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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH  
SESSION

HOUSE FILE No. **2323**

April 16, 2009

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

1.1 A bill for an act  
1.2 relating to taxation; income and corporate franchise; providing a federal  
1.3 update; amending Minnesota Statutes 2008, sections 289A.02, subdivision 7, as  
1.4 amended; 290.01, subdivisions 19, as amended, 19a, as amended, 19b, 19c, as  
1.5 amended, 19d, as amended, 31, as amended; 290.06, subdivision 2c; 290.067,  
1.6 subdivision 2a, as amended; 290.091, subdivision 2; 290.095, subdivision 11;  
1.7 290.9727, by adding a subdivision; 290A.03, subdivisions 3, as amended, 15,  
1.8 as amended; 291.005, subdivision 1, as amended.

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

1.10 Section 1. Minnesota Statutes 2008, section 289A.02, subdivision 7, as amended by  
1.11 Laws 2009, chapter 12, article 1, section 1, is amended to read:

1.12 Subd. 7. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal  
1.13 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December~~  
1.14 ~~31, 2008~~ March 31, 2009.

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

1.18 Sec. 2. Minnesota Statutes 2008, section 290.01, subdivision 19, as amended by Laws  
1.19 2009, chapter 12, article 1, section 2, is amended to read:

1.20 Subd. 19. **Net income.** The term "net income" means the federal taxable income,  
1.21 as defined in section 63 of the Internal Revenue Code of 1986, as amended through the  
1.22 date named in this subdivision, incorporating the federal effective dates of changes to the  
1.23 Internal Revenue Code and any elections made by the taxpayer in accordance with the

2.1 Internal Revenue Code in determining federal taxable income for federal income tax  
2.2 purposes, and with the modifications provided in subdivisions 19a to 19f.

2.3 In the case of a regulated investment company or a fund thereof, as defined in section  
2.4 851(a) or 851(g) of the Internal Revenue Code, federal taxable income means investment  
2.5 company taxable income as defined in section 852(b)(2) of the Internal Revenue Code,  
2.6 except that:

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

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

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

2.16 The net income of a real estate investment trust as defined and limited by section  
2.17 856(a), (b), and (c) of the Internal Revenue Code means the real estate investment trust  
2.18 taxable income as defined in section 857(b)(2) of the Internal Revenue Code.

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

2.22 The Internal Revenue Code of 1986, as amended through ~~December 31, 2008~~ March  
2.23 31, 2009, shall be in effect for taxable years beginning after December 31, 1996.

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

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

2.29 Sec. 3. Minnesota Statutes 2008, section 290.01, subdivision 19a, as amended by Laws  
2.30 2009, chapter 12, article 1, section 3, is amended to read:

2.31 Subd. 19a. **Additions to federal taxable income.** For individuals, estates, and  
2.32 trusts, there shall be added to federal taxable income:

2.33 (1)(i) interest income on obligations of any state other than Minnesota or a political  
2.34 or governmental subdivision, municipality, or governmental agency or instrumentality

3.1 of any state other than Minnesota exempt from federal income taxes under the Internal  
3.2 Revenue Code or any other federal statute; and

3.3 (ii) exempt-interest dividends as defined in section 852(b)(5) of the Internal Revenue  
3.4 Code, except the portion of the exempt-interest dividends derived from interest income  
3.5 on obligations of the state of Minnesota or its political or governmental subdivisions,  
3.6 municipalities, governmental agencies or instrumentalities, but only if the portion of the  
3.7 exempt-interest dividends from such Minnesota sources paid to all shareholders represents  
3.8 95 percent or more of the exempt-interest dividends that are paid by the regulated  
3.9 investment company as defined in section 851(a) of the Internal Revenue Code, or the  
3.10 fund of the regulated investment company as defined in section 851(g) of the Internal  
3.11 Revenue Code, making the payment; and

3.12 (iii) for the purposes of items (i) and (ii), interest on obligations of an Indian tribal  
3.13 government described in section 7871(c) of the Internal Revenue Code shall be treated as  
3.14 interest income on obligations of the state in which the tribe is located;

3.15 (2) the amount of income ~~or~~, sales and use, motor vehicle sales, or excise taxes paid  
3.16 or accrued within the taxable year under this chapter and the amount of taxes based on  
3.17 net income paid ~~or~~, sales and use, motor vehicle sales, or excise taxes paid to any other  
3.18 state or to any province or territory of Canada, to the extent allowed as a deduction under  
3.19 section 63(d) of the Internal Revenue Code, but the addition may not be more than the  
3.20 amount by which the itemized deductions as allowed under section 63(d) of the Internal  
3.21 Revenue Code exceeds the amount of the standard deduction as defined in section 63(c)  
3.22 of the Internal Revenue Code, disregarding the ~~amount~~ amounts allowed under ~~section~~  
3.23 sections 63(c)(1)(C) and 63(c)(1)(E) of the Internal Revenue Code. For the purpose of  
3.24 this paragraph, the disallowance of itemized deductions under section 68 of the Internal  
3.25 Revenue Code of 1986, income ~~or~~, sales and use ~~tax is~~, motor vehicle sales, or excise  
3.26 taxes are the last itemized ~~deduction~~ deductions disallowed;

3.27 (3) the capital gain amount of a lump-sum distribution to which the special tax under  
3.28 section 1122(h)(3)(B)(ii) of the Tax Reform Act of 1986, Public Law 99-514, applies;

3.29 (4) the amount of income taxes paid or accrued within the taxable year under this  
3.30 chapter and taxes based on net income paid to any other state or any province or territory  
3.31 of Canada, to the extent allowed as a deduction in determining federal adjusted gross  
3.32 income. For the purpose of this paragraph, income taxes do not include the taxes imposed  
3.33 by sections 290.0922, subdivision 1, paragraph (b), 290.9727, 290.9728, and 290.9729;

3.34 (5) the amount of expense, interest, or taxes disallowed pursuant to section 290.10  
3.35 other than expenses or interest used in computing net interest income for the subtraction  
3.36 allowed under subdivision 19b, clause (1);

4.1 (6) the amount of a partner's pro rata share of net income which does not flow  
4.2 through to the partner because the partnership elected to pay the tax on the income under  
4.3 section 6242(a)(2) of the Internal Revenue Code;

4.4 (7) 80 percent of the depreciation deduction allowed under section 168(k) of the  
4.5 Internal Revenue Code. For purposes of this clause, if the taxpayer has an activity that  
4.6 in the taxable year generates a deduction for depreciation under section 168(k) and the  
4.7 activity generates a loss for the taxable year that the taxpayer is not allowed to claim for  
4.8 the taxable year, "the depreciation allowed under section 168(k)" for the taxable year is  
4.9 limited to excess of the depreciation claimed by the activity under section 168(k) over the  
4.10 amount of the loss from the activity that is not allowed in the taxable year. In succeeding  
4.11 taxable years when the losses not allowed in the taxable year are allowed, the depreciation  
4.12 under section 168(k) is allowed;

4.13 (8) 80 percent of the amount by which the deduction allowed by section 179 of the  
4.14 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal  
4.15 Revenue Code of 1986, as amended through December 31, 2003;

4.16 (9) to the extent deducted in computing federal taxable income, the amount of the  
4.17 deduction allowable under section 199 of the Internal Revenue Code;

4.18 (10) the exclusion allowed under section 139A of the Internal Revenue Code for  
4.19 federal subsidies for prescription drug plans;

4.20 (11) the amount of expenses disallowed under section 290.10, subdivision 2;

4.21 (12) the amount deducted for qualified tuition and related expenses under section  
4.22 222 of the Internal Revenue Code, to the extent deducted from gross income;

4.23 (13) the amount deducted for certain expenses of elementary and secondary school  
4.24 teachers under section 62(a)(2)(D) of the Internal Revenue Code, to the extent deducted  
4.25 from gross income; ~~and~~

4.26 (14) the additional standard deduction for property taxes payable that is allowable  
4.27 under section 63(c)(1)(C) of the Internal Revenue Code;

4.28 (15) the additional standard deduction for qualified motor vehicle sales taxes  
4.29 allowable under section 63(c)(1)(E) of the Internal Revenue Code;

4.30 (16) discharge of indebtedness income resulting from reacquisition of business  
4.31 indebtedness and deferred under section 108(i) of the Internal Revenue Code; and

4.32 (17) the amount of unemployment compensation exempt from tax under section  
4.33 85(c) of the Internal Revenue Code.

4.34 **EFFECTIVE DATE.** This section is effective for taxable years beginning after  
4.35 December 31, 2008, except that clause (16) is effective for taxable years ending after  
4.36 December 31, 2008.

5.1 Sec. 4. Minnesota Statutes 2008, section 290.01, subdivision 19b, is amended to read:

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

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

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

5.10 (3) the amount paid to others, less the amount used to claim the credit allowed under  
5.11 section 290.0674, not to exceed \$1,625 for each qualifying child in grades kindergarten  
5.12 to 6 and \$2,500 for each qualifying child in grades 7 to 12, for tuition, textbooks, and  
5.13 transportation of each qualifying child in attending an elementary or secondary school  
5.14 situated in Minnesota, North Dakota, South Dakota, Iowa, or Wisconsin, wherein a  
5.15 resident of this state may legally fulfill the state's compulsory attendance laws, which  
5.16 is not operated for profit, and which adheres to the provisions of the Civil Rights Act  
5.17 of 1964 and chapter 363A. For the purposes of this clause, "tuition" includes fees or  
5.18 tuition as defined in section 290.0674, subdivision 1, clause (1). As used in this clause,  
5.19 "textbooks" includes books and other instructional materials and equipment purchased  
5.20 or leased for use in elementary and secondary schools in teaching only those subjects  
5.21 legally and commonly taught in public elementary and secondary schools in this state.  
5.22 Equipment expenses qualifying for deduction includes expenses as defined and limited in  
5.23 section 290.0674, subdivision 1, clause (3). "Textbooks" does not include instructional  
5.24 books and materials used in the teaching of religious tenets, doctrines, or worship, the  
5.25 purpose of which is to instill such tenets, doctrines, or worship, nor does it include books  
5.26 or materials for, or transportation to, extracurricular activities including sporting events,  
5.27 musical or dramatic events, speech activities, driver's education, or similar programs. For  
5.28 purposes of the subtraction provided by this clause, "qualifying child" has the meaning  
5.29 given in section 32(c)(3) of the Internal Revenue Code;

5.30 (4) income as provided under section 290.0802;

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

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

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

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

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

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

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

6.24 (11) to the extent included in federal taxable income, the amount of compensation  
6.25 paid to members of the Minnesota National Guard or other reserve components of the  
6.26 United States military for active service performed in Minnesota, excluding compensation  
6.27 for services performed under the Active Guard Reserve (AGR) program. For purposes of  
6.28 this clause, "active service" means (i) state active service as defined in section 190.05,  
6.29 subdivision 5a, clause (1); (ii) federally funded state active service as defined in section  
6.30 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05,  
6.31 subdivision 5c, but "active service" excludes service performed in accordance with section  
6.32 190.08, subdivision 3;

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

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

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

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

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

7.26 (16) international economic development zone income as provided under section  
7.27 469.325; ~~and~~

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

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

8.1 **EFFECTIVE DATE.** This section is effective for taxable years ending after  
8.2 December 31, 2008.

8.3 Sec. 5. Minnesota Statutes 2008, section 290.01, subdivision 19c, as amended by Laws  
8.4 2009, chapter 12, article 1, section 4, is amended to read:

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

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

8.12 (2) interest not subject to federal tax upon obligations of: the United States, its  
8.13 possessions, its agencies, or its instrumentalities; the state of Minnesota or any other  
8.14 state, any of its political or governmental subdivisions, any of its municipalities, or any  
8.15 of its governmental agencies or instrumentalities; the District of Columbia; or Indian  
8.16 tribal governments;

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

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

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

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

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

8.28 (8) the exempt foreign trade income of a foreign sales corporation under sections  
8.29 921(a) and 291 of the Internal Revenue Code;

8.30 (9) the amount of percentage depletion deducted under sections 611 through 614 and  
8.31 291 of the Internal Revenue Code;

8.32 (10) for certified pollution control facilities placed in service in a taxable year  
8.33 beginning before December 31, 1986, and for which amortization deductions were elected  
8.34 under section 169 of the Internal Revenue Code of 1954, as amended through December



9.1 31, 1985, the amount of the amortization deduction allowed in computing federal taxable  
9.2 income for those facilities;

9.3 (11) the amount of any deemed dividend from a foreign operating corporation  
9.4 determined pursuant to section 290.17, subdivision 4, paragraph (g). The deemed dividend  
9.5 shall be reduced by the amount of the addition to income required by clauses (20), (21),  
9.6 (22), and (23);

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

9.10 (13) the amount of net income excluded under section 114 of the Internal Revenue  
9.11 Code;

9.12 (14) any increase in subpart F income, as defined in section 952(a) of the Internal  
9.13 Revenue Code, for the taxable year when subpart F income is calculated without regard to  
9.14 the provisions of Division C, title III, section 304(a)(1)-(2) of Public Law 110-343;

9.15 (15) 80 percent of the depreciation deduction allowed under section 168(k)(1)(A)  
9.16 and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if the taxpayer  
9.17 has an activity that in the taxable year generates a deduction for depreciation under  
9.18 section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable year  
9.19 that the taxpayer is not allowed to claim for the taxable year, "the depreciation allowed  
9.20 under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess of the  
9.21 depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A) over the  
9.22 amount of the loss from the activity that is not allowed in the taxable year. In succeeding  
9.23 taxable years when the losses not allowed in the taxable year are allowed, the depreciation  
9.24 under section 168(k)(1)(A) and (k)(4)(A) is allowed;

9.25 (16) 80 percent of the amount by which the deduction allowed by section 179 of the  
9.26 Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal  
9.27 Revenue Code of 1986, as amended through December 31, 2003;

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

9.30 (18) the exclusion allowed under section 139A of the Internal Revenue Code for  
9.31 federal subsidies for prescription drug plans;

9.32 (19) the amount of expenses disallowed under section 290.10, subdivision 2;

9.33 (20) an amount equal to the interest and intangible expenses, losses, and costs paid,  
9.34 accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit  
9.35 of a corporation that is a member of the taxpayer's unitary business group that qualifies

10.1 as a foreign operating corporation. For purposes of this clause, intangible expenses and  
10.2 costs include:

10.3 (i) expenses, losses, and costs for, or related to, the direct or indirect acquisition,  
10.4 use, maintenance or management, ownership, sale, exchange, or any other disposition of  
10.5 intangible property;

10.6 (ii) losses incurred, directly or indirectly, from factoring transactions or discounting  
10.7 transactions;

10.8 (iii) royalty, patent, technical, and copyright fees;

10.9 (iv) licensing fees; and

10.10 (v) other similar expenses and costs.

10.11 For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent  
10.12 applications, trade names, trademarks, service marks, copyrights, mask works, trade  
10.13 secrets, and similar types of intangible assets.

10.14 This clause does not apply to any item of interest or intangible expenses or costs paid,  
10.15 accrued, or incurred, directly or indirectly, to a foreign operating corporation with respect  
10.16 to such item of income to the extent that the income to the foreign operating corporation  
10.17 is income from sources without the United States as defined in subtitle A, chapter 1,  
10.18 subchapter N, part 1, of the Internal Revenue Code;

10.19 (21) except as already included in the taxpayer's taxable income pursuant to clause  
10.20 (20), any interest income and income generated from intangible property received or  
10.21 accrued by a foreign operating corporation that is a member of the taxpayer's unitary  
10.22 group. For purposes of this clause, income generated from intangible property includes:

10.23 (i) income related to the direct or indirect acquisition, use, maintenance or  
10.24 management, ownership, sale, exchange, or any other disposition of intangible property;

10.25 (ii) income from factoring transactions or discounting transactions;

10.26 (iii) royalty, patent, technical, and copyright fees;

10.27 (iv) licensing fees; and

10.28 (v) other similar income.

10.29 For purposes of this clause, "intangible property" includes stocks, bonds, patents, patent  
10.30 applications, trade names, trademarks, service marks, copyrights, mask works, trade  
10.31 secrets, and similar types of intangible assets.

10.32 This clause does not apply to any item of interest or intangible income received or accrued  
10.33 by a foreign operating corporation with respect to such item of income to the extent that  
10.34 the income is income from sources without the United States as defined in subtitle A,  
10.35 chapter 1, subchapter N, part 1, of the Internal Revenue Code;

11.1 (22) the dividends attributable to the income of a foreign operating corporation that  
 11.2 is a member of the taxpayer's unitary group in an amount that is equal to the dividends  
 11.3 paid deduction of a real estate investment trust under section 561(a) of the Internal  
 11.4 Revenue Code for amounts paid or accrued by the real estate investment trust to the  
 11.5 foreign operating corporation;

11.6 (23) the income of a foreign operating corporation that is a member of the taxpayer's  
 11.7 unitary group in an amount that is equal to gains derived from the sale of real or personal  
 11.8 property located in the United States; ~~and~~

11.9 (24) the additional amount allowed as a deduction for donation of computer  
 11.10 technology and equipment under section 170(e)(6) of the Internal Revenue Code, to the  
 11.11 extent deducted from taxable income; and

11.12 (25) discharge of indebtedness income resulting from reacquisition of business  
 11.13 indebtedness and deferred under section 108(i) of the Internal Revenue Code.

11.14 **EFFECTIVE DATE.** This section is effective for taxable years ending after  
 11.15 December 31, 2008.

11.16 Sec. 6. Minnesota Statutes 2008, section 290.01, subdivision 19d, as amended by Laws  
 11.17 2009, chapter 12, article 1, section 5, is amended to read:

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

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

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

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

11.29 (4) amounts disallowed for intangible drilling costs due to differences between  
 11.30 this chapter and the Internal Revenue Code in taxable years beginning before January  
 11.31 1, 1987, as follows:

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

12.1 (ii) to the extent the disallowed costs are not represented by physical property, an  
12.2 amount equal to the allowance for cost depletion under Minnesota Statutes 1986, section  
12.3 290.09, subdivision 8;

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

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

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

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

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

12.18 (6) an amount for interest and expenses relating to income not taxable for federal  
12.19 income tax purposes, if (i) the income is taxable under this chapter and (ii) the interest and  
12.20 expenses were disallowed as deductions under the provisions of section 171(a)(2), 265 or  
12.21 291 of the Internal Revenue Code in computing federal taxable income;

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

12.30 (8) for certified pollution control facilities placed in service in a taxable year  
12.31 beginning before December 31, 1986, and for which amortization deductions were elected  
12.32 under section 169 of the Internal Revenue Code of 1954, as amended through December  
12.33 31, 1985, an amount equal to the allowance for depreciation under Minnesota Statutes  
12.34 1986, section 290.09, subdivision 7;

12.35 (9) amounts included in federal taxable income that are due to refunds of income,  
12.36 excise, or franchise taxes based on net income or related minimum taxes paid by the

13.1 corporation to Minnesota, another state, a political subdivision of another state, the  
13.2 District of Columbia, or a foreign country or possession of the United States to the extent  
13.3 that the taxes were added to federal taxable income under section 290.01, subdivision 19c,  
13.4 clause (1), in a prior taxable year;

13.5 (10) 80 percent of royalties, fees, or other like income accrued or received from a  
13.6 foreign operating corporation or a foreign corporation which is part of the same unitary  
13.7 business as the receiving corporation, unless the income resulting from such payments or  
13.8 accruals is income from sources within the United States as defined in subtitle A, chapter  
13.9 1, subchapter N, part 1, of the Internal Revenue Code;

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

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

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

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

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

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

13.30 (17) any decrease in subpart F income, as defined in section 952(a) of the Internal  
13.31 Revenue Code, for the taxable year when subpart F income is calculated without regard to  
13.32 the provisions of Division C, title III, section 304(a)(1)-(2) of Public Law 110-343;

13.33 (18) in each of the five tax years immediately following the tax year in which an  
13.34 addition is required under subdivision 19c, clause (15), an amount equal to one-fifth of  
13.35 the delayed depreciation. For purposes of this clause, "delayed depreciation" means the

14.1 amount of the addition made by the taxpayer under subdivision 19c, clause (15). The  
 14.2 resulting delayed depreciation cannot be less than zero; ~~and~~

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

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

14.11 **EFFECTIVE DATE.** This section is effective for taxable years ending after  
 14.12 December 31, 2008.

14.13 Sec. 7. Minnesota Statutes 2008, section 290.01, subdivision 31, as amended by Laws  
 14.14 2009, chapter 12, article 1, section 7, is amended to read:

14.15 Subd. 31. **Internal Revenue Code.** Unless specifically defined otherwise, "Internal  
 14.16 Revenue Code" means the Internal Revenue Code of 1986, as amended through ~~December~~  
 14.17 ~~31, 2008~~ March 31, 2009. Internal Revenue Code also includes any uncodified provision  
 14.18 in federal law that relates to provisions of the Internal Revenue Code that are incorporated  
 14.19 into Minnesota law.

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

14.23 Sec. 8. Minnesota Statutes 2008, section 290.06, subdivision 2c, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

15.23 (1) the numerator is the individual's Minnesota source federal adjusted gross income  
15.24 as defined in section 62 of the Internal Revenue Code and increased by the additions  
15.25 required under section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), ~~and~~  
15.26 (13), (16), and (17), and reduced by the Minnesota assignable portion of the subtraction  
15.27 for United States government interest under section 290.01, subdivision 19b, clause (1),  
15.28 and the subtractions under section 290.01, subdivision 19b, clauses (9), (10), (14), (15),  
15.29 ~~and~~ (16), and (18), after applying the allocation and assignability provisions of section  
15.30 290.081, clause (a), or 290.17; and

15.31 (2) the denominator is the individual's federal adjusted gross income as defined in  
15.32 section 62 of the Internal Revenue Code of 1986, increased by the amounts specified in  
15.33 section 290.01, subdivision 19a, clauses (1), (5), (6), (7), (8), (9), (12), ~~and~~ (13), (16), and  
15.34 (17), and reduced by the amounts specified in section 290.01, subdivision 19b, clauses (1),  
15.35 (9), (10), (14), (15), ~~and~~ (16), and (18).

16.1 **EFFECTIVE DATE.** This section is effective for taxable years ending after  
16.2 December 31, 2008.

16.3 Sec. 9. Minnesota Statutes 2008, section 290.067, subdivision 2a, as amended by Laws  
16.4 2009, chapter 12, article 1, section 8, is amended to read:

16.5 Subd. 2a. **Income.** (a) For purposes of this section, "income" means the sum of  
16.6 the following:

16.7 (1) federal adjusted gross income as defined in section 62 of the Internal Revenue  
16.8 Code; and

16.9 (2) the sum of the following amounts to the extent not included in clause (1):

16.10 (i) all nontaxable income;

16.11 (ii) the amount of a passive activity loss that is not disallowed as a result of section  
16.12 469, paragraph (i) or (m) of the Internal Revenue Code and the amount of passive activity  
16.13 loss carryover allowed under section 469(b) of the Internal Revenue Code;

16.14 (iii) an amount equal to the total of any discharge of qualified farm indebtedness  
16.15 of a solvent individual excluded from gross income under section 108(g) of the Internal  
16.16 Revenue Code;

16.17 (iv) cash public assistance and relief;

16.18 (v) any pension or annuity (including railroad retirement benefits, all payments  
16.19 received under the federal Social Security Act, supplemental security income, and veterans  
16.20 benefits), which was not exclusively funded by the claimant or spouse, or which was  
16.21 funded exclusively by the claimant or spouse and which funding payments were excluded  
16.22 from federal adjusted gross income in the years when the payments were made;

16.23 (vi) interest received from the federal or a state government or any instrumentality  
16.24 or political subdivision thereof;

16.25 (vii) workers' compensation;

16.26 (viii) nontaxable strike benefits;

16.27 (ix) the gross amounts of payments received in the nature of disability income or  
16.28 sick pay as a result of accident, sickness, or other disability, whether funded through  
16.29 insurance or otherwise;

16.30 (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of  
16.31 1986, as amended through December 31, 1995;

16.32 (xi) contributions made by the claimant to an individual retirement account,  
16.33 including a qualified voluntary employee contribution; simplified employee pension plan;  
16.34 self-employed retirement plan; cash or deferred arrangement plan under section 401(k)



17.1 of the Internal Revenue Code; or deferred compensation plan under section 457 of the  
 17.2 Internal Revenue Code;

17.3 (xii) nontaxable scholarship or fellowship grants;

17.4 (xiii) the amount of deduction allowed under section 199 of the Internal Revenue  
 17.5 Code;

17.6 (xiv) the amount of deduction allowed under section 220 or 223 of the Internal  
 17.7 Revenue Code;

17.8 (xv) the amount of tuition expenses required to be added to income under section  
 17.9 290.01, subdivision 19a, clause (12); ~~and~~

17.10 (xvi) the amount deducted for certain expenses of elementary and secondary school  
 17.11 teachers under section 62(a)(2)(D) of the Internal Revenue Code; and

17.12 (xvii) unemployment compensation.

17.13 In the case of an individual who files an income tax return on a fiscal year basis, the  
 17.14 term "federal adjusted gross income" means federal adjusted gross income reflected in the  
 17.15 fiscal year ending in the next calendar year. Federal adjusted gross income may not be  
 17.16 reduced by the amount of a net operating loss carryback or carryforward or a capital loss  
 17.17 carryback or carryforward allowed for the year.

17.18 (b) "Income" does not include:

17.19 (1) amounts excluded pursuant to the Internal Revenue Code, sections 101(a) and  
 17.20 102;

17.21 (2) amounts of any pension or annuity that were exclusively funded by the claimant  
 17.22 or spouse if the funding payments were not excluded from federal adjusted gross income  
 17.23 in the years when the payments were made;

17.24 (3) surplus food or other relief in kind supplied by a governmental agency;

17.25 (4) relief granted under chapter 290A;

17.26 (5) child support payments received under a temporary or final decree of dissolution  
 17.27 or legal separation; and

17.28 (6) restitution payments received by eligible individuals and excludable interest as  
 17.29 defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of  
 17.30 2001, Public Law 107-16.

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

17.33 Sec. 10. Minnesota Statutes 2008, section 290.091, subdivision 2, is amended to read:

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

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

18.3 (1) the taxpayer's federal alternative minimum taxable income as defined in section  
18.4 55(b)(2) of the Internal Revenue Code;

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

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

18.9 (ii) the medical expense deduction;

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

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

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

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

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

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

18.25 less the sum of the amounts determined under the following:

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

18.27 (2) an overpayment of state income tax as provided by section 290.01, subdivision  
18.28 19b, clause (2), to the extent included in federal alternative minimum taxable income;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20.1 shall still be allowed to offset Minnesota income but only if the loss was assignable to  
20.2 Minnesota in the year the loss occurred.

20.3 (c)(1) A net operating loss of an individual, estate, or trust that is allowed under  
20.4 this subdivision and is realized by an eligible small business as defined in section  
20.5 172(b)(1)(H)(iv) of the Internal Revenue Code is a net operating loss carryback to each  
20.6 of the two taxable years preceding the loss, and unused portions may be carried forward  
20.7 for 20 taxable years after the loss.

20.8 (2) The entire amount of the net operating loss for any taxable year shall be carried  
20.9 to the earliest of the taxable years to which the loss may be carried. The portion of the loss  
20.10 which shall be carried to each of the other taxable years shall be the excess, if any, of the  
20.11 amount of the loss over the sum of the taxable net income, adjusted by the modifications  
20.12 specified in subdivision 4, for each of the taxable years to which the loss may be carried.

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

20.15 Sec. 12. Minnesota Statutes 2008, section 290.9727, is amended by adding a  
20.16 subdivision to read:

20.17 Subd. 6. **Recognition period.** For purposes of this section, "Internal Revenue  
20.18 Code" does not include the changes to section 1374(d) of the Internal Revenue Code  
20.19 contained in Public Law 111-5, section 1251.

20.20 **EFFECTIVE DATE.** This section is effective for gains occurring in taxable years  
20.21 beginning after December 31, 2008.

20.22 Sec. 13. Minnesota Statutes 2008, section 290A.03, subdivision 3, as amended by  
20.23 Laws 2009, chapter 12, article 1, section 9, is amended to read:

20.24 Subd. 3. **Income.** (1) "Income" means the sum of the following:

20.25 (a) federal adjusted gross income as defined in the Internal Revenue Code; and

20.26 (b) the sum of the following amounts to the extent not included in clause (a):

20.27 (i) all nontaxable income;

20.28 (ii) the amount of a passive activity loss that is not disallowed as a result of section  
20.29 469, paragraph (i) or (m) of the Internal Revenue Code and the amount of passive activity  
20.30 loss carryover allowed under section 469(b) of the Internal Revenue Code;

20.31 (iii) an amount equal to the total of any discharge of qualified farm indebtedness  
20.32 of a solvent individual excluded from gross income under section 108(g) of the Internal  
20.33 Revenue Code;

- 21.1 (iv) cash public assistance and relief;
- 21.2 (v) any pension or annuity (including railroad retirement benefits, all payments  
21.3 received under the federal Social Security Act, Supplemental Security Income, and  
21.4 veterans benefits), which was not exclusively funded by the claimant or spouse, or which  
21.5 was funded exclusively by the claimant or spouse and which funding payments were  
21.6 excluded from federal adjusted gross income in the years when the payments were made;
- 21.7 (vi) interest received from the federal or a state government or any instrumentality  
21.8 or political subdivision thereof;
- 21.9 (vii) workers' compensation;
- 21.10 (viii) nontaxable strike benefits;
- 21.11 (ix) the gross amounts of payments received in the nature of disability income or  
21.12 sick pay as a result of accident, sickness, or other disability, whether funded through  
21.13 insurance or otherwise;
- 21.14 (x) a lump-sum distribution under section 402(e)(3) of the Internal Revenue Code of  
21.15 1986, as amended through December 31, 1995;
- 21.16 (xi) contributions made by the claimant to an individual retirement account,  
21.17 including a qualified voluntary employee contribution; simplified employee pension plan;  
21.18 self-employed retirement plan; cash or deferred arrangement plan under section 401(k)  
21.19 of the Internal Revenue Code; or deferred compensation plan under section 457 of the  
21.20 Internal Revenue Code;
- 21.21 (xii) nontaxable scholarship or fellowship grants;
- 21.22 (xiii) the amount of deduction allowed under section 199 of the Internal Revenue  
21.23 Code;
- 21.24 (xiv) the amount of deduction allowed under section 220 or 223 of the Internal  
21.25 Revenue Code;
- 21.26 (xv) the amount of tuition expenses required to be added to income under section  
21.27 290.01, subdivision 19a, clause (12); ~~and~~
- 21.28 (xvi) the amount deducted for certain expenses of elementary and secondary school  
21.29 teachers under section 62(a)(2)(D) of the Internal Revenue Code; and
- 21.30 (xvii) unemployment compensation.

21.31 In the case of an individual who files an income tax return on a fiscal year basis, the  
21.32 term "federal adjusted gross income" shall mean federal adjusted gross income reflected  
21.33 in the fiscal year ending in the calendar year. Federal adjusted gross income shall not be  
21.34 reduced by the amount of a net operating loss carryback or carryforward or a capital loss  
21.35 carryback or carryforward allowed for the year.

21.36 (2) "Income" does not include:

22.1 (a) amounts excluded pursuant to the Internal Revenue Code, sections 101(a) and  
22.2 102;

22.3 (b) amounts of any pension or annuity which was exclusively funded by the claimant  
22.4 or spouse and which funding payments were not excluded from federal adjusted gross  
22.5 income in the years when the payments were made;

22.6 (c) surplus food or other relief in kind supplied by a governmental agency;

22.7 (d) relief granted under this chapter;

22.8 (e) child support payments received under a temporary or final decree of dissolution  
22.9 or legal separation; or

22.10 (f) restitution payments received by eligible individuals and excludable interest as  
22.11 defined in section 803 of the Economic Growth and Tax Relief Reconciliation Act of  
22.12 2001, Public Law 107-16.

22.13 (3) The sum of the following amounts may be subtracted from income:

22.14 (a) for the claimant's first dependent, the exemption amount multiplied by 1.4;

22.15 (b) for the claimant's second dependent, the exemption amount multiplied by 1.3;

22.16 (c) for the claimant's third dependent, the exemption amount multiplied by 1.2;

22.17 (d) for the claimant's fourth dependent, the exemption amount multiplied by 1.1;

22.18 (e) for the claimant's fifth dependent, the exemption amount; and

22.19 (f) if the claimant or claimant's spouse was disabled or attained the age of 65  
22.20 on or before December 31 of the year for which the taxes were levied or rent paid, the  
22.21 exemption amount.

22.22 For purposes of this subdivision, the "exemption amount" means the exemption  
22.23 amount under section 151(d) of the Internal Revenue Code for the taxable year for which  
22.24 the income is reported.

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

22.28 Sec. 14. Minnesota Statutes 2008, section 290A.03, subdivision 15, as amended by  
22.29 Laws 2009, chapter 12, article 1, section 10, is amended to read:

22.30 Subd. 15. **Internal Revenue Code.** "Internal Revenue Code" means the Internal  
22.31 Revenue Code of 1986, as amended through ~~December 31, 2008~~ March 31, 2009.

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

23.1 Sec. 15. Minnesota Statutes 2008, section 291.005, subdivision 1, as amended by Laws  
23.2 2009, chapter 12, article 1, section 11, is amended to read:

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

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

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

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

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

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

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

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

23.31 (8) "Internal Revenue Code" means the United States Internal Revenue Code of  
23.32 1986, as amended through ~~December 31, 2008~~ March 31, 2009.

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

- 24.1            **EFFECTIVE DATE.** This section is effective the day following final enactment,  
24.2 except the changes incorporated by federal changes are effective at the same time as the  
24.3 changes were effective for federal purposes.