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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 4103

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Authored by Lenczewski

The bill was read for the first time and referred to the Committee on Taxes

A bill for an act

1.1 relating to taxation; modifying the treatment of foreign income and operations
1.2 under the corporation franchise tax; authorizing grants; eliminating foreign
1.3 operating corporations; defining tax havens; taxing certain development
1.4 subsidies; reducing the corporate franchise tax rate; repealing the job opportunity
1.5 building zone, the international economic development zone, and biotechnology
1.6 and health sciences industry zone programs; repealing the airline industry job
1.7 credit, the research credit, and the bovine testing credit; repealing the corporate
1.8 alternative minimum tax; eliminating property tax exemptions for certain airport
1.9 property; appropriating money; amending Minnesota Statutes 2006, sections
1.10 275.025, subdivisions 1, 2; 290.01, subdivisions 5, 19c, as amended, 19d, as
1.11 amended, 29, by adding subdivisions; 290.06, subdivisions 1, 2c, as amended;
1.12 290.067, subdivision 1; 290.0671, subdivision 1; 290.091, subdivision 2;
1.13 290.0922, subdivision 3; 290.17, subdivision 4; 297B.03; Minnesota Statutes
1.14 2007 Supplement, section 290.01, subdivision 19b, as amended; proposing
1.15 coding for new law in Minnesota Statutes, chapter 116J; repealing Minnesota
1.16 Statutes 2006, sections 272.02, subdivision 83; 290.01, subdivision 6b; 290.06,
1.17 subdivisions 29, 30, 31, 32, 33; 290.068; 290.0921; 290.191, subdivision 4;
1.18 297A.68, subdivisions 37, 38, 41; 469.311; 469.312; 469.313; 469.314; 469.315;
1.19 469.316; 469.317; 469.318; 469.3201; 469.321, subdivisions 2, 3, 4, 5, 6, 7, 8, 9,
1.20 10; 469.3215; 469.322; 469.323; 469.324; 469.325; 469.326; 469.327; 469.328;
1.21 469.329; 469.330; 469.331; 469.332; 469.333, subdivision 1; 469.337; 469.338;
1.22 469.339; Minnesota Statutes 2007 Supplement, sections 272.02, subdivision 64;
1.23 469.321, subdivision 1; 469.333, subdivision 2; 469.334; 469.335; 469.336;
1.24 Laws 2005, First Special Session chapter 3, article 10, section 23, as amended.
1.25

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

1.27 Section 1. **[116J.576] JOB OPPORTUNITY BUILDING ZONES PHASEOUT;**
1.28 **GRANT AUTHORITY.**

1.29 **Subdivision 1. Voiding of business subsidy agreements.** (a) Effective 30 days
1.30 after enactment of this act, a party to a business subsidy agreement, which it entered to
1.31 become a qualified business under section 469.310, subdivision 11, may elect to void the
1.32 agreement, beginning for obligations under the agreement that apply to periods after July

2.1 1, 2008, or after the effective date of its election, whichever is later. The tax incentives
 2.2 provided under the job opportunity building zone program remain available as otherwise
 2.3 provided by the effective dates of this act.

2.4 (b) A business that has accepted a grant under subdivision 3 may not void its
 2.5 business subsidy agreement.

2.6 Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the
 2.7 meanings given, unless the context clearly indicates otherwise.

2.8 (b) "Full-time equivalent employee" means the equivalent of annualized expected
 2.9 hours of work equal to 2,080 hours.

2.10 (c) "Tax incentives" means the tax incentives under the job opportunity building
 2.11 zone program, as listed in section 469.315.

2.12 (d) "Zone" means a job opportunity building zone, designated under section 469.314.

2.13 (e) "Zone payroll" has the meaning given in section 469.310, subdivision 8.

2.14 Subd. 3. **Grants.** (a) The commissioner may make grants, upon application by
 2.15 qualified businesses under the job opportunity building zone program, to mitigate or
 2.16 to partially compensate for the effects of the repeal of the tax incentives of the job
 2.17 opportunity building zone program. In determining whether to award a grant and in setting
 2.18 the amount of the grant, the commissioner may take into account the following factors:

2.19 (1) the present value of the applicant business's tax incentives that were eliminated
 2.20 as a result of this act;

2.21 (2) the evidence that the business would not have invested in, expanded, or located
 2.22 its zone business facilities in Minnesota if the tax incentives had not been provided;

2.23 (3) reliable estimates or projections of reduced profits of the applicant business,
 2.24 whether from higher taxes following the repeal of tax incentives, other higher costs, or
 2.25 lower revenues, resulting from locating in the zone, as compared with a location outside
 2.26 of Minnesota at which the business considered locating the facility qualifying for the
 2.27 tax incentives;

2.28 (4) the number of additional full-time equivalent employees that the business created
 2.29 as a result of locating or expanding in the zone;

2.30 (5) the performance by the business under its business subsidy agreement;

2.31 (6) the likelihood that the business will cease operations in the zone unless it
 2.32 receives a grant;

2.33 (7) the hardship imposed on the business as a result of repeal of the tax incentives;

2.34 and

3.1 (8) whether a grant is necessary to retain the business in an area with substantial
3.2 economic distress, measured by high unemployment, low income, declining tax base,
3.3 or similar factors.

3.4 (b) The commissioner shall not pay a grant to a business that meets one or more of
3.5 the following conditions:

3.6 (1) the business has voided its obligations under the business subsidy agreement
3.7 under subdivision 1;

3.8 (2) the commissioner has reason to believe the business would have invested,
3.9 expanded, or located in the zone or at another location in Minnesota, excluding the
3.10 metropolitan area, as defined in section 473.121, whether or not the tax incentives
3.11 provided under the job opportunity building zone program were available; or

3.12 (3) the business is in substantial violation of its business subsidy agreement.

3.13 (c) The commissioner shall not make a grant to a business in excess of the smallest
3.14 of the following amounts:

3.15 (1) the present value of the applicant business's tax incentives that were eliminated
3.16 as a result of this act;

3.17 (2) the present value of the 20 percent of the summation of the business's estimated
3.18 zone payroll factors for calendar years 2009 through 2015; or

3.19 (3) \$25,000 for each additional full-time equivalent employee of the business who
3.20 was hired as a result of the business's location or expansion in the zone.

3.21 Subd. 4. **Applications; timing of payments.** (a) The commissioner shall specify
3.22 the form, procedures, required information, and timing for applications by businesses for
3.23 the grants under subdivision 3. These actions are not a rule under and are exempt from the
3.24 requirements of chapter 14, the Administrative Procedures Act.

3.25 (b) The commissioner shall pay the grants in two equal installments on August 1,
3.26 2009 and August 1, 2010.

3.27 (c) The commissioner's determinations of the eligibility for and the amount of the
3.28 grant are final and are not subject to judicial review. The grants are intended to mitigate the
3.29 effects of or to partially compensate businesses for the state's exercise of its constitutional
3.30 power to repeal the tax incentives, but are not a legal entitlement of a business.

3.31 Subd. 5. **Appropriation.** (a) \$10,000,000 is appropriated from the general fund for
3.32 fiscal year 2010 to the commissioner to make grants under this section.

3.33 (b) If the commissioner determines the appropriation under paragraph (a) is
3.34 insufficient to fully fund the grants under this section, the commissioner may certify to
3.35 the commissioner of revenue the additional amount needed by September 15, 2009. The
3.36 commissioner of revenue shall add the amount certified to the levy under section 275.025

4.1 to be spread on commercial-industrial tax capacity for taxes payable in 2010. The amount
 4.2 of revenues attributable to the levy is appropriated to the commissioner to make grants
 4.3 under this section.

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

4.5 Sec. 2. Minnesota Statutes 2006, section 275.025, subdivision 1, is amended to read:

4.6 Subdivision 1. **Levy amount.** The state general levy is levied against
 4.7 commercial-industrial property and seasonal residential recreational property, as defined
 4.8 in this section. The state general levy base amount is \$592,000,000 for taxes payable in
 4.9 2002. For taxes payable in subsequent years, the levy base amount is increased each year
 4.10 by multiplying the levy base amount for the prior year by the sum of one plus the rate of
 4.11 increase, if any, in the implicit price deflator for government consumption expenditures
 4.12 and gross investment for state and local governments prepared by the Bureau of Economic
 4.13 Analysts of the United States Department of Commerce for the 12-month period ending
 4.14 March 31 of the year prior to the year the taxes are payable. The tax under this section is
 4.15 not treated as a local tax rate under section 469.177 and is not the levy of a governmental
 4.16 unit under chapters 276A and 473F.

4.17 In setting the rate, the commissioner shall exclude the tax capacity of property
 4.18 described in section 473.625 from the tax base. The commissioner shall increase or
 4.19 decrease the preliminary or final rate for a year as necessary to account for errors and tax
 4.20 base changes that affected a preliminary or final rate for either of the two preceding years.
 4.21 Adjustments are allowed to the extent that the necessary information is available to the
 4.22 commissioner at the time the rates for a year must be certified, and for the following
 4.23 reasons:

4.24 (1) an erroneous report of taxable value by a local official;

4.25 (2) an erroneous calculation by the commissioner; and

4.26 (3) an increase or decrease in taxable value for commercial-industrial or seasonal
 4.27 residential recreational property reported on the abstracts of tax lists submitted under
 4.28 section 275.29 that was not reported on the abstracts of assessment submitted under
 4.29 section 270C.89 for the same year.

4.30 The commissioner may, but need not, make adjustments if the total difference in the tax
 4.31 levied for the year would be less than \$100,000.

4.32 **EFFECTIVE DATE.** This section is effective beginning for property taxes payable
 4.33 in 2009.

5.1 Sec. 3. Minnesota Statutes 2006, section 275.025, subdivision 2, is amended to read:

5.2 Subd. 2. **Commercial-industrial tax capacity.** For the purposes of this section,
 5.3 "commercial-industrial tax capacity" means the tax capacity of all taxable property
 5.4 classified as class 3 or class 5(1) under section 273.13, except for electric generation
 5.5 attached machinery under class 3 ~~and property described in section 473.625~~. County
 5.6 commercial-industrial tax capacity amounts are not adjusted for the captured net tax
 5.7 capacity of a tax increment financing district under section 469.177, subdivision 2, the
 5.8 net tax capacity of transmission lines deducted from a local government's total net tax
 5.9 capacity under section 273.425, or fiscal disparities contribution and distribution net
 5.10 tax capacities under chapter 276A or 473F.

5.11 **EFFECTIVE DATE.** This section is effective beginning for taxes payable in 2009.

5.12 Sec. 4. Minnesota Statutes 2006, section 290.01, subdivision 5, is amended to read:

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

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

5.19 (2) which qualifies as a DISC, as defined in section 992(a) of the Internal Revenue
 5.20 Code; ~~or~~

5.21 (3) which qualifies as a FSC, as defined in section 922 of the Internal Revenue Code;

5.22 (4) which is incorporated in a tax haven;

5.23 (5) which is engaged in activity in a tax haven sufficient for the tax haven to impose
 5.24 a net income tax under United States constitutional standards and section 290.015; or

5.25 (6) which has the average of its property, payroll, and sales factors, as defined under
 5.26 section 290.191, within the 50 states of the United States and the District of Columbia of
 5.27 20 percent or more.

5.28 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 5.29 December 31, 2007.

5.30 Sec. 5. Minnesota Statutes 2006, section 290.01, is amended by adding a subdivision
 5.31 to read:

5.32 Subd. 5c. **Tax haven.** (a) "Tax haven" means a foreign jurisdiction designated
 5.33 under this subdivision.

6.1 (b) The commissioner may designate a foreign jurisdiction as a tax haven by revenue
6.2 notice if the jurisdiction has:

6.3 (1) no or a nominal effective tax on income of a corporation; and

6.4 (2) corporate, business, bank, or tax secrecy rules or practices that, in the judgment
6.5 of the commissioner, unreasonably restrict the ability of the United States, and thereby
6.6 the state of Minnesota, to obtain information relevant to the enforcement of taxes on
6.7 corporations based on net income. These rules or practices may be either formal laws,
6.8 regulations, or rules or be informal government and business practices that have the effect
6.9 of inhibiting access by law enforcement and tax administration authorities.

6.10 (c) The following foreign jurisdictions are deemed to be tax havens, unless the
6.11 commissioner, by revenue notice, revokes the listing of a jurisdiction:

6.12 (1) Anguilla;

6.13 (2) Antigua and Barbuda;

6.14 (3) Aruba;

6.15 (4) Bahamas;

6.16 (5) Barbados;

6.17 (6) Belize;

6.18 (7) Bermuda;

6.19 (8) British Virgin Islands;

6.20 (9) Cayman Islands;

6.21 (10) Cook Islands;

6.22 (11) Dominica;

6.23 (12) Gibraltar;

6.24 (13) Grenada;

6.25 (14) Guernsey-Sark-Alderney;

6.26 (15) Isle of Man;

6.27 (16) Jersey;

6.28 (17) Latvia;

6.29 (18) Liechtenstein;

6.30 (19) Luxembourg;

6.31 (20) Nauru;

6.32 (21) Netherlands Antilles;

6.33 (22) Panama;

6.34 (23) Samoa;

6.35 (24) Saint Kitts and Nevis;

6.36 (25) Saint Lucia;

7.1 (26) Saint Vincent and Grenadines;

7.2 (27) Turks and Caicos; and

7.3 (28) Vanuatu.

7.4 (d) The commissioner shall revoke a foreign jurisdiction's listing under paragraph
 7.5 (b) or (c), as applicable, if the United States enters into a tax treaty or other agreement
 7.6 with the foreign jurisdiction that provides for prompt, obligatory, and automatic exchange
 7.7 of information with the United States government relevant to enforcing the provisions of
 7.8 federal tax laws and the treaty or other agreement was in effect for the taxable year.

7.9 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 7.10 December 31, 2007.

7.11 Sec. 6. Minnesota Statutes 2007 Supplement, section 290.01, subdivision 19b, as
 7.12 amended by Laws 2008, chapter 154, article 3, section 3, is amended to read:

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

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

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

7.21 (3) the amount paid to others, less the amount used to claim the credit allowed under
 7.22 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten
 7.23 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and
 7.24 transportation of each qualifying child in attending an elementary or secondary school
 7.25 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a
 7.26 resident of this state may legally fulfill the state's compulsory attendance laws, which
 7.27 is not operated for profit, and which adheres to the provisions of the Civil Rights Act
 7.28 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or
 7.29 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,
 7.30 "textbooks" includes books and other instructional materials and equipment purchased
 7.31 or leased for use in elementary and secondary schools in teaching only those subjects
 7.32 legally and commonly taught in public elementary and secondary schools in this state.
 7.33 Equipment expenses qualifying for deduction includes expenses as defined and limited in
 7.34 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional
 7.35 books and materials used in the teaching of religious tenets, doctrines, or worship, the

8.1 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books
 8.2 or materials for, or transportation to, extracurricular activities including sporting events,
 8.3 musical or dramatic events, speech activities, driver's education, or similar programs. For
 8.4 purposes of the subtraction provided by this clause, "qualifying child" has the meaning
 8.5 given in section 32(c)(3) of the Internal Revenue Code;

8.6 (4) income as provided under section 290.0802;

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

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

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

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

8.26 ~~(9)~~ (8) in each of the five tax years immediately following the tax year in which an
 8.27 addition is required under subdivision 19a, clause (7), or 19c, clause ~~(15)~~ (13), in the case
 8.28 of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth
 8.29 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means
 8.30 the amount of the addition made by the taxpayer under subdivision 19a, clause (7), or
 8.31 subdivision 19c, clause ~~(15)~~ (13), in the case of a shareholder of an S corporation, minus
 8.32 the positive value of any net operating loss under section 172 of the Internal Revenue
 8.33 Code generated for the tax year of the addition. The resulting delayed depreciation
 8.34 cannot be less than zero;

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

9.1 ~~(11)~~ (9) to the extent included in federal taxable income, the amount of compensation
9.2 paid to members of the Minnesota National Guard or other reserve components of the
9.3 United States military for active service performed in Minnesota, excluding compensation
9.4 for services performed under the Active Guard Reserve (AGR) program. For purposes of
9.5 this clause, "active service" means (i) state active service as defined in section 190.05,
9.6 subdivision 5a, clause (1); (ii) federally funded state active service as defined in section
9.7 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05,
9.8 subdivision 5c, but "active service" excludes services performed exclusively for purposes
9.9 of basic combat training, advanced individual training, annual training, and periodic
9.10 inactive duty training; special training periodically made available to reserve members;
9.11 and service performed in accordance with section 190.08, subdivision 3;

9.12 ~~(12)~~ (10) to the extent included in federal taxable income, the amount of
9.13 compensation paid to Minnesota residents who are members of the armed forces of the
9.14 United States or United Nations for active duty performed outside Minnesota under United
9.15 States Code, title 10, section 101(d); United States Code, title 32, section 101(12); or the
9.16 authority of the United Nations;

9.17 ~~(13)~~ (11) an amount, not to exceed \$10,000, equal to qualified expenses related to a
9.18 qualified donor's donation, while living, of one or more of the qualified donor's organs
9.19 to another person for human organ transplantation. For purposes of this clause, "organ"
9.20 means all or part of an individual's liver, pancreas, kidney, intestine, lung, or bone marrow;
9.21 "human organ transplantation" means the medical procedure by which transfer of a human
9.22 organ is made from the body of one person to the body of another person; "qualified
9.23 expenses" means unreimbursed expenses for both the individual and the qualified donor
9.24 for (i) travel, (ii) lodging, and (iii) lost wages net of sick pay, except that such expenses
9.25 may be subtracted under this clause only once; and "qualified donor" means the individual
9.26 or the individual's dependent, as defined in section 152 of the Internal Revenue Code. An
9.27 individual may claim the subtraction in this clause for each instance of organ donation for
9.28 transplantation during the taxable year in which the qualified expenses occur;

9.29 ~~(14)~~ (12) in each of the five tax years immediately following the tax year in which an
9.30 addition is required under subdivision 19a, clause (8), or 19c, clause ~~(16)~~ (14), in the case
9.31 of a shareholder of a corporation that is an S corporation, an amount equal to one-fifth
9.32 of the addition made by the taxpayer under subdivision 19a, clause (8), or 19c, clause
9.33 ~~(16)~~ (14), in the case of a shareholder of a corporation that is an S corporation, minus the
9.34 positive value of any net operating loss under section 172 of the Internal Revenue Code
9.35 generated for the tax year of the addition. If the net operating loss exceeds the addition for
9.36 the tax year, a subtraction is not allowed under this clause; and

10.1 ~~(15)~~ (13) to the extent included in federal taxable income, compensation paid to a
 10.2 nonresident who is a service member as defined in United States Code, title 10, section
 10.3 101(a)(5), for military service as defined in the Service Member Civil Relief Act, Public
 10.4 Law 108-189, section 101(2); ~~and~~

10.5 ~~(16) international economic development zone income as provided under section~~
 10.6 ~~469.325.~~

10.7 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 10.8 December 31, 2007.

10.9 Sec. 7. Minnesota Statutes 2006, section 290.01, subdivision 19c, as amended by Laws
 10.10 2008, chapter 154, article 4, section 4, is amended to read:

10.11 Subd. 19c. **Corporations; additions to federal taxable income.** For corporations,
 10.12 there shall be added to federal taxable income:

10.13 (1) the amount of any deduction taken for federal income tax purposes for income,
 10.14 excise, or franchise taxes based on net income or related minimum taxes, including but not
 10.15 limited to the tax imposed under section 290.0922, paid by the corporation to Minnesota,
 10.16 another state, a political subdivision of another state, the District of Columbia, or any
 10.17 foreign country or possession of the United States;

10.18 (2) interest not subject to federal tax upon obligations of: the United States, its
 10.19 possessions, its agencies, or its instrumentalities; the state of Minnesota or any other
 10.20 state, any of its political or governmental subdivisions, any of its municipalities, or any
 10.21 of its governmental agencies or instrumentalities; the District of Columbia; or Indian
 10.22 tribal governments;

10.23 (3) exempt-interest dividends received as defined in section 852(b)(5) of the Internal
 10.24 Revenue Code;

10.25 (4) the amount of any net operating loss deduction taken for federal income tax
 10.26 purposes under section 172 or 832(c)(10) of the Internal Revenue Code or operations loss
 10.27 deduction under section 810 of the Internal Revenue Code;

10.28 (5) the amount of any special deductions taken for federal income tax purposes
 10.29 under sections 241 to 247 and 965 of the Internal Revenue Code;

10.30 (6) losses from the business of mining, as defined in section 290.05, subdivision 1,
 10.31 clause (a), that are not subject to Minnesota income tax;

10.32 (7) the amount of any capital losses deducted for federal income tax purposes under
 10.33 sections 1211 and 1212 of the Internal Revenue Code;

10.34 (8) the exempt foreign trade income of a foreign sales corporation under sections
 10.35 921(a) and 291 of the Internal Revenue Code;

11.1 (9) the amount of percentage depletion deducted under sections 611 through 614 and
 11.2 291 of the Internal Revenue Code;

11.3 (10) for certified pollution control facilities placed in service in a taxable year
 11.4 beginning before December 31, 1986, and for which amortization deductions were elected
 11.5 under section 169 of the Internal Revenue Code of 1954, as amended through December
 11.6 31, 1985, the amount of the amortization deduction allowed in computing federal taxable
 11.7 income for those facilities;

11.8 ~~(11) the amount of any deemed dividend from a foreign operating corporation~~
 11.9 ~~determined pursuant to section 290.17, subdivision 4, paragraph (g);~~

11.10 ~~(12)~~ the amount of a partner's pro rata share of net income which does not flow
 11.11 through to the partner because the partnership elected to pay the tax on the income under
 11.12 section 6242(a)(2) of the Internal Revenue Code;

11.13 ~~(13)~~ (12) the amount of net income excluded under section 114 of the Internal
 11.14 Revenue Code;

11.15 ~~(14) any increase in subpart F income, as defined in section 952(a) of the Internal~~
 11.16 ~~Revenue Code, for the taxable year when subpart F income is calculated without regard~~
 11.17 ~~to the provisions of section 103 of Public Law 109-222;~~

11.18 ~~(15)~~ (13) 80 percent of the depreciation deduction allowed under section
 11.19 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if
 11.20 the taxpayer has an activity that in the taxable year generates a deduction for depreciation
 11.21 under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable
 11.22 year that the taxpayer is not allowed to claim for the taxable year, "the depreciation
 11.23 allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess
 11.24 of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A)
 11.25 over the amount of the loss from the activity that is not allowed in the taxable year. In
 11.26 succeeding taxable years when the losses not allowed in the taxable year are allowed, the
 11.27 depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

11.28 ~~(16)~~ (14) 80 percent of the amount by which the deduction allowed by section 179 of
 11.29 the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal
 11.30 Revenue Code of 1986, as amended through December 31, 2003;

11.31 ~~(17)~~ (15) to the extent deducted in computing federal taxable income, the amount of
 11.32 the deduction allowable under section 199 of the Internal Revenue Code;

11.33 ~~(18)~~ (16) the exclusion allowed under section 139A of the Internal Revenue Code
 11.34 for federal subsidies for prescription drug plans; and

11.35 ~~(19)~~ (17) for taxable years beginning after December 31, 2006, and before January 1,
 11.36 2008, the additional amount allowed as a deduction for donation of computer technology

12.1 and equipment under section 170(e)(6) of the Internal Revenue Code, to the extent
 12.2 deducted from taxable income.

12.3 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 12.4 December 31, 2008, except the repeal of clauses (11) and (14) is effective for taxable
 12.5 years beginning after December 31, 2007.

12.6 Sec. 8. Minnesota Statutes 2006, section 290.01, subdivision 19d, as amended by Laws
 12.7 2008, chapter 154, article 11, section 12, is amended to read:

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

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

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

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

12.19 (4) amounts disallowed for intangible drilling costs due to differences between
 12.20 this chapter and the Internal Revenue Code in taxable years beginning before January
 12.21 1, 1987, as follows:

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

12.25 (ii) to the extent the disallowed costs are not represented by physical property, an
 12.26 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section
 12.27 290.09, subdivision 8;

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

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

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

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

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

13.8 (6) an amount for interest and expenses relating to income not taxable for federal
 13.9 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and
 13.10 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or
 13.11 291 of the Internal Revenue Code in computing federal taxable income;

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

13.20 (8) for certified pollution control facilities placed in service in a taxable year
 13.21 beginning before December 31, 1986, and for which amortization deductions were elected
 13.22 under section 169 of the Internal Revenue Code of 1954, as amended through December
 13.23 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes
 13.24 1986, section 290.09, subdivision 7;

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

13.31 ~~(10) 80 percent of royalties, fees, or other like income accrued or received from a~~
 13.32 ~~foreign operating corporation or a foreign corporation which is part of the same unitary~~
 13.33 ~~business as the receiving corporation;~~

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

14.1 ~~(12)~~ (11) the amount of disability access expenditures in the taxable year which are
 14.2 not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue
 14.3 Code;

14.4 ~~(13)~~ (12) the amount of qualified research expenses not allowed for federal income
 14.5 tax purposes under section 280C(c) of the Internal Revenue Code, ~~but only to the extent~~
 14.6 ~~that the amount exceeds the amount of the credit allowed under section 290.068;~~

14.7 ~~(14)~~ (13) the amount of salary expenses not allowed for federal income tax purposes
 14.8 due to claiming the Indian employment credit under section 45A(a) of the Internal
 14.9 Revenue Code;

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

14.13 ~~(16)~~ (14) for a corporation whose foreign sales corporation, as defined in section
 14.14 922 of the Internal Revenue Code, constituted a foreign operating corporation during any
 14.15 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,
 14.16 claiming the deduction under section 290.21, subdivision 4, for income received from
 14.17 the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of
 14.18 income excluded under section 114 of the Internal Revenue Code, provided the income is
 14.19 not income of a foreign operating company;

14.20 ~~(17)~~ any decrease in subpart F income, as defined in section 952(a) of the Internal
 14.21 Revenue Code, for the taxable year when subpart F income is calculated without regard
 14.22 to the provisions of section 103 of Public Law 109-222;

14.23 ~~(16)~~ (15) in each of the five tax years immediately following the tax year in which an
 14.24 addition is required under subdivision 19c, clause ~~(15)~~ (13), an amount equal to one-fifth
 14.25 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the
 14.26 amount of the addition made by the taxpayer under subdivision 19c, clause ~~(15)~~ (13). The
 14.27 resulting delayed depreciation cannot be less than zero; and

14.28 ~~(17)~~ (16) in each of the five tax years immediately following the tax year in which an
 14.29 addition is required under subdivision 19c, clause (16), an amount equal to one-fifth of the
 14.30 amount of the addition.

14.31 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 14.32 December 31, 2008, provided that for taxable years beginning after December 31,
 14.33 2007, and before January 1, 2008, the subtraction under clause (10) is not allowed to
 14.34 foreign operating corporations and is limited to income paid to the corporation by a
 14.35 foreign corporation that is part of the unitary business for the use of or privilege of using
 14.36 outside of the United States patents, copyrights, secret processes and formulas, good will,

15.1 know-how, trademarks, trade brands, franchises, and other like property and is further
 15.2 limited to the extent those items are included in the corporation's federal taxable income
 15.3 for the taxable year.

15.4 Sec. 9. Minnesota Statutes 2006, section 290.01, subdivision 29, is amended to read:

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

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

15.7 (2) for corporations, the taxable net income less

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

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

15.10 (iii) ~~the exemption for operating in a job opportunity building zone under section~~
 15.11 ~~469.317; Minnesota development subsidies.~~

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

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

15.16 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 15.17 December 31, 2008.

15.18 Sec. 10. Minnesota Statutes 2006, section 290.01, is amended by adding a subdivision
 15.19 to read:

15.20 Subd. 33. **Minnesota development subsidies.** "Minnesota development subsidies"
 15.21 means the amount deducted by the taxpayer in computing federal taxable income for
 15.22 the taxable year, as property taxes, business expenses or otherwise, that is attributable
 15.23 to property taxes paid by the taxpayer, either directly or indirectly through a lease or
 15.24 otherwise, on property located in a tax increment financing district, as defined in section
 15.25 469.174, or that receives an abatement under sections 469.1813 to 469.1815, if the
 15.26 owner of the property or a related party entered into a development agreement with the
 15.27 authority or political subdivision or derived a benefit from the abatement. A benefit of an
 15.28 abatement includes direct payments and access or use of public improvements financed
 15.29 with the abatement.

15.30 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 15.31 December 31, 2008.

15.32 Sec. 11. Minnesota Statutes 2006, section 290.06, subdivision 1, is amended to read:

16.1 Subdivision 1. **Computation, corporations.** The franchise tax imposed upon
 16.2 corporations shall be computed by applying to their taxable income the rate of ~~9.8~~ 8.8
 16.3 percent.

16.4 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 16.5 December 31, 2008.

16.6 Sec. 12. Minnesota Statutes 2006, section 290.06, subdivision 2c, as amended by Laws
 16.7 2008, chapter 154, article 4, section 6, is amended to read:

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

- 16.12 (1) On the first \$25,680, 5.35 percent;
- 16.13 (2) On all over \$25,680, but not over \$102,030, 7.05 percent;
- 16.14 (3) On all over \$102,030, 7.85 percent.

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

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

- 16.20 (1) On the first \$17,570, 5.35 percent;
- 16.21 (2) On all over \$17,570, but not over \$57,710, 7.05 percent;
- 16.22 (3) On all over \$57,710, 7.85 percent.

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

- 16.26 (1) On the first \$21,630, 5.35 percent;
- 16.27 (2) On all over \$21,630, but not over \$86,910, 7.05 percent;
- 16.28 (3) On all over \$86,910, 7.85 percent.

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

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

17.5 (1) the numerator is the individual's Minnesota source federal adjusted gross income
 17.6 as defined in section 62 of the Internal Revenue Code and increased by the additions
 17.7 required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (11),
 17.8 and (12) and reduced by the Minnesota assignable portion of the subtraction for United
 17.9 States government interest under section 290.01, subdivision 19b, clause (1), and the
 17.10 subtractions under section 290.01, subdivision 19b, clauses (9), ~~(10)~~, ~~(14)~~, ~~(15)~~ (12), and
 17.11 ~~(16)~~ (13), after applying the allocation and assignability provisions of section 290.081,
 17.12 clause (a), or 290.17; and

17.13 (2) the denominator is the individual's federal adjusted gross income as defined in
 17.14 section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in
 17.15 section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (11), and (12) and
 17.16 reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1), (9),
 17.17 ~~(10)~~, ~~(14)~~, ~~(15)~~ (12), and ~~(16)~~ (13).

17.18 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 17.19 December 31, 2008.

17.20 Sec. 13. Minnesota Statutes 2006, section 290.067, subdivision 1, is amended to read:

17.21 Subdivision 1. **Amount of credit.** (a) A taxpayer may take as a credit against the
 17.22 tax due from the taxpayer and a spouse, if any, under this chapter an amount equal to the
 17.23 dependent care credit for which the taxpayer is eligible pursuant to the provisions of
 17.24 section 21 of the Internal Revenue Code subject to the limitations provided in subdivision
 17.25 2 except that in determining whether the child qualified as a dependent, income received
 17.26 as a Minnesota family investment program grant or allowance to or on behalf of the child
 17.27 must not be taken into account in determining whether the child received more than half
 17.28 of the child's support from the taxpayer, and the provisions of section 32(b)(1)(D) of
 17.29 the Internal Revenue Code do not apply.

17.30 (b) If a child who has not attained the age of six years at the close of the taxable year
 17.31 is cared for at a licensed family day care home operated by the child's parent, the taxpayer
 17.32 is deemed to have paid employment-related expenses. If the child is 16 months old or
 17.33 younger at the close of the taxable year, the amount of expenses deemed to have been paid
 17.34 equals the maximum limit for one qualified individual under section 21(c) and (d) of the
 17.35 Internal Revenue Code. If the child is older than 16 months of age but has not attained the

18.1 age of six years at the close of the taxable year, the amount of expenses deemed to have
18.2 been paid equals the amount the licensee would charge for the care of a child of the same
18.3 age for the same number of hours of care.

18.4 (c) If a married couple:

18.5 (1) has a child who has not attained the age of one year at the close of the taxable
18.6 year;

18.7 (2) files a joint tax return for the taxable year; and

18.8 (3) does not participate in a dependent care assistance program as defined in section
18.9 129 of the Internal Revenue Code, in lieu of the actual employment related expenses paid
18.10 for that child under paragraph (a) or the deemed amount under paragraph (b), the lesser of
18.11 (i) the combined earned income of the couple or (ii) the amount of the maximum limit for
18.12 one qualified individual under section 21(c) and (d) of the Internal Revenue Code will
18.13 be deemed to be the employment related expense paid for that child. The earned income
18.14 limitation of section 21(d) of the Internal Revenue Code shall not apply to this deemed
18.15 amount. These deemed amounts apply regardless of whether any employment-related
18.16 expenses have been paid.

18.17 (d) If the taxpayer is not required and does not file a federal individual income tax
18.18 return for the tax year, no credit is allowed for any amount paid to any person unless:

18.19 (1) the name, address, and taxpayer identification number of the person are included
18.20 on the return claiming the credit; or

18.21 (2) if the person is an organization described in section 501(c)(3) of the Internal
18.22 Revenue Code and exempt from tax under section 501(a) of the Internal Revenue Code,
18.23 the name and address of the person are included on the return claiming the credit.

18.24 In the case of a failure to provide the information required under the preceding sentence,
18.25 the preceding sentence does not apply if it is shown that the taxpayer exercised due
18.26 diligence in attempting to provide the information required.

18.27 In the case of a nonresident, part-year resident, or a person who has earned income
18.28 not subject to tax under this chapter ~~including earned income excluded pursuant to section~~
18.29 ~~290.01, subdivision 19b, clause (10) or (16)~~, the credit determined under section 21 of the
18.30 Internal Revenue Code must be allocated based on the ratio by which the earned income
18.31 of the claimant and the claimant's spouse from Minnesota sources bears to the total earned
18.32 income of the claimant and the claimant's spouse.

18.33 For residents of Minnesota, the subtractions for military pay under section 290.01,
18.34 subdivision 19b, clauses (11) and (12), are not considered "earned income not subject to
18.35 tax under this chapter."

19.1 For residents of Minnesota, the exclusion of combat pay under section 112 of the
 19.2 Internal Revenue Code is not considered "earned income not subject to tax under this
 19.3 chapter."

19.4 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 19.5 December 31, 2008.

19.6 Sec. 14. Minnesota Statutes 2006, section 290.0671, subdivision 1, is amended to read:

19.7 Subdivision 1. **Credit allowed.** (a) An individual is allowed a credit against the tax
 19.8 imposed by this chapter equal to a percentage of earned income. To receive a credit, a
 19.9 taxpayer must be eligible for a credit under section 32 of the Internal Revenue Code.

19.10 (b) For individuals with no qualifying children, the credit equals 1.9125 percent of
 19.11 the first \$4,620 of earned income. The credit is reduced by 1.9125 percent of earned
 19.12 income or adjusted gross income, whichever is greater, in excess of \$5,770, but in no
 19.13 case is the credit less than zero.

19.14 (c) For individuals with one qualifying child, the credit equals 8.5 percent of the first
 19.15 \$6,920 of earned income and 8.5 percent of earned income over \$12,080 but less than
 19.16 \$13,450. The credit is reduced by 5.73 percent of earned income or adjusted gross income,
 19.17 whichever is greater, in excess of \$15,080, but in no case is the credit less than zero.

19.18 (d) For individuals with two or more qualifying children, the credit equals ten
 19.19 percent of the first \$9,720 of earned income and 20 percent of earned income over
 19.20 \$14,860 but less than \$16,800. The credit is reduced by 10.3 percent of earned income
 19.21 or adjusted gross income, whichever is greater, in excess of \$17,890, but in no case is
 19.22 the credit less than zero.

19.23 (e) For a nonresident or part-year resident, the credit must be allocated based on the
 19.24 percentage calculated under section 290.06, subdivision 2c, paragraph (e).

19.25 (f) For a person who was a resident for the entire tax year and has earned income
 19.26 not subject to tax under this chapter, ~~including income excluded under section 290.01,~~
 19.27 ~~subdivision 19b, clause (10) or (16),~~ the credit must be allocated based on the ratio of
 19.28 federal adjusted gross income reduced by the earned income not subject to tax under
 19.29 this chapter over federal adjusted gross income. For purposes of this paragraph, the
 19.30 subtractions for military pay under section 290.01, subdivision 19b, clauses (11) and (12),
 19.31 are not considered "earned income not subject to tax under this chapter."

19.32 For the purposes of this paragraph, the exclusion of combat pay under section 112
 19.33 of the Internal Revenue Code is not considered "earned income not subject to tax under
 19.34 this chapter."

20.1 (g) For tax years beginning after December 31, 2001, and before December 31,
 20.2 2004, the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in
 20.3 paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by
 20.4 \$1,000 for married taxpayers filing joint returns.

20.5 (h) For tax years beginning after December 31, 2004, and before December 31,
 20.6 2007, the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in
 20.7 paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by
 20.8 \$2,000 for married taxpayers filing joint returns.

20.9 (i) For tax years beginning after December 31, 2007, and before December 31, 2010,
 20.10 the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in paragraph
 20.11 (d), after being adjusted for inflation under subdivision 7, are each increased by \$3,000 for
 20.12 married taxpayers filing joint returns. For tax years beginning after December 31, 2008,
 20.13 the \$3,000 is adjusted annually for inflation under subdivision 7.

20.14 (j) The commissioner shall construct tables showing the amount of the credit at
 20.15 various income levels and make them available to taxpayers. The tables shall follow
 20.16 the schedule contained in this subdivision, except that the commissioner may graduate
 20.17 the transition between income brackets.

20.18 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 20.19 December 31, 2008.

20.20 Sec. 15. Minnesota Statutes 2006, section 290.091, subdivision 2, is amended to read:

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

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

20.25 (1) the taxpayer's federal alternative minimum taxable income as defined in section
 20.26 55(b)(2) of the Internal Revenue Code;

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

20.29 (i) the charitable contribution deduction under section 170 of the Internal Revenue
 20.30 Code:

20.31 (A) for taxable years beginning before January 1, 2006, to the extent that the
 20.32 deduction exceeds 1.0 percent of adjusted gross income;

20.33 (B) for taxable years beginning after December 31, 2005, to the full extent of the
 20.34 deduction.

- 21.1 For purposes of this clause, "adjusted gross income" has the meaning given in
 21.2 section 62 of the Internal Revenue Code;
- 21.3 (ii) the medical expense deduction;
- 21.4 (iii) the casualty, theft, and disaster loss deduction; and
- 21.5 (iv) the impairment-related work expenses of a disabled person;
- 21.6 (3) for depletion allowances computed under section 613A(c) of the Internal
 21.7 Revenue Code, with respect to each property (as defined in section 614 of the Internal
 21.8 Revenue Code), to the extent not included in federal alternative minimum taxable income,
 21.9 the excess of the deduction for depletion allowable under section 611 of the Internal
 21.10 Revenue Code for the taxable year over the adjusted basis of the property at the end of the
 21.11 taxable year (determined without regard to the depletion deduction for the taxable year);
- 21.12 (4) to the extent not included in federal alternative minimum taxable income, the
 21.13 amount of the tax preference for intangible drilling cost under section 57(a)(2) of the
 21.14 Internal Revenue Code determined without regard to subparagraph (E);
- 21.15 (5) to the extent not included in federal alternative minimum taxable income, the
 21.16 amount of interest income as provided by section 290.01, subdivision 19a, clause (1); and
- 21.17 (6) the amount of addition required by section 290.01, subdivision 19a, clauses
 21.18 (7), (8), and (9);
- 21.19 less the sum of the amounts determined under the following:
- 21.20 (1) interest income as defined in section 290.01, subdivision 19b, clause (1);
- 21.21 (2) an overpayment of state income tax as provided by section 290.01, subdivision
 21.22 19b, clause (2), to the extent included in federal alternative minimum taxable income;
- 21.23 (3) the amount of investment interest paid or accrued within the taxable year on
 21.24 indebtedness to the extent that the amount does not exceed net investment income, as
 21.25 defined in section 163(d)(4) of the Internal Revenue Code. Interest does not include
 21.26 amounts deducted in computing federal adjusted gross income; and
- 21.27 (4) amounts subtracted from federal taxable income as provided by section 290.01,
 21.28 subdivision 19b, clauses (9) to ~~(16)~~ (13).
- 21.29 In the case of an estate or trust, alternative minimum taxable income must be
 21.30 computed as provided in section 59(c) of the Internal Revenue Code.
- 21.31 (b) "Investment interest" means investment interest as defined in section 163(d)(3)
 21.32 of the Internal Revenue Code.
- 21.33 (c) "Tentative minimum tax" equals 6.4 percent of alternative minimum taxable
 21.34 income after subtracting the exemption amount determined under subdivision 3.

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

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

22.5 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 22.6 December 31, 2008.

22.7 Sec. 16. Minnesota Statutes 2006, section 290.0922, subdivision 3, is amended to read:

22.8 Subd. 3. **Definitions.** (a) "Minnesota sales or receipts" means the total sales
 22.9 apportioned to Minnesota pursuant to section 290.191, subdivision 5, the total receipts
 22.10 attributed to Minnesota pursuant to section 290.191, subdivisions 6 to 8, and/or the
 22.11 total sales or receipts apportioned or attributed to Minnesota pursuant to any other
 22.12 apportionment formula applicable to the taxpayer.

22.13 (b) "Minnesota property" means total Minnesota tangible property as provided in
 22.14 section 290.191, subdivisions 9 to 11, any other tangible property located in Minnesota;
 22.15 ~~but does not include: (1) property located in a job opportunity building zone designated~~
 22.16 ~~under section 469.314, (2) property of a qualified business located in a biotechnology and~~
 22.17 ~~health sciences industry zone designated under section 469.334, or (3) for taxable years~~
 22.18 ~~beginning during the duration of the zone, property of a qualified business located in the~~
 22.19 ~~international economic development zone designated under section 469.322.~~ Intangible
 22.20 property shall not be included in Minnesota property for purposes of this section.
 22.21 Taxpayers who do not utilize tangible property to apportion income shall nevertheless
 22.22 include Minnesota property for purposes of this section. On a return for a short taxable
 22.23 year, the amount of Minnesota property owned, as determined under section 290.191,
 22.24 shall be included in Minnesota property based on a fraction in which the numerator is the
 22.25 number of days in the short taxable year and the denominator is 365.

22.26 (c) "Minnesota payrolls" means total Minnesota payrolls as provided in section
 22.27 290.191, subdivision 12, ~~but does not include: (1) job opportunity building zone payrolls~~
 22.28 ~~under section 469.310, subdivision 8, (2) biotechnology and health sciences industry zone~~
 22.29 ~~payrolls under section 469.330, subdivision 8, or (3) for taxable years beginning during~~
 22.30 ~~the duration of the zone, international economic development zone payrolls under section~~
 22.31 ~~469.321, subdivision 9.~~ Taxpayers who do not utilize payrolls to apportion income shall
 22.32 nevertheless include Minnesota payrolls for purposes of this section.

22.33 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 22.34 December 31, 2008.

23.1 Sec. 17. Minnesota Statutes 2006, section 290.17, subdivision 4, is amended to read:

23.2 Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly
23.3 within this state or partly within and partly without this state is part of a unitary business,
23.4 the entire income of the unitary business is subject to apportionment pursuant to section
23.5 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary
23.6 business is considered to be derived from any particular source and none may be allocated
23.7 to a particular place except as provided by the applicable apportionment formula. The
23.8 provisions of this subdivision do not apply to business income subject to subdivision 5,
23.9 income of an insurance company, or income of an investment company determined under
23.10 section 290.36.

23.11 (b) The term "unitary business" means business activities or operations which
23.12 result in a flow of value between them. The term may be applied within a single legal
23.13 entity or between multiple entities and without regard to whether each entity is a sole
23.14 proprietorship, a corporation, a partnership or a trust.

23.15 (c) Unity is presumed whenever there is unity of ownership, operation, and use,
23.16 evidenced by centralized management or executive force, centralized purchasing,
23.17 advertising, accounting, or other controlled interaction, but the absence of these
23.18 centralized activities will not necessarily evidence a nonunitary business. Unity is also
23.19 presumed when business activities or operations are of mutual benefit, dependent upon or
23.20 contributory to one another, either individually or as a group.

23.21 (d) Where a business operation conducted in Minnesota is owned by a business
23.22 entity that carries on business activity outside the state different in kind from that
23.23 conducted within this state, and the other business is conducted entirely outside the state, it
23.24 is presumed that the two business operations are unitary in nature, interrelated, connected,
23.25 and interdependent unless it can be shown to the contrary.

23.26 (e) Unity of ownership is not deemed to exist when a corporation is involved unless
23.27 that corporation is a member of a group of two or more business entities and more than 50
23.28 percent of the voting stock of each member of the group is directly or indirectly owned
23.29 by a common owner or by common owners, either corporate or noncorporate, or by one
23.30 or more of the member corporations of the group. For this purpose, the term "voting
23.31 stock" shall include membership interests of mutual insurance holding companies formed
23.32 under section 66A.40.

23.33 (f) The net income and apportionment factors under section 290.191 or 290.20 of
23.34 foreign corporations and other foreign entities which are part of a unitary business shall
23.35 not be included in the net income or the apportionment factors of the unitary business.
23.36 A foreign corporation or other foreign entity which is required to file a return under this

24.1 chapter shall file on a separate return basis. ~~The net income and apportionment factors~~
24.2 ~~under section 290.191 or 290.20 of foreign operating corporations shall not be included in~~
24.3 ~~the net income or the apportionment factors of the unitary business except as provided in~~
24.4 ~~paragraph (g):~~

24.5 ~~(g) The adjusted net income of a foreign operating corporation shall be deemed to~~
24.6 ~~be paid as a dividend on the last day of its taxable year to each shareholder thereof, in~~
24.7 ~~proportion to each shareholder's ownership, with which such corporation is engaged in~~
24.8 ~~a unitary business. Such deemed dividend shall be treated as a dividend under section~~
24.9 ~~290.21, subdivision 4:~~

24.10 ~~Dividends actually paid by a foreign operating corporation to a corporate shareholder~~
24.11 ~~which is a member of the same unitary business as the foreign operating corporation shall~~
24.12 ~~be eliminated from the net income of the unitary business in preparing a combined report~~
24.13 ~~for the unitary business. The adjusted net income of a foreign operating corporation~~
24.14 ~~shall be its net income adjusted as follows:~~

24.15 ~~(1) any taxes paid or accrued to a foreign country, the commonwealth of Puerto~~
24.16 ~~Rico, or a United States possession or political subdivision of any of the foregoing shall~~
24.17 ~~be a deduction; and~~

24.18 ~~(2) the subtraction from federal taxable income for payments received from foreign~~
24.19 ~~corporations or foreign operating corporations under section 290.01, subdivision 19d,~~
24.20 ~~clause (10), shall not be allowed.~~

24.21 ~~If a foreign operating corporation incurs a net loss, neither income nor deduction~~
24.22 ~~from that corporation shall be included in determining the net income of the unitary~~
24.23 ~~business.~~

24.24 ~~(h) For purposes of determining the net income of a unitary business and the factors~~
24.25 ~~to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there~~
24.26 ~~must be included only the income and apportionment factors of domestic corporations or~~
24.27 ~~other domestic entities other than foreign operating corporations that are determined to~~
24.28 ~~be part of the unitary business pursuant to this subdivision, notwithstanding that foreign~~
24.29 ~~corporations or other foreign entities might be included in the unitary business.~~

24.30 ~~(i) (h) Deductions for expenses, interest, or taxes otherwise allowable under~~
24.31 ~~this chapter that are connected with or allocable against dividends, deemed dividends~~
24.32 ~~described in paragraph (g), or royalties, fees, or other like income described in section~~
24.33 ~~290.01, subdivision 19d, clause (10), shall not be disallowed.~~

24.34 ~~(j) (i) Each corporation or other entity, except a sole proprietorship, that is part of~~
24.35 ~~a unitary business must file combined reports as the commissioner determines. On the~~
24.36 ~~reports, all intercompany transactions between entities included pursuant to paragraph~~

25.1 (h) must be eliminated and the entire net income of the unitary business determined in
 25.2 accordance with this subdivision is apportioned among the entities by using each entity's
 25.3 Minnesota factors for apportionment purposes in the numerators of the apportionment
 25.4 formula and the total factors for apportionment purposes of all entities included pursuant
 25.5 to paragraph (h) in the denominators of the apportionment formula.

25.6 ~~(k)~~ (j) If a corporation has been divested from a unitary business and is included in a
 25.7 combined report for a fractional part of the common accounting period of the combined
 25.8 report:

25.9 (1) its income includable in the combined report is its income incurred for that part
 25.10 of the year determined by proration or separate accounting; and

25.11 (2) its sales, property, and payroll included in the apportionment formula must
 25.12 be prorated or accounted for separately.

25.13 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
 25.14 December 31, 2007.

25.15 Sec. 18. Minnesota Statutes 2006, section 297B.03, is amended to read:

25.16 **297B.03 EXEMPTIONS.**

25.17 There is specifically exempted from the provisions of this chapter and from
 25.18 computation of the amount of tax imposed by it the following:

25.19 (1) purchase or use, including use under a lease purchase agreement or installment
 25.20 sales contract made pursuant to section 465.71, of any motor vehicle by the United States
 25.21 and its agencies and instrumentalities and by any person described in and subject to the
 25.22 conditions provided in section 297A.67, subdivision 11;

25.23 (2) purchase or use of any motor vehicle by any person who was a resident of
 25.24 another state or country at the time of the purchase and who subsequently becomes a
 25.25 resident of Minnesota, provided the purchase occurred more than 60 days prior to the date
 25.26 such person began residing in the state of Minnesota and the motor vehicle was registered
 25.27 in the person's name in the other state or country;

25.28 (3) purchase or use of any motor vehicle by any person making a valid election to be
 25.29 taxed under the provisions of section 297A.90;

25.30 (4) purchase or use of any motor vehicle previously registered in the state of
 25.31 Minnesota when such transfer constitutes a transfer within the meaning of section 118,
 25.32 331, 332, 336, 337, 338, 351, 355, 368, 721, 731, 1031, 1033, or 1563(a) of the Internal
 25.33 Revenue Code of 1986, as amended through December 31, 1999;

26.1 (5) purchase or use of any vehicle owned by a resident of another state and leased
 26.2 to a Minnesota-based private or for-hire carrier for regular use in the transportation of
 26.3 persons or property in interstate commerce provided the vehicle is titled in the state of
 26.4 the owner or secured party, and that state does not impose a sales tax or sales tax on
 26.5 motor vehicles used in interstate commerce;

26.6 (6) purchase or use of a motor vehicle by a private nonprofit or public educational
 26.7 institution for use as an instructional aid in automotive training programs operated by the
 26.8 institution. "Automotive training programs" includes motor vehicle body and mechanical
 26.9 repair courses but does not include driver education programs;

26.10 (7) purchase of a motor vehicle for use as an ambulance by an ambulance service
 26.11 licensed under section 144E.10;

26.12 (8) purchase of a motor vehicle by or for a public library, as defined in section
 26.13 134.001, subdivision 2, as a bookmobile or library delivery vehicle;

26.14 (9) purchase of a ready-mixed concrete truck;

26.15 (10) purchase or use of a motor vehicle by a town for use exclusively for road
 26.16 maintenance, including snowplows and dump trucks, but not including automobiles,
 26.17 vans, or pickup trucks;

26.18 (11) purchase or use of a motor vehicle by a corporation, society, association,
 26.19 foundation, or institution organized and operated exclusively for charitable, religious,
 26.20 or educational purposes, except a public school, university, or library, but only if the
 26.21 vehicle is:

26.22 (i) a truck, as defined in section 168.011, a bus, as defined in section 168.011, or a
 26.23 passenger automobile, as defined in section 168.011, if the automobile is designed and
 26.24 used for carrying more than nine persons including the driver; and

26.25 (ii) intended to be used primarily to transport tangible personal property or
 26.26 individuals, other than employees, to whom the organization provides service in
 26.27 performing its charitable, religious, or educational purpose; and

26.28 (12) purchase of a motor vehicle for use by a transit provider exclusively to provide
 26.29 transit service is exempt if the transit provider is either (i) receiving financial assistance or
 26.30 reimbursement under section 174.24 or 473.384, or (ii) operating under section 174.29,
 26.31 473.388, or 473.405;

26.32 ~~(13) purchase or use of a motor vehicle by a qualified business, as defined in section~~
 26.33 ~~469.310, located in a job opportunity building zone, if the motor vehicle is principally~~
 26.34 ~~garaged in the job opportunity building zone and is primarily used as part of or in direct~~
 26.35 ~~support of the person's operations carried on in the job opportunity building zone. The~~
 26.36 ~~exemption under this clause applies to sales, if the purchase was made and delivery~~

27.1 ~~received during the duration of the job opportunity building zone. The exemption under~~
27.2 ~~this clause also applies to any local sales and use tax.~~

27.3 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
27.4 September 30, 2008.

27.5 Sec. 19. **REPEALER.**

27.6 (a) Minnesota Statutes 2006, sections 272.02, subdivision 83; 290.01, subdivision
27.7 6b; 290.06, subdivisions 29, 30, 31, 32, and 33; 290.068; 290.0921; 290.191, subdivision
27.8 4; 297A.68, subdivisions 37, 38, and 41; 469.311; 469.312; 469.313; 469.314; 469.315;
27.9 469.316; 469.317; 469.318; 469.3201; 469.321, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, and 10;
27.10 469.3215; 469.322; 469.323; 469.324; 469.325; 469.326; 469.327; 469.328; 469.329;
27.11 469.330; 469.331; 469.332; 469.333, subdivision 1; 469.337; 469.338; and 469.339, are
27.12 repealed.

27.13 (b) Minnesota Statutes 2007 Supplement, sections 272.02, subdivision 64; 469.321,
27.14 subdivision 1; 469.333, subdivision 2; 469.334; 469.335; and 469.336, are repealed.

27.15 (c) Laws 2005, First Special Session chapter 3, article 10, section 23, as amended by
27.16 Laws 2006, chapter 259, article 13, section 16, as amended by Laws 2008, chapter 154,
27.17 article 9, section 20, is repealed.

27.18 **EFFECTIVE DATE.** The provisions of this section relating to income and
27.19 corporate franchise tax are effective for taxable years beginning after December 31, 2008,
27.20 except the repeal of Minnesota Statutes, section 290.01, subdivision 6b, is effective for
27.21 taxable years beginning after December 31, 2007, and except that the repeal of Minnesota
27.22 Statutes, section 290.0921, subdivision 8, is effective for taxable years beginning after
27.23 December 31, 2010; the provisions relating to sales taxation are effective for sales and
27.24 purchases made after September 30, 2008, but do not apply to binding written contracts
27.25 entered into before that date if the sale or purchase is completed by March 31, 2009; and
27.26 the provisions affecting property taxes are effective beginning for taxes payable in 2010.