section 477A.013, or market value credit reimbursements under section 273.1384, for amounts payable in 2010 to reflect the reduction of allotments under section 16A.152, the commissioner of revenue must compute the additional aid reduction amounts for each county and city provided under this section.

The additional reduction amounts under this section are limited to the sum of the amount of county program aid under section 477A.0124, local government aid under section 477A.013, and market value credit reimbursements under section 273.1384 payable to the county or city in 2010 before the reductions in this section, but after the reductions for unallotments.

The reduction amount under this section is applied first to reduce the amount payable as either county program aid under section 477A.0124, in the case of a county, or local government aid under section 477A.013, in the case of a city, and then, if necessary, to reduce the amount payable to the county or city in 2010 as market value credit reimbursements under section 273.1384.

No aid or reimbursement amount is reduced to less than zero under this section.

The additional 2010 aid reduction amount for a county is equal to 4.354 percent of the county's 2010 revenue base. The additional 2010 aid reduction amount for a city is equal to 8.158 percent of the city's 2010 revenue base.

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

Sec. 9. Minnesota Statutes 2008, section 477A.03, subdivision 2a, is amended to read:

Subd. 2a. **Cities.** For aids payable in ~~2009~~ 2011 and thereafter, the total aid paid under section 477A.013, subdivision 9, is ~~$526,148,487, subject to adjustment in subdivision 5~~ $337,640,792.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 10. Minnesota Statutes 2008, section 477A.03, subdivision 2b, is amended to read:

Subd. 2b. **Counties.** (a) For aids payable in ~~2009~~ 2011 and thereafter, the total aid payable under section 477A.0124, subdivision 3, is ~~$111,500,000 minus one-half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), subject to adjustment in subdivision 5~~ $33,059,086. Each calendar year, $500,000 shall be retained by the commissioner of revenue to make reimbursements to the commissioner of management and budget for payments made under section 611.27. For calendar year 2004, the amount shall be in addition to the payments authorized under section 477A.0124, subdivision 1. For calendar year 2005 and subsequent years, the amount shall be deducted from the appropriation under this paragraph. The reimbursements shall be to defray the additional costs associated with court-ordered counsel under section 611.27. Any retained amounts not used for reimbursement in a year shall be included in the next distribution of county need aid that is certified to the county auditors for the purpose of property tax reduction for the next taxes payable year.

(b) For aids payable in ~~2009~~ 2011 and thereafter, the total aid under section 477A.0124, subdivision 4, is ~~$116,132,923 minus one-half of the total aid amount determined under section 477A.0124, subdivision 5, paragraph (b), subject to adjustment in subdivision 5~~ $34,082,538. The commissioner of management and budget shall bill the commissioner of revenue for the cost of preparation of local impact notes as required by section 3.987, not to exceed $207,000 in fiscal year 2004 and thereafter. The commissioner of education shall bill the commissioner of revenue for the cost of preparation of local impact notes for school districts as required by section 3.987, not to exceed $7,000 in fiscal year 2004 and thereafter. The commissioner of revenue shall deduct the amounts billed under this paragraph from the appropriation under this paragraph. The amounts deducted are appropriated to the commissioner of management and budget and the commissioner of education for the preparation of local impact notes.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

Sec. 11. Minnesota Statutes 2008, section 477A.12, is amended by adding a subdivision to read:

Subd. 4. **Reduction.** Beginning in 2010, the amount of an annual payment to a county under this section is the amount determined under subdivision 1 to 3, reduced by six percent.

EFFECTIVE DATE. This section is effective for payment made to counties in 2010 and thereafter.

Sec. 12. Minnesota Statutes 2008, section 477A.14, is amended by adding a subdivision to read:

Subd. 3. **Reduction.** Beginning in 2010, the monetary amounts per acre specified in subdivisions 1 and 2, are reduced by six percent.

EFFECTIVE DATE. This section is effective for payment and distributions made in 2010 and thereafter.

Sec. 13. Laws 2008, chapter 366, article 3, section 3, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for levies certified in calendar years 2008 ~~through 2010~~, payable in 2009 ~~through 2011~~, and thereafter.

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

Sec. 14. Laws 2008, chapter 366, article 3, section 4, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective for levies certified in 2008 ~~through 2010~~, payable in 2009 ~~through 2011~~, and thereafter.

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

Sec. 15. **REPEALER.**

Minnesota Statutes 2008, section 477A.03, subdivision 5, is repealed.

EFFECTIVE DATE. This section is effective for aids payable in 2011 and thereafter.

ARTICLE 7

REFUNDS

Section 1. Minnesota Statutes 2008, section 270A.03, subdivision 7, is amended to read:

Subd. 7. **Refund.** "Refund" means an individual income tax refund ~~or political contribution refund~~, pursuant to chapter 290, or a property tax credit or refund, pursuant to chapter 290A, or a sustainable forest tax payment to a claimant under chapter 290C.

For purposes of this chapter, lottery prizes, as set forth in section 349A.08, subdivision 8, and amounts granted to persons by the legislature on the recommendation of the joint senate-house of representatives Subcommittee on Claims shall be treated as refunds.

In the case of a joint property tax refund payable to spouses under chapter 290A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total income determined under section 290A.03, subdivision 3. In the case of a joint income tax refund under chapter 289A, the refund shall be considered as belonging to each spouse in the proportion of the total refund that equals each spouse's proportion of the total taxable income determined under section 290.01, subdivision 29. The commissioner shall remit the entire refund to the claimant agency, which shall, upon the request of the spouse who does not owe the debt, determine the amount of the refund belonging to that spouse and refund the amount to that spouse. For court fines, fees, and surcharges and court-ordered restitution under section 611A.04, subdivision 2, the notice provided by the commissioner of revenue under section 270A.07, subdivision 2, paragraph (b), serves as the appropriate legal notice to the spouse who does not owe the debt.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 2. Minnesota Statutes 2008, section 289A.50, subdivision 1, is amended to read:

Subdivision 1. **General right to refund.** (a) Subject to the requirements of this section and section 289A.40, a taxpayer who has paid a tax in excess of the taxes lawfully due and who files a written claim for refund will be refunded or credited the overpayment of the tax determined by the commissioner to be erroneously paid.

(b) The claim must specify the name of the taxpayer, the date when and the period for which the tax was paid, the kind of tax paid, the amount of the tax that the taxpayer claims was erroneously paid, the grounds on which a refund is claimed, and other information relative to the payment and in the form required by the commissioner. An income tax, estate tax, or corporate franchise tax return, or amended return claiming an overpayment constitutes a claim for refund.

(c) When, in the course of an examination, and within the time for requesting a refund, the commissioner determines that there has been an overpayment of tax, the commissioner shall refund or credit the overpayment to the taxpayer and no demand is necessary. If the overpayment exceeds $1, the amount of the overpayment must be refunded to the taxpayer. If the amount of the overpayment is less than $1, the commissioner is not required to refund. In these situations, the commissioner does not have to make written findings or serve notice by mail to the taxpayer.

(d) If the amount allowable as a credit for withholding, estimated taxes, or dependent care exceeds the tax against which the credit is allowable, the amount of the excess is considered an overpayment. ~~The refund allowed by section 290.06, subdivision 23, is also considered an overpayment.~~ The requirements of section 270C.33 do not apply to the refunding of such an overpayment shown on the original return filed by a taxpayer.

(e) If the entertainment tax withheld at the source exceeds by $1 or more the taxes, penalties, and interest reported in the return of the entertainment entity or imposed by section 290.9201, the excess must be refunded to the entertainment entity. If the excess is less than $1, the commissioner need not refund that amount.

(f) If the surety deposit required for a construction contract exceeds the liability of the out-of-state contractor, the commissioner shall refund the difference to the contractor.

(g) An action of the commissioner in refunding the amount of the overpayment does not constitute a determination of the correctness of the return of the taxpayer.

(h) There is appropriated from the general fund to the commissioner of revenue the amount necessary to pay refunds allowed under this section.

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 3. Minnesota Statutes 2008, section 290.01, subdivision 6, is amended to read:

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

EFFECTIVE DATE. This section is effective for political contribution refund claims based on contributions that are made after June 30, 2011.

Sec. 4. Minnesota Statutes 2008, section 290A.03, subdivision 11, is amended to read:

Subd. 11. **Rent constituting property taxes.** "Rent constituting property taxes" means ~~19~~ 15 percent of the gross rent actually paid in cash, or its equivalent, or the portion of rent paid in lieu of property taxes, in any calendar year by a claimant for the right of occupancy of the claimant's Minnesota homestead in the calendar year, and which rent constitutes the basis, in the succeeding calendar year of a claim for relief under this chapter by the claimant.

EFFECTIVE DATE. This section is effective for property tax refunds based on rent paid after December 31, 2009.

Sec. 5. Minnesota Statutes 2008, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **Property taxes payable.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead after deductions made under sections 273.135, 273.1384, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year, and after any refund claimed and allowable under section 290A.04, subdivision 2h, that is first payable in the year that the property tax is payable. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 273.125, subdivision 8, and for homesteads which are park trailers taxed as manufactured homes under section 168.012, subdivision 9, "property taxes payable" shall also include ~~19~~ 15 percent of the gross rent paid in the preceding year for the site on which the homestead is located. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.124, on or before December 15 of the assessment year to which the "property taxes payable" relate; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made on or before December 15 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

EFFECTIVE DATE. This section is effective for property tax refunds based upon rent paid after December 31, 2009, and upon property taxes payable in 2011 and thereafter.

Sec. 6. **REPEALER.**

(a) Minnesota Statutes 2008, sections 10A.322, subdivision 4; and 13.4967, subdivision 2, are repealed.

(b) Minnesota Statutes 2008, section 290.06, subdivision 23, is repealed.

EFFECTIVE DATE. Paragraph (a) is effective the day following final enactment. Paragraph (b) is effective for refund claims based on contributions made after June 30, 2011.

ARTICLE 8

MISCELLANEOUS

Section 1. **[270C.311] FAILURE TO PRODUCE RECORDS.**

(a) A taxpayer who fails to produce records or documents that support items on a return is subject to a penalty equal to the greater of $500 or 25 percent of the amount of the additional tax on any assessment made by the commissioner that results from the failure to produce the documents or records.

(b) The penalty cannot be imposed unless the commissioner:

(1) makes a preliminary written request for the records or documents that gives the taxpayer at least 30 days to comply; and

(2) makes a final written request, after the deadline provided in the preliminary written request, for records or documents that gives the taxpayer at least 30 days to comply. This request must notify the taxpayer of the consequences for failing to provide the records or documents.

(c) The penalty may not be imposed, and if imposed, may be abated, if the taxpayer shows that the response, or failure to respond, was due to reasonable cause.

(d) Records or documents submitted after the deadline provided in the request made under paragraph (b) may be used to determine the correct tax. However, the late records or documents must not reduce any penalty assessed under this section unless the penalty is abated under paragraph (c).

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

Sec. 2. Minnesota Statutes 2008, section 270C.52, subdivision 2, is amended to read:

Subd. 2. **Payment agreements.** (a) When any portion of any tax payable to the commissioner together with interest and penalty thereon, if any, has not been paid, the commissioner may extend the time for payment for a further period. When the authority of this section is invoked, the extension shall be evidenced by written agreement signed by the taxpayer and the commissioner, stating the amount of the tax with penalty and interest, if any, and providing for the payment of the amount in installments.

(b) The agreement may contain a confession of judgment for the amount and for any unpaid portion thereof. If the agreement contains a confession of judgment, the confession of judgment must provide that the commissioner may enter judgment against the taxpayer in the district court of the county of residence as shown upon the taxpayer's tax return for the unpaid portion of the amount specified in the extension agreement.

(c) The agreement shall provide that it can be terminated, after notice by the commissioner, if information provided by the taxpayer prior to the agreement was inaccurate or incomplete, collection of the tax covered by the agreement is in jeopardy, there is a subsequent change in the taxpayer's financial condition, the taxpayer has failed to make a payment due under the agreement, or the taxpayer has failed to pay any other tax or file a tax return coming due after the agreement.

(d) The notice must be given at least 14 calendar days prior to termination, and shall advise the taxpayer of the right to request a reconsideration from the commissioner of whether termination is reasonable and appropriate under the circumstances. A request for reconsideration does not stay collection action beyond the 14-day notice period. If the commissioner has reason to believe that collection of the tax covered by the agreement is in jeopardy, the commissioner may proceed under section 270C.36 and terminate the agreement without regard to the 14-day period.

(e) The commissioner may accept other collateral the commissioner considers appropriate to secure satisfaction of the tax liability. The principal sum specified in the agreement shall bear interest at the rate specified in section 270C.40 on all unpaid portions thereof until the same has been fully paid or the unpaid portion thereof has been entered as a judgment. The judgment shall bear interest at the rate specified in section 270C.40.

(f) If it appears to the commissioner that the tax reported by the taxpayer is in excess of the amount actually owing by the taxpayer, the extension agreement or the judgment entered pursuant thereto shall be corrected. If after making the extension agreement or entering judgment with respect thereto, the commissioner determines that the tax as reported by the taxpayer is less than the amount actually due, the commissioner shall assess a further tax in accordance with the provisions of law applicable to the tax.

(g) The authority granted to the commissioner by this section is in addition to any other authority granted to the commissioner by law to extend the time of payment or the time for filing a return and shall not be construed in limitation thereof.

(h) The commissioner shall charge a fee for entering into payment agreements that reflects the commissioner's costs for entering into payment agreements. The fee is initially set at $25 and is adjusted annually as necessary. The fee is charged for entering into a payment agreement, for entering into a new payment agreement after the taxpayer has defaulted on a prior agreement, and for entering into a new payment agreement as a result of renegotiation of the terms of an existing agreement. The fee is paid to the commissioner before the payment agreement becomes effective and does not reduce the amount of the liability.

By June 1 of each year, the commissioner shall determine the cost to the commissioner for entering into payment agreements during the fiscal year and adjust the payment agreement fee as necessary to most nearly equal those costs. Determination of the fee for payment agreements under this section is not subject to the fee setting requirements of section 16A.1283.

EFFECTIVE DATE. This section is effective for payment agreements entered into or renegotiated after June 30, 2010.

Sec. 3. Minnesota Statutes 2009 Supplement, section 289A.08, subdivision 16, is amended to read:

Subd. 16. **Tax refund or return preparers; electronic filing; paper filing fee imposed.** (a) A "tax refund or return preparer," as defined in section 289A.60, subdivision 13, paragraph (f), who ~~prepared~~ is a tax return preparer for purposes of section 6011(e) of the Internal Revenue Code, and who reasonably expects to prepare more than ~~100~~ ten Minnesota individual income tax returns for the ~~prior~~ calendar year must file all Minnesota individual income tax returns prepared for ~~the current~~ that calendar year by electronic means.

(b) Paragraph (a) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(c) For each return that is not filed electronically by a tax refund or return preparer under this subdivision, including returns filed under paragraph (b), a paper filing fee of $5 is imposed upon the preparer. The fee is collected from the preparer in the same manner as income tax. The fee does not apply to returns that the commissioner requires to be filed in paper form.

EFFECTIVE DATE. This section is effective for tax returns filed after December 31, 2010.

Sec. 4. **REPEALER.**

Laws 2009, chapter 88, article 12, section 21, is repealed.

EFFECTIVE DATE. This section is effective retroactively from July 1, 2009.

APPENDIX
Article locations in 10-4114