

This Document can be made available
in alternative formats upon request

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. 3627

March 11, 2010

Authored by Sterner, Lenczewski, Gardner, Persell, Jackson and others
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; reducing the corporate franchise tax rate; repealing the JOBZ
1.2 program; amending Minnesota Statutes 2008, sections 123B.53, subdivision 1;
1.3 270B.14, subdivision 3; 290.01, subdivision 29; 290.06, subdivision 1; 290.0921,
1.4 subdivisions 1, 3; 290.0922, subdivisions 2, 3; 297A.75, as amended; 297B.03;
1.5 Minnesota Statutes 2009 Supplement, section 290.01, subdivision 19b; repealing
1.6 Minnesota Statutes 2008, sections 272.02, subdivision 64; 272.029, subdivision
1.7 7; 289A.12, subdivision 15; 290.06, subdivision 29; 297A.68, subdivision 37;
1.8 469.310; 469.311; 469.312, subdivisions 1, 2, 3, 4; 469.313; 469.314; 469.315;
1.9 469.316; 469.317; 469.318; 469.3192; 469.3193; 469.320.

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

1.12 Section 1. Minnesota Statutes 2008, section 123B.53, subdivision 1, is amended to read:

1.13 Subdivision 1. **Definitions.** (a) For purposes of this section, the eligible debt service
1.14 revenue of a district is defined as follows:

1.15 (1) the amount needed to produce between five and six percent in excess of the
1.16 amount needed to meet when due the principal and interest payments on the obligations
1.17 of the district for eligible projects according to subdivision 2, including the amounts
1.18 necessary for repayment of energy loans according to section 216C.37 or sections 298.292
1.19 to 298.298, debt service loans and capital loans, lease purchase payments under section
1.20 126C.40, subdivision 2, alternative facilities levies under section 123B.59, subdivision
1.21 5, paragraph (a), minus

1.22 (2) the amount of debt service excess levy reduction for that school year calculated
1.23 according to the procedure established by the commissioner.

1.24 (b) The obligations in this paragraph are excluded from eligible debt service revenue:

1.25 (1) obligations under section 123B.61;

1.26 (2) the part of debt service principal and interest paid from the taconite environmental
1.27 protection fund or Douglas J. Johnson economic protection trust;

2.1 (3) obligations issued under Laws 1991, chapter 265, article 5, section 18, as
 2.2 amended by Laws 1992, chapter 499, article 5, section 24; and

2.3 (4) obligations under section 123B.62.

2.4 (c) For purposes of this section, if a preexisting school district reorganized under
 2.5 sections 123A.35 to 123A.43, 123A.46, and 123A.48 is solely responsible for retirement
 2.6 of the preexisting district's bonded indebtedness, capital loans or debt service loans, debt
 2.7 service equalization aid must be computed separately for each of the preexisting districts.

2.8 ~~(d) For purposes of this section, the adjusted net tax capacity determined according~~
 2.9 ~~to section 127A.48 shall be adjusted to include the tax capacity of property generally~~
 2.10 ~~exempted from ad valorem taxes under section 272.02, subdivision 64.~~

2.11 **EFFECTIVE DATE.** This section is effective for property taxes payable in 2011
 2.12 and thereafter.

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

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

2.24 **EFFECTIVE DATE.** This section is effective January 1, 2011.

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

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

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

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

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

3.26 (4) income as provided under section 290.0802;

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

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

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

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

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

4.21 (10) for taxable years beginning before January 1, 2011, job opportunity building
4.22 zone income as provided under section 469.316;

4.23 (11) to the extent included in federal taxable income, the amount of compensation
4.24 paid to members of the Minnesota National Guard or other reserve components of the
4.25 United States military for active service performed in Minnesota, excluding compensation
4.26 for services performed under the Active Guard Reserve (AGR) program. For purposes of
4.27 this clause, "active service" means (i) state active service as defined in section 190.05,
4.28 subdivision 5a, clause (1); (ii) federally funded state active service as defined in section
4.29 190.05, subdivision 5b; or (iii) federal active service as defined in section 190.05,
4.30 subdivision 5c, but "active service" excludes service performed in accordance with section
4.31 190.08, subdivision 3;

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

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

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

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

5.24 (16) international economic development zone income as provided under section
5.25 469.325;

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

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

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

6.1 Sec. 4. Minnesota Statutes 2008, section 290.01, subdivision 29, is amended to read:

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

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

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

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

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

6.7 ~~(iii) the exemption for operating in a job opportunity building zone under section~~
6.8 ~~469.317;~~

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

6.11 ~~(v)~~ (iv) the exemption for operating in an international economic development
6.12 zone under section 469.326.

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

6.15 Sec. 5. Minnesota Statutes 2008, section 290.06, subdivision 1, is amended to read:

6.16 Subdivision 1. **Computation, corporations.** The franchise tax imposed upon
6.17 corporations shall be computed by applying to their taxable income the rate of ~~9.8~~ 9.4
6.18 percent.

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

6.21 Sec. 6. Minnesota Statutes 2008, section 290.0921, subdivision 1, is amended to read:

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

6.25 (1) ~~5.8~~ 5.6 percent of Minnesota alternative minimum taxable income; over

6.26 (2) the tax imposed under section 290.06, subdivision 1, without regard to this
6.27 section.

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

6.30 Sec. 7. Minnesota Statutes 2008, section 290.0921, subdivision 3, is amended to read:

6.31 Subd. 3. **Alternative minimum taxable income.** "Alternative minimum taxable
6.32 income" is Minnesota net income as defined in section 290.01, subdivision 19, and

7.1 includes the adjustments and tax preference items in sections 56, 57, 58, and 59(d), (e),
7.2 (f), and (h) of the Internal Revenue Code. If a corporation files a separate company
7.3 Minnesota tax return, the minimum tax must be computed on a separate company basis.
7.4 If a corporation is part of a tax group filing a unitary return, the minimum tax must be
7.5 computed on a unitary basis. The following adjustments must be made.

7.6 (1) For purposes of the depreciation adjustments under section 56(a)(1) and
7.7 56(g)(4)(A) of the Internal Revenue Code, the basis for depreciable property placed in
7.8 service in a taxable year beginning before January 1, 1990, is the adjusted basis for federal
7.9 income tax purposes, including any modification made in a taxable year under section
7.10 290.01, subdivision 19e, or Minnesota Statutes 1986, section 290.09, subdivision 7,
7.11 paragraph (c).

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

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

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

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

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

7.27 (6) The special rule for dividends from section 936 companies under section
7.28 56(g)(4)(C)(iii) does not apply.

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

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

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

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

8.3 (11) For purposes of calculating the tax preference for accelerated depreciation or
8.4 amortization on certain property placed in service before January 1, 1987, under section
8.5 57(a)(7) of the Internal Revenue Code, the deduction allowable for the taxable year is the
8.6 deduction allowed under section 290.01, subdivision 19e.

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

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

8.15 (13) For purposes of determining the amount of adjusted current earnings under
8.16 section 56(g)(3) of the Internal Revenue Code, no adjustment shall be made under section
8.17 56(g)(4) of the Internal Revenue Code with respect to (i) the amount of foreign dividend
8.18 gross-up subtracted as provided in section 290.01, subdivision 19d, clause (1), (ii) the
8.19 amount of refunds of income, excise, or franchise taxes subtracted as provided in section
8.20 290.01, subdivision 19d, clause (9), or (iii) the amount of royalties, fees or other like
8.21 income subtracted as provided in section 290.01, subdivision 19d, clause (10).

8.22 (14) For tax years beginning before January 1, 2011, alternative minimum taxable
8.23 income excludes the income from operating in a job opportunity building zone as provided
8.24 under section 469.317.

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

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

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

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

8.33 Sec. 8. Minnesota Statutes 2008, section 290.0922, subdivision 2, is amended to read:

8.34 Subd. 2. **Exemptions.** The following entities are exempt from the tax imposed
8.35 by this section:

9.1 (1) corporations exempt from tax under section 290.05;
 9.2 (2) real estate investment trusts;
 9.3 (3) regulated investment companies or a fund thereof; and
 9.4 (4) entities having a valid election in effect under section 860D(b) of the Internal
 9.5 Revenue Code;

9.6 (5) town and farmers' mutual insurance companies;

9.7 (6) cooperatives organized under chapter 308A or 308B that provide housing
 9.8 exclusively to persons age 55 and over and are classified as homesteads under section
 9.9 273.124, subdivision 3; and

9.10 ~~(7) an entity, if for the taxable year all of its property is located in a job opportunity~~
 9.11 ~~building zone designated under section 469.314 and all of its payroll is a job opportunity~~
 9.12 ~~building zone payroll under section 469.310; and~~

9.13 ~~(8)~~ (7) an entity, if for the taxable year all of its property is located in an international
 9.14 economic development zone designated under section 469.322, and all of its payroll is
 9.15 international economic development zone payroll under section 469.321. The exemption
 9.16 under this clause applies to taxable years beginning during the duration of the international
 9.17 economic development zone.

9.18 Entities not specifically exempted by this subdivision are subject to tax under this
 9.19 section, notwithstanding section 290.05.

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

9.22 Sec. 9. Minnesota Statutes 2008, section 290.0922, subdivision 3, is amended to read:

9.23 Subd. 3. **Definitions.** (a) "Minnesota sales or receipts" means the total sales
 9.24 apportioned to Minnesota pursuant to section 290.191, subdivision 5, the total receipts
 9.25 attributed to Minnesota pursuant to section 290.191, subdivisions 6 to 8, and/or the
 9.26 total sales or receipts apportioned or attributed to Minnesota pursuant to any other
 9.27 apportionment formula applicable to the taxpayer.

9.28 (b) "Minnesota property" means total Minnesota tangible property as provided in
 9.29 section 290.191, subdivisions 9 to 11, any other tangible property located in Minnesota,
 9.30 but does not include: (1) ~~property located in a job opportunity building zone designated~~
 9.31 ~~under section 469.314;~~ (2) property of a qualified business located in a biotechnology and
 9.32 health sciences industry zone designated under section 469.334, or ~~(3)~~ (2) for taxable years
 9.33 beginning during the duration of the zone, property of a qualified business located in the
 9.34 international economic development zone designated under section 469.322. Intangible
 9.35 property shall not be included in Minnesota property for purposes of this section.

10.1 Taxpayers who do not utilize tangible property to apportion income shall nevertheless
 10.2 include Minnesota property for purposes of this section. On a return for a short taxable
 10.3 year, the amount of Minnesota property owned, as determined under section 290.191,
 10.4 shall be included in Minnesota property based on a fraction in which the numerator is the
 10.5 number of days in the short taxable year and the denominator is 365.

10.6 (c) "Minnesota payrolls" means total Minnesota payrolls as provided in section
 10.7 290.191, subdivision 12, but does not include: (1) ~~job opportunity building zone payrolls~~
 10.8 ~~under section 469.310, subdivision 8, (2) biotechnology and health sciences industry zone~~
 10.9 ~~payrolls under section 469.330, subdivision 8, or (3) (2)~~ for taxable years beginning during
 10.10 the duration of the zone, international economic development zone payrolls under section
 10.11 469.321, subdivision 9. Taxpayers who do not utilize payrolls to apportion income shall
 10.12 nevertheless include Minnesota payrolls for purposes of this section.

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

10.15 Sec. 10. Minnesota Statutes 2008, section 297A.75, as amended by Laws 2009, chapter
 10.16 88, article 4, sections 7 and 8, is amended to read:

10.17 **297A.75 REFUND; APPROPRIATION.**

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

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

10.22 (2) building materials for an agricultural processing facility exempt under section
 10.23 297A.71, subdivision 13;

10.24 (3) building materials for mineral production facilities exempt under section
 10.25 297A.71, subdivision 14;

10.26 (4) building materials for correctional facilities under section 297A.71, subdivision
 10.27 3;

10.28 (5) building materials used in a residence for disabled veterans exempt under section
 10.29 297A.71, subdivision 11;

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

10.31 (7) building materials for the Long Lake Conservation Center exempt under section
 10.32 297A.71, subdivision 17;

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

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

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

11.6 ~~(11)~~ (10) tangible personal property and taxable services and construction materials,
11.7 supplies, and equipment exempt under section 297A.68, subdivision 41;

11.8 ~~(12)~~ (11) commuter rail vehicle and repair parts under section 297A.70, subdivision
11.9 3, clause (11);

11.10 ~~(13)~~ (12) materials, supplies, and equipment for construction or improvement of
11.11 projects and facilities under section 297A.71, subdivision 40; and

11.12 ~~(14)~~ (13) materials, supplies, and equipment for construction or improvement of a
11.13 meat processing facility exempt under section 297A.71, subdivision 41.

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

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

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

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

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

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

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

11.28 (7) for subdivision 1, clauses (10), ~~(11)~~, and ~~(14)~~ (13), the owner of the qualifying
11.29 business; and

11.30 (8) for subdivision 1, clauses ~~(12)~~ (11) and ~~(13)~~ (12), the applicant must be the
11.31 governmental entity that owns or contracts for the project or facility.

11.32 Subd. 3. **Application.** (a) The application must include sufficient information
11.33 to permit the commissioner to verify the tax paid. If the tax was paid by a contractor,
11.34 subcontractor, or builder, under subdivision 1, clause (4), (5), (6), (7), (8), (9), (10),
11.35 (11), (12), or (13), ~~or~~ ~~(14)~~, the contractor, subcontractor, or builder must furnish to the
11.36 refund applicant a statement including the cost of the exempt items and the taxes paid on

12.1 the items unless otherwise specifically provided by this subdivision. The provisions of
12.2 sections 289A.40 and 289A.50 apply to refunds under this section.

12.3 (b) An applicant may not file more than two applications per calendar year for
12.4 refunds for taxes paid on capital equipment exempt under section 297A.68, subdivision 5.

12.5 (c) Total refunds for purchases of items in section 297A.71, subdivision 40, must not
12.6 exceed \$5,000,000 in fiscal years 2010 and 2011. Applications for refunds for purchases
12.7 of items in sections 297A.70, subdivision 3, paragraph (a), clause (11), and 297A.71,
12.8 subdivision 40, must not be filed until after June 30, 2009.

12.9 Subd. 4. **Interest.** Interest must be paid on the refund at the rate in section 270C.405
12.10 from 90 days after the refund claim is filed with the commissioner for taxes paid under
12.11 subdivision 1.

12.12 Subd. 5. **Appropriation.** The amount required to make the refunds is annually
12.13 appropriated to the commissioner.

12.14 **EFFECTIVE DATE.** This section is effective for sales and purchases made after
12.15 December 31, 2010.

12.16 Sec. 11. Minnesota Statutes 2008, section 297B.03, is amended to read:

12.17 **297B.03 EXEMPTIONS.**

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

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

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

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

12.31 (4) purchase or use of any motor vehicle previously registered in the state of
12.32 Minnesota when such transfer constitutes a transfer within the meaning of section 118,
12.33 331, 332, 336, 337, 338, 351, 355, 368, 721, 731, 1031, 1033, or 1563(a) of the Internal
12.34 Revenue Code;

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

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

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

13.12 (8) purchase of a motor vehicle by or for a public library, as defined in section
13.13 134.001, subdivision 2, as a bookmobile or library delivery vehicle;

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

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

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

13.22 (i) a truck, as defined in section 168.002, a bus, as defined in section 168.002, or a
13.23 passenger automobile, as defined in section 168.002, if the automobile is designed and
13.24 used for carrying more than nine persons including the driver; and

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

13.28 (12) purchase of a motor vehicle for use by a transit provider exclusively to provide
13.29 transit service is exempt if the transit provider is either (i) receiving financial assistance or
13.30 reimbursement under section 174.24 or 473.384, or (ii) operating under section 174.29,
13.31 473.388, or 473.405; and

13.32 ~~(13) purchase or use of a motor vehicle by a qualified business, as defined in section~~
13.33 ~~469.310, located in a job opportunity building zone, if the motor vehicle is principally~~
13.34 ~~garaged in the job opportunity building zone and is primarily used as part of or in direct~~
13.35 ~~support of the person's operations carried on in the job opportunity building zone. The~~
13.36 ~~exemption under this clause applies to sales, if the purchase was made and delivery~~

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

14.3 ~~(14)~~ (13) purchase of a leased vehicle by the lessee who was a participant in a
14.4 lease-to-own program from a charitable organization that is:

14.5 (i) described in section 501(c)(3) of the Internal Revenue Code; and

14.6 (ii) licensed as a motor vehicle lessor under section 168.27, subdivision 4.

14.7 **EFFECTIVE DATE.** This section is effective for purchases and sales made after
14.8 December 31, 2010.

14.9 **Sec. 12. JOBZ BUSINESS SUBSIDY AGREEMENTS.**

14.10 Effective 30 days after enactment of this section, a qualified business, as defined
14.11 in Minnesota Statutes, section 469.310, subdivision 11, may elect to void a business
14.12 subsidy agreement beginning for obligations under the business subsidy agreement that
14.13 apply after June 30, 2010. A qualified business is not required to repay the tax benefits
14.14 enumerated under Minnesota Statutes, section 469.315, for ceasing to operate in a zone
14.15 or for breach of a business subsidy agreement that occurs after the day following final
14.16 enactment of this section.

14.17 **EFFECTIVE DATE.** This section is effective day following enactment.

14.18 **Sec. 13. REPEALER.**

14.19 (a) Minnesota Statutes 2008, section 272.02, subdivision 64, is repealed.

14.20 (b) Minnesota Statutes 2008, sections 290.06, subdivision 29; 469.316; 469.317;
14.21 and 469.318, are repealed.

14.22 (c) Minnesota Statutes 2008, section 297A.68, subdivision 37, is repealed.

14.23 (d) Minnesota Statutes 2008, sections 272.029, subdivision 7; 289A.12, subdivision
14.24 15; 469.310; 469.311; 469.312, subdivisions 1, 2, 3, and 4; 469.313; 469.314; 469.315;
14.25 469.3192; 469.3193; and 469.320, are repealed.

14.26 **EFFECTIVE DATE.** Paragraph (a) is effective for property taxes payable in 2011
14.27 and thereafter. Paragraph (b) is effective for taxable years beginning after December 31,
14.28 2010. Paragraph (c) is effective for sales and purchases made after December 31, 2010,
14.29 but does not apply to binding contracts entered into before June 1, 2010. Paragraph (d) is
14.30 effective January 1, 2011.

272.02 EXEMPT PROPERTY.

Subd. 64. **Job opportunity building zone property.** (a) Improvements to real property, and personal property, classified under section 273.13, subdivision 24, and located within a job opportunity building zone, designated under section 469.314, are exempt from ad valorem taxes levied under chapter 275.

(b) Improvements to real property, and tangible personal property, of an agricultural production facility located within an agricultural processing facility zone, designated under section 469.314, is exempt from ad valorem taxes levied under chapter 275.

(c) For property to qualify for exemption under paragraph (a), the occupant must be a qualified business, as defined in section 469.310.

(d) The exemption applies beginning for the first assessment year after designation of the job opportunity building zone by the commissioner of employment and economic development. The exemption applies to each assessment year that begins during the duration of the job opportunity building zone. To be exempt, the property must be occupied by July 1 of the assessment year by a qualified business that has signed the business subsidy agreement and relocation agreement, if required, by July 1 of the assessment year. This exemption does not apply to:

(1) the levy under section 475.61 or similar levy provisions under any other law to pay general obligation bonds; or

(2) other school district levies included in the debt service levy of the district under section 123B.55.

(e) Except for property of a business that was exempt under this subdivision for taxes payable in 2008, a business must notify the county assessor in writing of eligibility under this subdivision by July 1 in order to begin receiving the exemption under this subdivision for taxes payable in the following year. The business need not annually notify the county assessor of its continued exemption under this subdivision, but must notify the county assessor immediately if the exemption no longer applies.

272.029 WIND ENERGY PRODUCTION TAX.

Subd. 7. **Exemption.** The tax imposed under this section does not apply to electricity produced by wind energy conversion systems located in a job opportunity building zone, designated under section 469.314, for the duration of the zone. The exemption applies beginning for the first calendar year after designation of the zone and applies to each calendar year that begins during the designation of the zone.

289A.12 FILING REQUIREMENTS FOR INFORMATION RETURNS AND REPORTS.

Subd. 15. **Report of job opportunity zone benefits; penalty for failure to file report.**

(a) By October 15 of each year, every qualified business, as defined under section 469.310, subdivision 11, must file with the commissioner, on a form prescribed by the commissioner, a report listing the tax benefits under section 469.315 received by the business for the previous year.

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

(c) A business that fails to submit the report as required under paragraph (b) is no longer a qualified business under section 469.310, subdivision 11, and is subject to the repayment provisions of section 469.319.

290.06 RATES OF TAX; CREDITS.

APPENDIX

Repealed Minnesota Statutes: 10-5785

Subd. 29. **Job opportunity building zone job credit.** A taxpayer that is a qualified business, as defined in section 469.310, subdivision 11, is allowed a credit as determined under section 469.318 against the tax imposed by this chapter.

297A.68 BUSINESS EXEMPTIONS.

Subd. 37. **Job opportunity building zones.** (a) Purchases of tangible personal property or taxable services by a qualified business, as defined in section 469.310, are exempt if the property or services are primarily used or consumed in a job opportunity building zone designated under section 469.314. For purposes of this subdivision, an aerial camera package, including any camera, computer, and navigation device contained in the package, that is used in an aircraft that is operated under a Federal Aviation Administration Restricted Airworthiness Certificate according to Code of Federal Regulations, title 14, part 21, section 21.25(b)(3), relating to aerial surveying, and that is based, maintained, and dispatched from a job opportunity building zone, qualifies as primarily used or consumed in a job opportunity building zone if the imagery acquired from the aerial camera package is returned to the job opportunity building zone for processing. The exemption for an aerial camera package is limited as provided in this subdivision and the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75. The total amount of the aerial camera package exemption refunded for all taxpayers for all fiscal years is limited to \$50,000 in taxes.

(b) Purchase and use of construction materials and supplies used or consumed in, and equipment incorporated into, the construction of improvements to real property in a job opportunity building zone are exempt if the improvements after completion of construction are to be used in the conduct of a qualified business, as defined in section 469.310. This exemption applies regardless of whether the purchases are made by the business or a contractor.

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

(d) This subdivision applies to sales, if the purchase was made and delivery received during the duration of the zone.

(e) Notwithstanding the restriction in paragraph (a), which requires items purchased to be primarily used or consumed in the zone, purchases by a qualified business that is an electrical cooperative located in Meeker County of equipment and materials used for the generation, transmission, and distribution of electrical energy are exempt under this subdivision, except that:

(1) the exemption for materials and equipment used or consumed outside the zone must not exceed \$200,000 in taxes for all taxpayers for all fiscal years; and

(2) no sales and use tax exemption is allowed for equipment purchased for resale.

For purposes of this paragraph, the tax must be imposed and collected as if the rate under section 297A.62, subdivision 1, applied and then refunded in the manner provided in section 297A.75.

469.310 DEFINITIONS.

Subdivision 1. **Scope.** For purposes of sections 469.310 to 469.320, the following terms have the meanings given.

Subd. 2. **Agricultural processing facility.** "Agricultural processing facility" means one or more facilities or operations that transform, package, sort, or grade livestock or livestock products, agricultural commodities, or plants or plant products into goods that are used for intermediate or final consumption including goods for nonfood use, and surrounding property.

Subd. 3. **Applicant.** "Applicant" means a local government unit or units applying for designation of an area as a job opportunity building zone or a joint powers board, established under section 471.59, acting on behalf of two or more local government units.

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

Subd. 5. **Development plan.** "Development plan" means a plan meeting the requirements of section 469.311.

Subd. 6. **Job opportunity building zone or zone.** "Job opportunity building zone" or "zone" means a zone designated by the commissioner under section 469.314, and includes an agricultural processing facility zone.

Subd. 7. **Job opportunity building zone percentage or zone percentage.** "Job opportunity building zone percentage" or "zone percentage" means the following fraction reduced to a percentage:

(1) the numerator of the fraction is:

APPENDIX

Repealed Minnesota Statutes: 10-5785

- (i) the ratio of the taxpayer's property factor under section 290.191 located in the zone for the taxable year over the property factor numerator determined under section 290.191, plus
 - (ii) the ratio of the taxpayer's job opportunity building zone payroll factor under subdivision 8 over the payroll factor numerator determined under section 290.191; and
- (2) the denominator of the fraction is two.

When calculating the zone percentage for a business that is part of a unitary business as defined under section 290.17, subdivision 4, the denominator of the payroll and property factors is the Minnesota payroll and property of the unitary business as reported on the combined report under section 290.17, subdivision 4, paragraph (j).

Subd. 8. Job opportunity building zone payroll factor. "Job opportunity building zone payroll factor" or "job opportunity building zone payroll" is that portion of the payroll factor under section 290.191 that represents:

- (1) wages or salaries paid to an individual for services performed in a job opportunity building zone; or
- (2) wages or salaries paid to individuals working from offices within a job opportunity building zone if their employment requires them to work outside the zone and the work is incidental to the work performed by the individual within the zone.

Subd. 9. Local government unit. "Local government unit" means a statutory or home rule charter city, county, town, Iron Range resources and rehabilitation agency, regional development commission, or a federally designated economic development district.

Subd. 10. Person. "Person" includes an individual, corporation, partnership, limited liability company, association, or any other entity.

Subd. 11. Qualified business. (a) A person carrying on a trade or business at a place of business located within a job opportunity building zone is a qualified business for the purposes of sections 469.310 to 469.320 according to the criteria in paragraphs (b) to (f).

(b) A person is a qualified business only on those parcels of land for which the person has entered into a business subsidy agreement, as required under section 469.313, with the appropriate local government unit in which the parcels are located.

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

- (1) how wages compare to the regional industry average;
- (2) the number of jobs that will be provided relative to overall employment in the community;
- (3) the economic outlook for the industry the business will engage in;
- (4) sales that will be generated from outside the state of Minnesota;
- (5) how the business will build on existing regional strengths or diversify the regional economy;
- (6) how the business will increase capital investment in the zone; and
- (7) any other criteria the commissioner deems necessary.

(d) A person that relocates a trade or business from outside a job opportunity building zone into a zone is not a qualified business unless the business meets all of the requirements of paragraphs (b) and (c) and:

- (1) increases full-time employment in the first full year of operation within the job opportunity building zone by a minimum of five jobs or 20 percent, whichever is greater, measured relative to the operations that were relocated and maintains the required level of employment for each year the zone designation applies; and
- (2) enters a binding written agreement with the commissioner that:
 - (i) pledges the business will meet the requirements of clause (1);
 - (ii) provides for repayment of all tax benefits enumerated under section 469.315 to the business under the procedures in section 469.319, if the requirements of clause (1) are not met for the taxable year or for taxes payable during the year in which the requirements were not met; and
 - (iii) contains any other terms the commissioner determines appropriate.

(e) The commissioner may waive the requirements under paragraph (d), clause (1), if the commissioner determines that the qualified business will substantially achieve the factors under this subdivision.

(f) A business is not a qualified business if, at its location or locations in the zone, the business is primarily engaged in making retail sales to purchasers who are physically present at the business's zone location.

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

(h) A public utility, as defined in section 336B.01, is not a qualified business.

APPENDIX

Repealed Minnesota Statutes: 10-5785

Subd. 12. **Relocates.** (a) "Relocates" means that the trade or business:

(1) ceases one or more operations or functions at another location in Minnesota and begins performing substantially the same operations or functions at a location in a job opportunity building zone; or

(2) reduces employment at another location in Minnesota during a period starting one year before and ending one year after it begins operations in a job opportunity building zone and its employees in the job opportunity building zone are engaged in the same line of business as the employees at the location where it reduced employment.

(b) "Relocate" does not include an expansion by a business that establishes a new facility that does not replace or supplant an existing operation or employment, in whole or in part.

(c) "Trade or business" includes any business entity that is substantially similar in operation or ownership to the business entity seeking to be a qualified business under this section.

Subd. 13. **Relocation payroll percentage.** "Relocation payroll percentage" is a fraction, the numerator of which is the zone payroll of the business for the tax year minus the payroll from the relocated operations in the last full year of operations prior to the relocation, and the denominator of which is the zone payroll of the business for the tax year. The relocation payroll percentage of a business that is not a relocating business is 100 percent.

469.311 DEVELOPMENT PLAN.

(a) An applicant for designation of a job opportunity building zone must adopt a written development plan for the zone before submitting the application to the commissioner.

(b) The development plan must contain, at least, the following:

(1) a map of the proposed zone that indicates the geographic boundaries of the zone, the total area, and present use and conditions generally of the land and structures within those boundaries;

(2) evidence of community support and commitment from local government, local workforce investment boards, school districts, and other education institutions, business groups, and the public;

(3) a description of the methods proposed to increase economic opportunity and expansion, facilitate infrastructure improvement, reduce the local regulatory burden, and identify job-training opportunities;

(4) current social, economic, and demographic characteristics of the proposed zone and anticipated improvements in education, health, human services, and employment if the zone is created;

(5) a description of anticipated activity in the zone and each subzone, including, but not limited to, industrial use, industrial site reuse, commercial or retail use, and residential use; and

(6) any other information required by the commissioner.

469.312 JOB OPPORTUNITY BUILDING ZONES; LIMITATIONS.

Subdivision 1. **Maximum size.** A job opportunity building zone may not exceed 5,000 acres. For a zone designated as an agricultural processing facility zone, the zone also may not exceed the size of a site necessary for the agricultural processing facility, including ancillary operations and space for expansion in the reasonably foreseeable future.

Subd. 2. **Subzones.** The area of a job opportunity building zone may consist of one or more noncontiguous areas or subzones.

Subd. 3. **Outside metropolitan area.** The area of a job opportunity building zone must be located outside of the metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 4. **Border city development zones.** (a) The area of a job opportunity building zone may not include the area of a border city development zone designated under section 469.1731. The city may remove property from a border city development zone contingent upon the area being designated as a job opportunity building zone. Before removing a parcel of property from a border city development zone, the city must obtain the written consent to the removal from each recipient that is located on the parcel and receives incentives under the border city development zone. Consent of any other property owner or taxpayer in the border city development zone is not required.

(b) A city may not provide tax incentives under section 469.1734 to individuals or businesses for operations or activity in a job opportunity building zone.

469.313 APPLICATION FOR DESIGNATION.

APPENDIX

Repealed Minnesota Statutes: 10-5785

Subdivision 1. **Who may apply.** One or more local government units, or a joint powers board under section 471.59, acting on behalf of two or more units, may apply for designation of an area as a job opportunity building zone. All or part of the area proposed for designation as a zone must be located within the boundaries of each of the governmental units. A local government unit may not submit or have submitted on its behalf more than one application for designation of a job opportunity building zone.

Subd. 2. **Application content.** The application must include:

- (1) a development plan meeting the requirements of section 469.311;
- (2) the proposed duration of the zone, not to exceed 12 years;
- (3) a resolution or ordinance adopted by each of the cities or towns and the counties in which the zone is located, agreeing to provide all of the local tax exemptions provided under section 469.315;
- (4) if the proposed zone includes area in a border city development zone, written consent to removal of the property from the border city development zone to the extent required by section 469.312, subdivision 4;
- (5) an agreement by the applicant to treat incentives provided under the zone designation as business subsidies under sections 116J.993 to 116J.995 and to comply with the requirements of that law; and
- (6) supporting evidence to allow the commissioner to evaluate the application under the criteria in section 469.314.

469.314 DESIGNATION OF JOB OPPORTUNITY BUILDING ZONES.

Subdivision 1. **Commissioner to designate.** (a) The commissioner, in consultation with the commissioner of revenue, shall designate not more than ten job opportunity building zones. In making the designations, the commissioner shall consider need and likelihood of success to yield the most economic development and revitalization of economically distressed rural areas of Minnesota.

(b) In addition to the designations under paragraph (a), the commissioner may, in consultation with the commissioners of agriculture and revenue, designate up to five agricultural processing facility zones.

(c) The commissioner may, upon designation of a zone, modify the development plan, including the boundaries of the zone or subzones, if in the commissioner's opinion a modified plan would better meet the objectives of the job opportunity building zone program. The commissioner shall notify the applicant of the modification and provide a statement of the reasons for the modifications.

Subd. 2. **Need indicators.** (a) In evaluating applications to determine the need for designation of a job opportunity building zone, the commissioner shall consider the following factors as indicators of need:

- (1) the percentage of the population that is below 200 percent of the poverty rate, compared with the state as a whole;
- (2) the extent to which the area's average weekly wage is significantly lower than the state average weekly wage;
- (3) the amount of property in or near the proposed zone that is deteriorated or underutilized;
- (4) the extent to which the median sale price of housing units in the area is below the state median;
- (5) the extent to which the median household income of the area is lower than the state median household income;
- (6) the extent to which the area experienced a population loss during the 20-year period ending the year before the application is made;
- (7) the extent to which an area has experienced sudden or severe job loss as a result of closing of businesses or other employers;
- (8) the extent to which property in the area would remain underdeveloped or nonperforming due to physical characteristics;
- (9) the extent to which the area has substantial real property with adequate infrastructure and energy to support new or expanded development; and
- (10) the extent to which the business startup or expansion rates are significantly lower than the respective rate for the state.

(b) In applying the need indicators, the best available data should be used. If reported data are not available for the proposed zone, data for the smallest area that is available and includes the area of the proposed zone may be used. The commissioner may require applicants to provide data to demonstrate how the area meets one or more of the indicators of need.

APPENDIX

Repealed Minnesota Statutes: 10-5785

Subd. 3. **Success indicators.** In determining the likelihood of success of a proposed zone, the commissioner shall consider:

- (1) the strength and viability of the proposed development goals, objectives, and strategies in the development plan;
- (2) whether the development plan is creative and innovative in comparison to other applications;
- (3) local public and private commitment to development of the proposed zone and the potential cooperation of surrounding communities;
- (4) existing resources available to the proposed zone;
- (5) how the designation of the zone would relate to other economic and community development projects and to regional initiatives or programs;
- (6) how the regulatory burden will be eased for businesses operating in the proposed zone;
- (7) proposals to establish and link job creation and job training; and
- (8) the extent to which the development is directed at encouraging and that designation of the zone is likely to result in the creation of high-paying jobs.

Subd. 4. **Designation schedule.** (a) The schedule in paragraphs (b) to (f) applies to the designation of job opportunity building zones.

(b) The commissioner shall publish the form for applications and any procedural, form, or content requirements for applications by no later than August 1, 2003. The commissioner may publish these requirements on the Internet, in the State Register, or by any other means the commissioner determines appropriate to disseminate the information to potential applicants for designation.

(c) Applications must be submitted by October 15, 2003.

(d) The commissioner shall designate the zones by no later than December 31, 2003.

(e) The designation of the zones takes effect January 1, 2004.

(f) The commissioner may reserve one or more of the ten authorized zones for a second round of designations in calendar year 2004. If the commissioner chooses to reserve designations for this purpose, the commissioner shall establish the schedule for the second round of designations, notwithstanding the dates in paragraphs (c), (d), and (e). The commissioner shall allow a period of at least 90 days for submission of applications after notification of the second round. A zone designated in the second round takes effect on January 1, 2005.

Subd. 5. **Geographic distribution.** The commissioner shall have as a goal the geographic distribution of zones around the state.

Subd. 6. **Rulemaking exemption.** The commissioner's actions in establishing procedures, requirements, and making determinations to administer sections 469.310 to 469.320 are not a rule for purposes of chapter 14 and are not subject to the Administrative Procedure Act contained in chapter 14 and are not subject to section 14.386.

469.315 TAX INCENTIVES AVAILABLE IN ZONES.

Qualified businesses that operate in a job opportunity building zone, individuals who invest in a qualified business that operates in a job opportunity building zone, and property located in a job opportunity building zone qualify for:

- (1) exemption from individual income taxes as provided under section 469.316;
- (2) exemption from corporate franchise taxes as provided under section 469.317;
- (3) exemption from the state sales and use tax and any local sales and use taxes on qualifying purchases as provided in section 297A.68, subdivision 37;
- (4) exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under section 297B.03;
- (5) exemption from the property tax as provided in section 272.02, subdivision 64;
- (6) exemption from the wind energy production tax under section 272.029, subdivision 7; and
- (7) the jobs credit allowed under section 469.318.

469.316 INDIVIDUAL INCOME TAX EXEMPTION.

Subdivision 1. **Application.** An individual, estate, or trust operating a trade or business in a job opportunity building zone, and an individual, estate, or trust making a qualifying investment in a qualified business operating in a job opportunity building zone qualifies for the exemptions from taxes imposed under chapter 290, as provided in this section. The exemptions provided under this section apply only to the extent that the income otherwise would be taxable under chapter 290. Subtractions under this section from federal taxable income, alternative minimum

APPENDIX

Repealed Minnesota Statutes: 10-5785

taxable income, or any other base subject to tax are limited to the amount that otherwise would be included in the tax base absent the exemption under this section. This section applies only to taxable years beginning during the duration of the job opportunity building zone.

Subd. 2. **Rents.** An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net rents derived from real or tangible personal property used by a qualified business and located in a zone for a taxable year in which the zone was designated a job opportunity building zone. If tangible personal property was used both within and outside of the zone by the qualified business, the exemption amount for the net rental income must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone and the denominator of which is the total days the property is rented by the qualified business.

Subd. 3. **Business income.** An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on net income from the operation of a qualified business in a job opportunity building zone. If the trade or business is carried on within and without the zone and the individual is not a resident of Minnesota, or the taxpayer is an estate or trust, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year. If the trade or business is carried on within and without the zone and the individual is a resident of Minnesota, the exemption must be apportioned based on the zone percentage and the relocation payroll percentage for the taxable year, except the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), must use the denominators of the property and payroll factors determined under section 290.191. No subtraction is allowed under this section in excess of 20 percent of the sum of the job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the business.

Subd. 4. **Capital gains.** (a) An individual, estate, or trust is exempt from the taxes imposed under chapter 290 on:

(1) net gain derived on a sale or exchange of real property located in the zone and used by a qualified business. If the property was held by the individual, estate, or trust during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the real property was held by the individual, estate, or trust during the period the zone designation was in effect to the total period of time the real property was held by the individual;

(2) net gain derived on a sale or exchange of tangible personal property used by a qualified business in the zone. If the property was held by the individual, estate, or trust during a period when the zone was not designated, the gain must be prorated based on the percentage of time, measured in calendar days, that the property was held by the individual, estate, or trust during the period the zone designation was in effect to the total period of time the property was held by the individual. If the tangible personal property was used outside of the zone during the period of the zone's designation, the exemption must be multiplied by a fraction, the numerator of which is the number of days the property was used in the zone during the time of the designation and the denominator of which is the total days the property was held during the time of the designation; and

(3) net gain derived on a sale of an ownership interest in a qualified business operating in the job opportunity building zone, meeting the requirements of paragraph (b). The exemption on the gain must be multiplied by the zone percentage of the business for the taxable year prior to the sale.

(b) A qualified business meets the requirements of paragraph (a), clause (3), if it is a corporation, an S corporation, or a partnership, and for the taxable year its job opportunity building zone percentage exceeds 25 percent. For purposes of paragraph (a), clause (3), the zone percentage must be calculated by modifying the ratios under section 469.310, subdivision 7, clause (1), items (i) and (ii), to use the denominators of the property and payroll factors determined under section 290.191. Upon the request of an individual, estate, or trust holding an ownership interest in the entity, the entity must certify to the owner, in writing, the job opportunity building zone percentage needed to determine the exemption.

469.317 CORPORATE FRANCHISE TAX EXEMPTION.

(a) A qualified business is exempt from taxation under section 290.02, the alternative minimum tax under section 290.0921, and the minimum fee under section 290.0922, on the portion of its income attributable to operations within the zone. This exemption is determined as follows:

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

APPENDIX

Repealed Minnesota Statutes: 10-5785

(2) for purposes of the alternative minimum tax under section 290.0921, by multiplying its alternative minimum taxable income by its zone percentage and by its relocation payroll percentage and reducing alternative minimum taxable income by this amount; and

(3) for purposes of the minimum fee under section 290.0922, by excluding property and payroll in the zone from the computations of the fee or by exempting the entity under section 290.0922, subdivision 2, clause (7).

(b) No subtraction is allowed under this section in excess of 20 percent of the sum of the corporation's job opportunity building zone payroll and the adjusted basis of the property at the time that the property is first used in the job opportunity building zone by the corporation.

(c) This section applies only to taxable years beginning during the duration of the job opportunity building zone.

469.318 JOBS CREDIT.

Subdivision 1. **Credit allowed.** A qualified business is allowed a credit against the taxes imposed under chapter 290. The credit equals seven percent of the:

(1) lesser of:

(i) zone payroll for the taxable year, less the zone payroll for the base year; or

(ii) total Minnesota payroll for the taxable year, less total Minnesota payroll for the base year; minus

(2) \$30,000 multiplied by (the number of full-time equivalent employees that the qualified business employs in the job opportunity building zone for the taxable year, minus the number of full-time equivalent employees the business employed in the zone in the base year, but not less than zero).

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

(b) "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the zone designation took effect.

(c) "Full-time equivalent employees" means the equivalent of annualized expected hours of work equal to 2,080 hours.

(d) "Minnesota payroll" means the wages or salaries attributed to Minnesota under section 290.191, subdivision 12, for the qualified business or the unitary business of which the qualified business is a part, whichever is greater.

(e) "Zone payroll" means wages or salaries used to determine the zone payroll factor for the qualified business, less the amount of compensation attributable to any employee that exceeds \$100,000.

Subd. 3. **Inflation adjustment.** For taxable years beginning after December 31, 2004, the dollar amounts in subdivision 1, clause (2), and subdivision 2, paragraph (e), are annually adjusted for inflation. The commissioner of revenue shall adjust the amounts by the percentage determined under section 290.06, subdivision 2d, for the taxable year.

Subd. 4. **Refundable.** If the amount of the credit exceeds the liability for tax under chapter 290, the commissioner of revenue shall refund the excess to the qualified business.

Subd. 5. **Appropriation.** An amount sufficient to pay the refunds authorized by this section is appropriated to the commissioner of revenue from the general fund.

469.3192 PROHIBITION AGAINST AMENDMENTS TO BUSINESS SUBSIDY AGREEMENT.

Except as authorized under section 469.3191, under no circumstance shall terms of any agreement required as a condition for eligibility for benefits listed under section 469.315 be amended to change job creation, job retention, or wage goals included in the agreement.

469.3193 CERTIFICATION OF CONTINUING ELIGIBILITY FOR JOBZ BENEFITS.

(a) By December 1 of each year, every qualified business must certify to the commissioner of revenue, on a form prescribed by the commissioner of revenue, whether it is in compliance with any agreement required as a condition for eligibility for benefits listed under section 469.315. A business that fails to submit the certification, or any business, including those still operating in the zone, that submits a certification that the commissioner of revenue later determines materially misrepresents the business's compliance with the agreement, is subject to the repayment provisions under section 469.319 from January 1 of the year in which the report is due or the date that the business became subject to section 469.319, whichever is earlier. Any such business is

APPENDIX

Repealed Minnesota Statutes: 10-5785

permanently barred from obtaining benefits under section 469.315. For purposes of this section, the bar applies to an entity and also applies to any individuals or entities that have an ownership interest of at least 20 percent of the entity.

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

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

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

469.320 ZONE PERFORMANCE; REMEDIES.

Subdivision 1. **Reporting requirement.** An applicant receiving designation of a job opportunity building zone under section 469.314 must annually report to the commissioner on its progress in meeting the zone performance goals under the development plan for the zone and the applicant's compliance with the business subsidy law under sections 116J.993 to 116J.995.

Subd. 2. **Procedures.** For reports required by subdivision 1, the commissioner may prescribe:

- (1) the required time or times by which the reports must be filed;
- (2) the form of the report; and
- (3) the information required to be included in the report.

Subd. 3. **Remedies.** If the commissioner determines, based on a report filed under subdivision 1 or other available information, that a zone or subzone is failing to meet its performance goals, the commissioner may take any actions the commissioner determines appropriate, including modification of the boundaries of the zone or a subzone or termination of the zone or a subzone. Before taking any action, the commissioner shall consult with the applicant and the affected local government units, including notifying them of the proposed actions to be taken. The applicant may appeal the commissioner's order under the contested case procedures of chapter 14.

Subd. 4. **Existing businesses.** (a) An action to remove area from a zone or to terminate a zone under this section does not apply to:

- (1) the property tax on improvements constructed before the first January 2 following publication of the commissioner's order;
- (2) sales tax on purchases made before the first day of the next calendar month beginning at least 30 days after publication of the commissioner's order; and
- (3) individual income tax or corporate franchise tax attributable to a facility that was in operation before the publication of the commissioner's order.

(b) The tax exemptions specified in paragraph (a) terminate on the date on which the zone expires under the original designation.