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# State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2444**

02/22/2012 Authored by Winkler, Hausman, Mahoney, Norton, Kahn and others  
The bill was read for the first time and referred to the Committee on Taxes

## A bill for an act

relating to the financing and operation of state government; income and corporate franchise taxation; eliminating the preferences for foreign source income; repealing the subtraction for foreign royalties; expanding the definition of domestic corporations to include certain foreign corporations incorporated or doing business in tax havens; modifying JOBZ tax benefits; reducing the corporate franchise tax rates; modifying the apportionment of income; repealing foreign operating corporations; repealing the special apportionment formula for certain mail order businesses; expanding the Minnesota Science and Technology Authority to include a research focus; establishing a new public research infrastructure grant program; requiring a plan for expanded research; establishing a public postsecondary research partnership; amending Minnesota Statutes 2010, sections 116W.01; 116W.02, subdivisions 2, 3; 116W.03, subdivision 1; 116W.04, subdivisions 1, 8; 116W.06, subdivisions 1, 2; 289A.08, subdivision 3; 290.01, subdivisions 5, 19d, 29, by adding a subdivision; 290.06, subdivision 1; 290.0921, subdivision 1; 290.17, subdivision 4; 290.191, subdivisions 2, 3, 5; 469.315; 469.319, subdivision 4; Minnesota Statutes 2011 Supplement, sections 116W.25; 116W.26, subdivisions 2, 5, 6, 7, 8, 9; 116W.27; 116W.28; 116W.29; 116W.30; 116W.31; 116W.32, subdivision 1; 290.01, subdivision 19c; proposing coding for new law in Minnesota Statutes, chapter 116W; repealing Minnesota Statutes 2010, sections 290.01, subdivision 6b; 290.06, subdivision 29; 290.0921, subdivision 7; 290.191, subdivision 4; 469.317; 469.318.

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

## ARTICLE 1

### MINNESOTA INNOVATION ACT

#### Section 1. CITATION.

This act may be known as the "Minnesota Innovation Act."

**ARTICLE 2****CORPORATE TAX REFORM**

Section 1. Minnesota Statutes 2010, section 289A.08, subdivision 3, is amended to read:

Subd. 3. **Corporations.** (a) A corporation that is subject to the state's jurisdiction to tax under section 290.014, subdivision 5, must file a return, ~~except that a foreign operating corporation as defined in section 290.01, subdivision 6b, is not required to file a return.~~

(b) Members of a unitary business that are required to file a combined report on one return must designate a member of the unitary business to be responsible for tax matters, including the filing of returns, the payment of taxes, additions to tax, penalties, interest, or any other payment, and for the receipt of refunds of taxes or interest paid in excess of taxes lawfully due. The designated member must be a member of the unitary business that is filing the single combined report and either:

(1) a corporation that is subject to the taxes imposed by chapter 290; or

(2) a corporation that is not subject to the taxes imposed by chapter 290:

(i) Such corporation consents by filing the return as a designated member under this clause to remit taxes, penalties, interest, or additions to tax due from the members of the unitary business subject to tax, and receive refunds or other payments on behalf of other members of the unitary business. The member designated under this clause is a "taxpayer" for the purposes of this chapter and chapter 270C, and is liable for any liability imposed on the unitary business under this chapter and chapter 290.

(ii) If the state does not otherwise have the jurisdiction to tax the member designated under this clause, consenting to be the designated member does not create the jurisdiction to impose tax on the designated member, other than as described in item (i).

(iii) The member designated under this clause must apply for a business tax account identification number.

(c) The commissioner shall adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report. All members of an affiliated group that are required to file a combined report must file one return on behalf of the members of the group under rules adopted by the commissioner.

(d) If a corporation claims on a return that it has paid tax in excess of the amount of taxes lawfully due, that corporation must include on that return information necessary for payment of the tax in excess of the amount lawfully due by electronic means.

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

Sec. 2. Minnesota Statutes 2010, section 290.01, subdivision 5, is amended to read:

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

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

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

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

(4) which is incorporated in a tax haven;

(5) which is engaged in activity in a tax haven sufficient for the tax haven to impose a net income tax under United States constitutional standards and section 290.015, and which reports that 20 percent or more of its income is attributable to business in the tax haven; or

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

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

Sec. 3. Minnesota Statutes 2010, section 290.01, is amended by adding a subdivision to read:

Subd. 5c. **Tax haven.** (a) "Tax haven" means the following foreign jurisdictions, unless the listing of the jurisdiction does not apply under paragraph (b):

(1) Andorra;

(2) Anguilla;

(3) Antigua and Barbuda;

(4) Aruba;

(5) Bahamas;

(6) Bahrain;

(7) Belize;

(8) British Virgin Islands;

(9) Cayman Islands;

(10) Cook Islands;

(11) Costa Rica;

- 4.1 (12) Dominica;  
4.2 (13) Gibraltar;  
4.3 (14) Grenada;  
4.4 (15) Guernsey-Sark-Alderney;  
4.5 (16) Jersey;  
4.6 (17) Jordan;  
4.7 (18) Lebanon;  
4.8 (19) Liberia;  
4.9 (20) Liechtenstein;  
4.10 (21) Maldives;  
4.11 (22) Marshall Islands;  
4.12 (23) Monaco;  
4.13 (24) Montserrat;  
4.14 (25) Nauru;  
4.15 (26) Netherlands Antilles;  
4.16 (27) Niue;  
4.17 (28) Panama;  
4.18 (29) St. Kitts and Nevis;  
4.19 (30) St. Lucia;  
4.20 (31) St. Vincent and Grenadines;  
4.21 (32) Tonga;  
4.22 (33) Turks and Caicos; and  
4.23 (34) Vanuatu.

4.24 (b) A foreign jurisdiction's listing under paragraph (a) does not apply to the first  
4.25 taxable year after the United States enters into a tax treaty or other agreement with the  
4.26 foreign jurisdiction that provides for prompt, obligatory, and automatic exchange of  
4.27 information with the United States government relevant to enforcing the provisions of  
4.28 federal tax laws and the treaty or other agreement was in effect for the taxable year.

4.29 **EFFECTIVE DATE.** This section is effective for returns filed for taxable years  
4.30 beginning after December 31, 2011.

4.31 Sec. 4. Minnesota Statutes 2011 Supplement, section 290.01, subdivision 19c, is  
4.32 amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

6.1 ~~(12)~~ (11) the amount of a partner's pro rata share of net income which does not flow  
6.2 through to the partner because the partnership elected to pay the tax on the income under  
6.3 section 6242(a)(2) of the Internal Revenue Code;

6.4 ~~(13)~~ (12) the amount of net income excluded under section 114 of the Internal  
6.5 Revenue Code;

6.6 ~~(14)~~ (13) any increase in subpart F income, as defined in section 952(a) of the  
6.7 Internal Revenue Code, for the taxable year when subpart F income is calculated without  
6.8 regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

6.9 ~~(15)~~ (14) 80 percent of the depreciation deduction allowed under section  
6.10 168(k)(1)(A) and (k)(4)(A) of the Internal Revenue Code. For purposes of this clause, if  
6.11 the taxpayer has an activity that in the taxable year generates a deduction for depreciation  
6.12 under section 168(k)(1)(A) and (k)(4)(A) and the activity generates a loss for the taxable  
6.13 year that the taxpayer is not allowed to claim for the taxable year, "the depreciation  
6.14 allowed under section 168(k)(1)(A) and (k)(4)(A)" for the taxable year is limited to excess  
6.15 of the depreciation claimed by the activity under section 168(k)(1)(A) and (k)(4)(A)  
6.16 over the amount of the loss from the activity that is not allowed in the taxable year. In  
6.17 succeeding taxable years when the losses not allowed in the taxable year are allowed, the  
6.18 depreciation under section 168(k)(1)(A) and (k)(4)(A) is allowed;

6.19 ~~(16)~~ (15) 80 percent of the amount by which the deduction allowed by section 179 of  
6.20 the Internal Revenue Code exceeds the deduction allowable by section 179 of the Internal  
6.21 Revenue Code of 1986, as amended through December 31, 2003;

6.22 ~~(17)~~ (16) to the extent deducted in computing federal taxable income, the amount of  
6.23 the deduction allowable under section 199 of the Internal Revenue Code;

6.24 ~~(18)~~ (17) for taxable years beginning before January 1, 2013, the exclusion allowed  
6.25 under section 139A of the Internal Revenue Code for federal subsidies for prescription  
6.26 drug plans;

6.27 ~~(19)~~ (18) the amount of expenses disallowed under section 290.10, subdivision 2;

6.28 ~~(20) an amount equal to the interest and intangible expenses, losses, and costs paid,~~  
6.29 ~~accrued, or incurred by any member of the taxpayer's unitary group to or for the benefit~~  
6.30 ~~of a corporation that is a member of the taxpayer's unitary business group that qualifies~~  
6.31 ~~as a foreign operating corporation. For purposes of this clause, intangible expenses and~~  
6.32 ~~costs include:~~

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

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

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

~~(iv) licensing fees; and~~

~~(v) other similar expenses and costs.~~

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

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

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

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

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

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

~~(iv) licensing fees; and~~

~~(v) other similar income.~~

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

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

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

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

~~(24)~~ (19) for taxable years beginning before January 1, 2010, the additional amount allowed as a deduction for donation of computer technology and equipment under section 170(e)(6) of the Internal Revenue Code, to the extent deducted from taxable income; and

~~(25)~~ (20) discharge of indebtedness income resulting from reacquisition of business indebtedness and deferred under section 108(i) of the Internal Revenue Code.

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

Sec. 5. Minnesota Statutes 2010, section 290.01, subdivision 19d, is amended to read:

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

~~(10) 80 percent of royalties, fees, or other like income accrued or received from a foreign operating corporation or a foreign corporation which is part of the same unitary business as the receiving corporation, unless the income resulting from such payments or~~

10.1 ~~accruals is income from sources within the United States as defined in subtitle A, chapter~~  
10.2 ~~1, subchapter N, part 1, of the Internal Revenue Code;~~

10.3 ~~(11)~~ (10) income or gains from the business of mining as defined in section 290.05,  
10.4 subdivision 1, clause (a), that are not subject to Minnesota franchise tax;

10.5 ~~(12)~~ (11) the amount of disability access expenditures in the taxable year which are  
10.6 not allowed to be deducted or capitalized under section 44(d)(7) of the Internal Revenue  
10.7 Code;

10.8 ~~(13)~~ (12) the amount of qualified research expenses not allowed for federal income  
10.9 tax purposes under section 280C(c) of the Internal Revenue Code, but only to the extent  
10.10 that the amount exceeds the amount of the credit allowed under section 290.068;

10.11 ~~(14)~~ (13) the amount of salary expenses not allowed for federal income tax purposes  
10.12 due to claiming the Indian employment credit under section 45A(a) of the Internal  
10.13 Revenue Code;

10.14 ~~(15)~~ (14) for a corporation whose foreign sales corporation, as defined in section  
10.15 922 of the Internal Revenue Code, constituted a foreign operating corporation during any  
10.16 taxable year ending before January 1, 1995, and a return was filed by August 15, 1996,  
10.17 claiming the deduction under section 290.21, subdivision 4, for income received from  
10.18 the foreign operating corporation, an amount equal to 1.23 multiplied by the amount of  
10.19 income excluded under section 114 of the Internal Revenue Code, provided the income is  
10.20 not income of a foreign operating company;

10.21 ~~(16)~~ (15) any decrease in subpart F income, as defined in section 952(a) of the  
10.22 Internal Revenue Code, for the taxable year when subpart F income is calculated without  
10.23 regard to the provisions of Division C, title III, section 303(b) of Public Law 110-343;

10.24 ~~(17)~~ (16) in each of the five tax years immediately following the tax year in which an  
10.25 addition is required under subdivision 19c, clause ~~(15)~~ (14), an amount equal to one-fifth  
10.26 of the delayed depreciation. For purposes of this clause, "delayed depreciation" means the  
10.27 amount of the addition made by the taxpayer under subdivision 19c, clause ~~(15)~~ (14). The  
10.28 resulting delayed depreciation cannot be less than zero;

10.29 ~~(18)~~ (17) in each of the five tax years immediately following the tax year in which an  
10.30 addition is required under subdivision 19c, clause ~~(16)~~ (15), an amount equal to one-fifth  
10.31 of the amount of the addition; and

10.32 ~~(19)~~ (18) to the extent included in federal taxable income, discharge of indebtedness  
10.33 income resulting from reacquisition of business indebtedness included in federal taxable  
10.34 income under section 108(i) of the Internal Revenue Code. This subtraction applies only  
10.35 to the extent that the income was included in net income in a prior year as a result of the  
10.36 addition under ~~section 290.01~~, subdivision 19c, clause ~~(25)~~ (20).

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

11.3 Sec. 6. Minnesota Statutes 2010, section 290.01, subdivision 29, is amended to read:

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

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

11.6 (2) for corporations, the taxable net income less:

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

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

11.9 (iii) ~~the exemption for operating in a job opportunity building zone under section~~  
11.10 ~~469.317;~~

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

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

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

11.17 Sec. 7. Minnesota Statutes 2010, section 290.06, subdivision 1, is amended to read:

11.18 Subdivision 1. **Computation, corporations.** The franchise tax imposed upon  
11.19 corporations shall be computed by applying to their taxable income the rate of ~~9.8~~ 6.5  
11.20 percent.

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

11.23 Sec. 8. Minnesota Statutes 2010, section 290.0921, subdivision 1, is amended to read:

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

11.27 (1) ~~5.8~~ 3.8 percent of Minnesota alternative minimum taxable income; over

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

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

12.1 Sec. 9. Minnesota Statutes 2010, section 290.17, subdivision 4, is amended to read:

12.2 Subd. 4. **Unitary business principle.** (a) If a trade or business conducted wholly  
12.3 within this state or partly within and partly without this state is part of a unitary business,  
12.4 the entire income of the unitary business is subject to apportionment pursuant to section  
12.5 290.191. Notwithstanding subdivision 2, paragraph (c), none of the income of a unitary  
12.6 business is considered to be derived from any particular source and none may be allocated  
12.7 to a particular place except as provided by the applicable apportionment formula. The  
12.8 provisions of this subdivision do not apply to business income subject to subdivision 5,  
12.9 income of an insurance company, or income of an investment company determined under  
12.10 section 290.36.

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

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

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

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

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

chapter shall file on a separate return basis. ~~The net income and apportionment factors under section 290.191 or 290.20 of foreign operating corporations shall not be included in the net income or the apportionment factors of the unitary business except as provided in paragraph (g). The provisions of this paragraph are not severable from the provisions of section 290.01, subdivision 5, clauses (4) to (6); if any of those provisions are found to be unconstitutional, the provisions of this paragraph are void for the respective taxable years.~~

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

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

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

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

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

~~(h)~~ (g) For purposes of determining the net income of a unitary business and the factors to be used in the apportionment of net income pursuant to section 290.191 or 290.20, there must be included only the income and apportionment factors of domestic corporations or other domestic entities ~~other than foreign operating corporations~~ that are determined to be part of the unitary business pursuant to this subdivision, notwithstanding that foreign corporations or other foreign entities might be included in the unitary business, except that foreign corporations or other foreign entities that are included on a federal income tax return must be included on the combined report. Income of a foreign partnership or other foreign entity treated as a partnership included in federal taxable income, as defined in section 63 of the Internal Revenue Code of 1986, as amended

14.1 through the date named in section 290.01, subdivision 19, and the proportionate amount of  
 14.2 apportionment factors, must be included in the combined report.

14.3 ~~(h)~~ (h) Deductions for expenses, interest, or taxes otherwise allowable under  
 14.4 this chapter that are connected with or allocable against dividends, ~~deemed dividends~~  
 14.5 ~~described in paragraph (g), or royalties, fees, or other like income described in section~~  
 14.6 ~~290.01, subdivision 19d, clause (10), shall not be disallowed.~~

14.7 ~~(h)~~ (i) Each corporation or other entity, except a sole proprietorship, that is part of  
 14.8 a unitary business must file combined reports as the commissioner determines. On the  
 14.9 reports, all intercompany transactions between entities included pursuant to paragraph  
 14.10 ~~(h)~~ (g) must be eliminated and the entire net income of the unitary business determined in  
 14.11 accordance with this subdivision is apportioned among the entities by using each entity's  
 14.12 Minnesota factors for apportionment purposes in the numerators of the apportionment  
 14.13 formula and the total factors for apportionment purposes of all entities included pursuant  
 14.14 to paragraph ~~(h)~~ (g) in the denominators of the apportionment formula. All sales of the  
 14.15 unitary business made within Minnesota pursuant to section 290.191 or 290.20 must be  
 14.16 included on the separate combined report of a corporation that is a member of the unitary  
 14.17 business and is subject to the jurisdiction of this state to impose tax under this chapter.

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

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

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

14.25 **EFFECTIVE DATE.** This section is effective for returns filed for taxable years  
 14.26 beginning after December 31, 2011.

14.27 Sec. 10. Minnesota Statutes 2010, section 290.191, subdivision 2, is amended to read:

14.28 Subd. 2. **Apportionment formula of general application.** ~~(a)~~ Except for those  
 14.29 trades or businesses required to use a different formula under subdivision 3 or section  
 14.30 290.36, and for those trades or businesses that receive permission to use some other  
 14.31 method under section 290.20 ~~or under subdivision 4~~, a trade or business required to  
 14.32 apportion its net income must apportion its income to this state on the basis of the  
 14.33 percentage obtained by taking the sum of the following percentages and dividing by three:

14.34 (1) ~~the percent for the sales factor under paragraph (b)~~ of the percentage which  
 14.35 the sales made within this state in connection with the trade or business during the tax

15.1 period are of the total sales wherever made in connection with the trade or business during  
15.2 the tax period;

15.3 ~~(2) the percent for the property factor under paragraph (b) of the percentage which~~  
15.4 ~~the total tangible property used by the taxpayer in this state in connection with the trade or~~  
15.5 ~~business during the tax period is of the total tangible property, wherever located, used by~~  
15.6 ~~the taxpayer in connection with the trade or business during the tax period; and~~

15.7 ~~(3) the percent for the payroll factor under paragraph (b) of the percentage which~~  
15.8 ~~the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor~~  
15.9 ~~performed in this state in connection with the trade or business during the tax period are~~  
15.10 ~~of the taxpayer's total payrolls paid or incurred in connection with the trade or business~~  
15.11 ~~during the tax period.~~

15.12 ~~(b) For purposes of paragraph (a) and subdivision 3, the following percentages apply~~  
15.13 ~~for the taxable years specified:~~

15.14 <del>Taxable years beginning</del>	15.14 <del>Sales factor</del>	15.14 <del>Property factor</del>	15.14 <del>Payroll factor</del>
15.15 <del>during calendar year</del>	15.15 <del>percent</del>	15.15 <del>percent</del>	15.15 <del>percent</del>
15.16 <del>2007</del>	15.16 <del>78</del>	15.16 <del>11</del>	15.16 <del>11</del>
15.17 <del>2008</del>	15.17 <del>81</del>	15.17 <del>9.5</del>	15.17 <del>9.5</del>
15.18 <del>2009</del>	15.18 <del>84</del>	15.18 <del>8</del>	15.18 <del>8</del>
15.19 <del>2010</del>	15.19 <del>87</del>	15.19 <del>6.5</del>	15.19 <del>6.5</del>
15.20 <del>2011</del>	15.20 <del>90</del>	15.20 <del>5</del>	15.20 <del>5</del>
15.21 <del>2012</del>	15.21 <del>93</del>	15.21 <del>3.5</del>	15.21 <del>3.5</del>
15.22 <del>2013</del>	15.22 <del>96</del>	15.22 <del>2</del>	15.22 <del>2</del>
15.23 <del>2014 and later calendar years</del>	15.23 <del>100</del>	15.23 <del>0</del>	15.23 <del>0</del>

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

15.26 Sec. 11. Minnesota Statutes 2010, section 290.191, subdivision 3, is amended to read:

15.27 Subd. 3. **Apportionment formula for financial institutions.** Except for an  
15.28 investment company required to apportion its income under section 290.36, a financial  
15.29 institution that is required to apportion its net income must apportion its net income to  
15.30 this state on the basis of the percentage obtained by taking the sum of the following  
15.31 percentages and dividing by three:

15.32 ~~(1) the percent for the sales factor under subdivision 2, paragraph (b), of the~~  
15.33 ~~percentage which the receipts from within this state in connection with the trade or~~  
15.34 ~~business during the tax period are of the total receipts in connection with the trade or~~  
15.35 ~~business during the tax period, from wherever derived;~~

(2) ~~the percent for the property factor under subdivision 2, paragraph (b), of the~~ percentage which the sum of the total tangible property used by the taxpayer in this state and the intangible property owned by the taxpayer and attributed to this state in connection with the trade or business during the tax period is of the sum of the total tangible property, wherever located, used by the taxpayer and the intangible property owned by the taxpayer and attributed to all states in connection with the trade or business during the tax period; and

(3) ~~the percent for the payroll factor under subdivision 2, paragraph (b), of the~~ percentage which the taxpayer's total payrolls paid or incurred in this state or paid in respect to labor performed in this state in connection with the trade or business during the tax period are of the taxpayer's total payrolls paid or incurred in connection with the trade or business during the tax period.

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

Sec. 12. Minnesota Statutes 2010, section 290.191, subdivision 5, is amended to read:

Subd. 5. **Determination of sales factor.** For purposes of this section, the following rules apply in determining the sales factor.

(a) The sales factor includes all sales, gross earnings, or receipts received in the ordinary course of the business, except that the following types of income are not included in the sales factor:

(1) interest;

(2) dividends;

(3) sales of capital assets as defined in section 1221 of the Internal Revenue Code;

(4) sales of property used in the trade or business, except sales of leased property of a type which is regularly sold as well as leased;

(5) sales of debt instruments as defined in section 1275(a)(1) of the Internal Revenue Code or sales of stock; and

(6) royalties, fees, or other like income of a type which qualify for a subtraction from federal taxable income under section 290.01, subdivision 19d(10).

(b) Sales of tangible personal property are made within this state if the property is received by a purchaser at a point within this state, and the taxpayer is taxable in this state, regardless of the f.o.b. point, other conditions of the sale, or the ultimate destination of the property.



17.1 (c) Tangible personal property delivered to a common or contract carrier or foreign  
17.2 vessel for delivery to a purchaser in another state or nation is a sale in that state or nation,  
17.3 regardless of f.o.b. point or other conditions of the sale.

17.4 (d) Notwithstanding paragraphs (b) and (c), when intoxicating liquor, wine,  
17.5 fermented malt beverages, cigarettes, or tobacco products are sold to a purchaser who is  
17.6 licensed by a state or political subdivision to resell this property only within the state of  
17.7 ultimate destination, the sale is made in that state.

17.8 ~~(e) Sales made by or through a corporation that is qualified as a domestic~~  
17.9 ~~international sales corporation under section 992 of the Internal Revenue Code are not~~  
17.10 ~~considered to have been made within this state. Notwithstanding paragraphs (b) to (d),~~  
17.11 sales of tangible personal property are in this state if the property is shipped from an office,  
17.12 store, warehouse, factory, or other place of storage in this state and the purchaser is the  
17.13 United States government or the taxpayer is not taxable in the state of the purchaser.

17.14 (f) Sales, rents, royalties, and other income in connection with real property is  
17.15 attributed to the state in which the property is located.

17.16 (g) Receipts from the lease or rental of tangible personal property, including finance  
17.17 leases and true leases, must be attributed to this state if the property is located in this  
17.18 state and to other states if the property is not located in this state. Receipts from the  
17.19 lease or rental of moving property including, but not limited to, motor vehicles, rolling  
17.20 stock, aircraft, vessels, or mobile equipment are included in the numerator of the receipts  
17.21 factor to the extent that the property is used in this state. The extent of the use of moving  
17.22 property is determined as follows:

17.23 (1) A motor vehicle is used wholly in the state in which it is registered.

17.24 (2) The extent that rolling stock is used in this state is determined by multiplying  
17.25 the receipts from the lease or rental of the rolling stock by a fraction, the numerator of  
17.26 which is the miles traveled within this state by the leased or rented rolling stock and the  
17.27 denominator of which is the total miles traveled by the leased or rented rolling stock.

17.28 (3) The extent that an aircraft is used in this state is determined by multiplying the  
17.29 receipts from the lease or rental of the aircraft by a fraction, the numerator of which is  
17.30 the number of landings of the aircraft in this state and the denominator of which is the  
17.31 total number of landings of the aircraft.

17.32 (4) The extent that a vessel, mobile equipment, or other mobile property is used in  
17.33 the state is determined by multiplying the receipts from the lease or rental of the property  
17.34 by a fraction, the numerator of which is the number of days during the taxable year the  
17.35 property was in this state and the denominator of which is the total days in the taxable year.

18.1 (h) Royalties and other income not described in paragraph (a), clause (6), received  
18.2 for the use of or for the privilege of using intangible property, including patents,  
18.3 know-how, formulas, designs, processes, patterns, copyrights, trade names, service names,  
18.4 franchises, licenses, contracts, customer lists, or similar items, must be attributed to the  
18.5 state in which the property is used by the purchaser. If the property is used in more  
18.6 than one state, the royalties or other income must be apportioned to this state pro rata  
18.7 according to the portion of use in this state. If the portion of use in this state cannot be  
18.8 determined, the royalties or other income must be excluded from both the numerator  
18.9 and the denominator. Intangible property is used in this state if the purchaser uses the  
18.10 intangible property or the rights therein in the regular course of its business operations in  
18.11 this state, regardless of the location of the purchaser's customers.

18.12 (i) Sales of intangible property are made within the state in which the property is  
18.13 used by the purchaser. If the property is used in more than one state, the sales must be  
18.14 apportioned to this state pro rata according to the portion of use in this state. If the  
18.15 portion of use in this state cannot be determined, the sale must be excluded from both the  
18.16 numerator and the denominator of the sales factor. Intangible property is used in this  
18.17 state if the purchaser used the intangible property in the regular course of its business  
18.18 operations in this state.

18.19 (j) Receipts from the performance of services must be attributed to the state where  
18.20 the services are received. For the purposes of this section, receipts from the performance  
18.21 of services provided to a corporation, partnership, or trust may only be attributed to a state  
18.22 where it has a fixed place of doing business. If the state where the services are received is  
18.23 not readily determinable or is a state where the corporation, partnership, or trust receiving  
18.24 the service does not have a fixed place of doing business, the services shall be deemed  
18.25 to be received at the location of the office of the customer from which the services were  
18.26 ordered in the regular course of the customer's trade or business. If the ordering office  
18.27 cannot be determined, the services shall be deemed to be received at the office of the  
18.28 customer to which the services are billed. If the taxpayer is not taxable in the state of the  
18.29 purchaser, the sale is attributable to this state if the greater proportion of the service is  
18.30 performed in this state.

18.31 (k) For the purposes of this subdivision and subdivision 6, paragraph (l), receipts  
18.32 from management, distribution, or administrative services performed by a corporation  
18.33 or trust for a fund of a corporation or trust regulated under United States Code, title 15,  
18.34 sections 80a-1 through 80a-64, must be attributed to the state where the shareholder of  
18.35 the fund resides. Under this paragraph, receipts for services attributed to shareholders are  
18.36 determined on the basis of the ratio of: (1) the average of the outstanding shares in the

fund owned by shareholders residing within Minnesota at the beginning and end of each year; and (2) the average of the total number of outstanding shares in the fund at the beginning and end of each year. Residence of the shareholder, in the case of an individual, is determined by the mailing address furnished by the shareholder to the fund. Residence of the shareholder, when the shares are held by an insurance company as a depositor for the insurance company policyholders, is the mailing address of the policyholders. In the case of an insurance company holding the shares as a depositor for the insurance company policyholders, if the mailing address of the policyholders cannot be determined by the taxpayer, the receipts must be excluded from both the numerator and denominator. Residence of other shareholders is the mailing address of the shareholder.

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

Sec. 13. Minnesota Statutes 2010, section 469.315, is amended to read:

**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)~~ (3) exemption from the state sales tax on motor vehicles and any local sales tax on motor vehicles as provided under section 297B.03;
- ~~(5)~~ (4) exemption from the property tax as provided in section 272.02, subdivision 64; and
- ~~(6)~~ (5) exemption from the wind energy production tax under section 272.029, subdivision 7; and
- ~~(7) the jobs credit allowed under section 469.318, except that a qualified business located in a create automotive recovery zone is not eligible for the credit under section 469.318 but is eligible for the credit under section 469.3181.~~

Sec. 14. Minnesota Statutes 2010, section 469.319, subdivision 4, is amended to read:

Subd. 4. **Repayment procedures.** (a) For the repayment of taxes imposed under chapter 290 or 297A or local taxes collected pursuant to section 297A.99, a business must

20.1 file an amended return with the commissioner of revenue and pay any taxes required  
20.2 to be repaid within 30 days after becoming subject to repayment under this section.

20.3 The amount required to be repaid is determined by calculating the tax for the period or  
20.4 periods for which repayment is required without regard to the exemptions and credits  
20.5 allowed under section 469.315.

20.6 (b) For the repayment of taxes imposed under chapter 297B, a business must pay any  
20.7 taxes required to be repaid to the motor vehicle registrar, as agent for the commissioner of  
20.8 revenue, within 30 days after becoming subject to repayment under this section.

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

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

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

20.25 (f) For determining the tax required to be repaid, a reduction of a state or local  
20.26 sales or use tax is deemed to have been received on the date that the good or service was  
20.27 purchased or first put to a taxable use. In the case of an income tax or franchise tax,  
20.28 ~~including the credit payable under section 469.318,~~ a reduction of tax is deemed to have  
20.29 been received for the two most recent tax years that have ended prior to the date that the  
20.30 business became subject to repayment under this section. In the case of a property tax, a  
20.31 reduction of tax is deemed to have been received for the taxes payable in the year that  
20.32 the business became subject to repayment under this section and for the taxes payable in  
20.33 the prior year.

20.34 (g) The commissioner may assess the repayment of taxes under paragraph (d) any  
20.35 time within two years after the business becomes subject to repayment under subdivision  
20.36 1, or within any period of limitations for the assessment of tax under section 289A.38,

21.1 whichever period is later. The county auditor may send the statement under paragraph  
21.2 (c) any time within three years after the business becomes subject to repayment under  
21.3 subdivision 1.

21.4 (h) A business is not entitled to any income tax or franchise tax benefits, including  
21.5 refundable credits, for any part of the year in which the business becomes subject to  
21.6 repayment under this section nor for any year thereafter. Property is not exempt from tax  
21.7 under section 272.02, subdivision 64, for any taxes payable in the year following the year  
21.8 in which the property became subject to repayment under this section nor for any year  
21.9 thereafter. A business is not eligible for any sales tax benefits beginning with goods  
21.10 or services purchased or first put to a taxable use on the day that the business becomes  
21.11 subject to repayment under this section.

21.12 Sec. 15. **REPEALER.**

21.13 Minnesota Statutes 2010, sections 290.01, subdivision 6b; 290.06, subdivision 29;  
21.14 290.0921, subdivision 7; 290.191, subdivision 4; 469.317; and 469.318, are repealed.

21.15 **EFFECTIVE DATE.** This section is effective for returns filed for taxable years  
21.16 beginning after December 31, 2011.

### 21.17 ARTICLE 3

### 21.18 RESEARCH EXPANSION

21.19 Section 1. Minnesota Statutes 2010, section 116W.01, is amended to read:

21.20 **116W.01 MINNESOTA SCIENCE ~~AND~~, TECHNOLOGY, AND RESEARCH**  
21.21 **AUTHORITY ACT.**

21.22 This chapter may be cited as the "Minnesota Science ~~and~~, Technology, and Research  
21.23 Authority Act."

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

21.25 Sec. 2. Minnesota Statutes 2010, section 116W.02, subdivision 2, is amended to read:

21.26 Subd. 2. **Authority.** "Authority" means the Minnesota Science ~~and~~, Technology,  
21.27 and Research Authority.

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

21.29 Sec. 3. Minnesota Statutes 2010, section 116W.02, subdivision 3, is amended to read:

22.1 Subd. 3. **Eligible recipient.** "Eligible recipient" means an entity primarily operating  
22.2 to create and retain jobs in the state's industrial base, expand research capacity throughout  
22.3 the state, and maximize the economic growth of the state through:

- 22.4 (1) high-technology research and development capabilities;
- 22.5 (2) product and process innovation and commercialization;
- 22.6 (3) high-technology manufacturing capabilities;
- 22.7 (4) science and technology business environment; ~~or~~
- 22.8 (5) science and technology workforce preparation; and
- 22.9 (6) enhanced capacity for research through expanded research infrastructure and  
22.10 opportunities.

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

22.12 Sec. 4. Minnesota Statutes 2010, section 116W.03, subdivision 1, is amended to read:

22.13 Subdivision 1. **Membership.** The Minnesota Science ~~and~~, Technology, and  
22.14 Research Authority consists of the commissioner of employment and economic  
22.15 development, the commissioner of management and budget, the commissioner of revenue,  
22.16 the commissioner of commerce, ~~and~~ the commissioner of agriculture, the chancellor  
22.17 of the Minnesota State Colleges and Universities, and the president of the University  
22.18 of Minnesota.

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

22.20 Sec. 5. Minnesota Statutes 2010, section 116W.04, subdivision 1, is amended to read:

22.21 Subdivision 1. **Duties.** The Science ~~and~~, Technology, and Research Authority shall:

- 22.22 (1) coordinate public and private efforts to procure federal funding for collaborative  
22.23 research and development projects of primary benefit to small-sized and medium-sized  
22.24 businesses;
- 22.25 (2) promote contractual relationships between Minnesota businesses that are  
22.26 recipients of federal grants and prime contractors, and Minnesota-based subcontractors;
- 22.27 (3) work with Minnesota nonprofit institutions including the University of  
22.28 Minnesota, Minnesota State Colleges and Universities, and the Mayo Clinic in promoting  
22.29 collaborative efforts to respond to federal funding opportunities;
- 22.30 (4) develop a framework for Minnesota companies to establish sole-source  
22.31 relationships with federal agencies;
- 22.32 (5) provide grants or other forms of financial assistance to eligible recipients for  
22.33 purposes of this chapter;

(6) coordinate workshops, assistance with business proposals, licensing, intellectual property protection, commercialization, and government auditing with the University of Minnesota and Minnesota State Colleges and Universities; and

(7) develop and implement a comprehensive science ~~and~~ technology, and research economic development strategy for the state.

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

Sec. 6. Minnesota Statutes 2010, section 116W.04, subdivision 8, is amended to read:

Subd. 8. **Reports.** (a) The authority shall report by February 1 each year to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over finance and economic development on its progress to design, coordinate, and administer a strategic science and technology program for the state to promote the welfare of the people of the state, maximize the economic growth of the state, and create and retain jobs in the state's industrial base, and expand research capacity throughout the state, through enhancement of Minnesota's:

(1) high-technology research and development capabilities;

(2) product and process innovation and commercialization;

(3) high-technology manufacturing capabilities;

(4) science and technology business environment; ~~and~~

(5) science and technology workforce preparation; and

(6) research capabilities.

(b) The report must include a complete operating and financial statement covering the authority's operations during the year, including amounts of income from all sources. Books and records of the authority are subject to audit by the legislative auditor in the manner prescribed for state agencies.

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

Sec. 7. Minnesota Statutes 2010, section 116W.06, subdivision 1, is amended to read:

Subdivision 1. **Advisory commission membership.** A Science ~~and~~ Technology, and Research Initiative Advisory Commission of 18 members is established and is comprised of:

(1) two representatives of the University of Minnesota, selected by the president of the university, including a faculty member actively involved in science and technology research;

24.1 (2) two representatives of the Minnesota State Colleges and Universities, selected by  
24.2 the chancellor, including a faculty member actively involved in science and technology  
24.3 research;

24.4 (3) the chief executive officer of Mayo Clinic or a designee;

24.5 (4) six chief executive officers or designees from science-oriented ~~or~~<sub>2</sub>  
24.6 technology-oriented, or research-oriented companies;

24.7 (5) four representatives from science-oriented ~~and~~<sub>2</sub> technology-oriented, and  
24.8 research-oriented organizations;

24.9 (6) one representative of organized labor;

24.10 (7) a venture capital representative; and

24.11 (8) a representative of angel investors.

24.12 A member must have experience in science ~~or~~<sub>2</sub> technology, or research in order to  
24.13 serve on the commission.

24.14 Members of the commission listed in clauses (4) to (8) shall be appointed by the  
24.15 authority.

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

24.17 Sec. 8. Minnesota Statutes 2010, section 116W.06, subdivision 2, is amended to read:

24.18 Subd. 2. **Advisory commission duties.** The advisory commission must assist  
24.19 the authority in developing a comprehensive science ~~and~~<sub>2</sub> technology, and research  
24.20 economic development plan to be presented to the chairs and ranking minority members  
24.21 of the legislative committees and divisions with jurisdiction over economic development  
24.22 and higher education by January 15, 2011. The plan must include recommendations in  
24.23 strategic areas for science ~~and~~<sub>2</sub> technology, and research investments, recommendations on  
24.24 additional programs to support science ~~and~~<sub>2</sub> technology, and research focused economic  
24.25 development activities in the state, selection of specific programs and grantees for support  
24.26 from program funds authorized by the advisory commission and ongoing assessment of  
24.27 the effectiveness of programmatic elements according to metrics to be developed by the  
24.28 authority in consultation with the advisory commission. The advisory commission may  
24.29 also advise and assist the authority in fulfilling its duties under section 116W.04.

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

24.31 Sec. 9. Minnesota Statutes 2011 Supplement, section 116W.25, is amended to read:

24.32 **116W.25 CITATION.**



25.1 Sections 116W.26 to 116W.34 may be cited as the "Minnesota science ~~and~~<sub>2</sub>  
25.2 technology, and research program."

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

25.4 Sec. 10. Minnesota Statutes 2011 Supplement, section 116W.26, subdivision 2, is  
25.5 amended to read:

25.6 Subd. 2. **Authority.** "Authority" means the Minnesota Science ~~and~~<sub>2</sub> Technology,  
25.7 and Research Authority established under this chapter.

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

25.9 Sec. 11. Minnesota Statutes 2011 Supplement, section 116W.26, subdivision 5, is  
25.10 amended to read:

25.11 Subd. 5. **Commercialized research project.** "Commercialized research project"  
25.12 means research conducted within a college or university or nonprofit research institution  
25.13 or by a qualified science and technology or research company or organization that has  
25.14 shown advanced commercial potential through license agreements, patents, or other forms  
25.15 of invention disclosure, and by which a qualified science ~~and~~<sub>2</sub> technology, or research  
25.16 company has been or is being currently formed.

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

25.18 Sec. 12. Minnesota Statutes 2011 Supplement, section 116W.26, subdivision 6, is  
25.19 amended to read:

25.20 Subd. 6. **Fund.** "Fund" means the Minnesota science ~~and~~<sub>2</sub> technology, and research  
25.21 fund.

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

25.23 Sec. 13. Minnesota Statutes 2011 Supplement, section 116W.26, subdivision 7, is  
25.24 amended to read:

25.25 Subd. 7. **Nonprofit research institution.** "Nonprofit research institution" means an  
25.26 entity with its principle place of business in Minnesota, that qualifies under section 501(c)  
25.27 of the Internal Revenue Code, and that conducts significant research or development  
25.28 activities in this state in the areas of science and technology, and other applied research  
25.29 areas.

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

26.1 Sec. 14. Minnesota Statutes 2011 Supplement, section 116W.26, subdivision 8, is  
26.2 amended to read:

26.3 Subd. 8. **Program.** "Program" means the Minnesota science ~~and~~ technology, and  
26.4 research program.

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

26.6 Sec. 15. Minnesota Statutes 2011 Supplement, section 116W.26, subdivision 9, is  
26.7 amended to read:

26.8 Subd. 9. **Qualified science ~~and~~ technology, and research company.** "Qualified  
26.9 science ~~and~~ technology, and research company" means a corporation, limited liability  
26.10 company, S corporation, partnership, limited liability partnership, or sole proprietorship  
26.11 with fewer than 100 employees that is engaged in research, development, or production of  
26.12 science or technology in this state including, without limitation, research, development,  
26.13 or production directed toward developing or providing science and technology products,  
26.14 processes, or services, or products, processes, or services generated through applied  
26.15 research for specific commercial or public purposes.

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

26.17 Sec. 16. Minnesota Statutes 2011 Supplement, section 116W.27, is amended to read:

26.18 **116W.27 MINNESOTA SCIENCE ~~AND~~ TECHNOLOGY, AND RESEARCH**  
26.19 **FUND.**

26.20 A Minnesota science ~~and~~ technology, and research fund is created in the state  
26.21 treasury. The fund is a direct-appropriated special revenue fund. Money of the authority  
26.22 must be paid to the commissioner of management and budget as agent of the authority and  
26.23 the commissioner shall not commingle the money with other money. The money in the  
26.24 fund must be paid out only on warrants drawn by the commissioner of management and  
26.25 budget on requisition of the executive director of the authority or designee.

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

26.27 Sec. 17. Minnesota Statutes 2011 Supplement, section 116W.28, is amended to read:

26.28 **116W.28 MINNESOTA SCIENCE ~~AND~~ TECHNOLOGY, AND RESEARCH**  
26.29 **FUND; AUTHORIZED USES.**

26.30 The Minnesota science ~~and~~ technology, and research fund may be used for the  
26.31 following to:

- 27.1 (1) establish the commercialized research program authorized under section  
27.2 116W.29;
- 27.3 (2) establish the federal research and development support program under section  
27.4 116W.30;
- 27.5 (3) establish the industry technology and competitiveness program under section  
27.6 116W.31; and
- 27.7 (4) carry out the powers of the authority authorized under sections 116W.04 and  
27.8 116W.32 that are in support of the programs in clauses (1) to (3).

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

27.10 Sec. 18. Minnesota Statutes 2011 Supplement, section 116W.29, is amended to read:

27.11 **116W.29 COMMERCIALIZED RESEARCH PROGRAM.**

27.12 (a) The authority may establish a commercialized research program. The purpose of  
27.13 the program is to accelerate the commercialization of science ~~and~~<sub>2</sub> technology, and applied  
27.14 research products, processes, or services from colleges or universities, nonprofit research  
27.15 institutions, or qualified science and technology companies that lead to an increase in  
27.16 science and technology businesses and jobs. The program shall:

27.17 (1) provide science ~~and~~<sub>2</sub> technology, and applied research gap funding of up to  
27.18 \$250,000 per science and technology research project to assist in the commercialization  
27.19 and transfer of science and technology research projects from a college or university or  
27.20 nonprofit research institution to a qualified science and technology company; and

27.21 (2) provide funding of up to \$250,000 for early stage development for qualified  
27.22 science ~~and~~<sub>2</sub> technology, and research companies to conduct commercialized research  
27.23 projects.

27.24 (b) All activities under the commercialized research program must require:

27.25 (1) written criteria set by the authority for the application, award, and use of the  
27.26 funds;

27.27 (2) matching funds by the participating qualified science ~~and~~<sub>2</sub> technology, and  
27.28 research company, college or university, or nonprofit research institution;

27.29 (3) no more than 15 percent of the funds awarded by the authority may be used  
27.30 for overhead costs; and

27.31 (4) a report by the participating qualified science ~~and~~<sub>2</sub> technology, and research  
27.32 company, college or university, or nonprofit research institution that provides  
27.33 documentation of the use of funds and outcomes of the award. The report must be  
27.34 submitted to the authority within one calendar year of the date of the award.

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

28.2 Sec. 19. Minnesota Statutes 2011 Supplement, section 116W.30, is amended to read:

28.3 **116W.30 FEDERAL RESEARCH AND DEVELOPMENT SUPPORT**  
28.4 **PROGRAM.**

28.5 The authority may establish a federal research and development support program.  
28.6 The purpose of the program is to increase and coordinate efforts to procure federal funding  
28.7 for research projects of primary benefit to qualified science ~~and~~<sub>2</sub> technology, and research  
28.8 companies, colleges or universities, and nonprofit research institutions. The program  
shall:

28.9 (1) develop and execute a strategy to identify specific federal agencies and programs  
28.10 that support the growth of science ~~and~~<sub>2</sub> technology, and applied research industries in  
28.11 this state; and

28.12 (2) provide grants to qualified science ~~and~~<sub>2</sub> technology, and research companies:

28.13 (i) to assist in the development of federal Small Business Innovation (SBIR) or  
28.14 Small Business Technology Transfer (STTR) proposals; and

28.15 (ii) to match funds received through SBIR or STTR awards. No more than  
28.16 \$1,500,000 may be awarded in a year for matching grants under this clause.

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

28.18 Sec. 20. Minnesota Statutes 2011 Supplement, section 116W.31, is amended to read:

28.19 **116W.31 INDUSTRY INNOVATION AND COMPETITIVENESS PROGRAM.**

28.20 (a) The authority may establish an industry technology and competitiveness  
28.21 program. The purpose of the program is to advance the technological capacity and  
28.22 competitiveness of existing and emerging science ~~and~~<sub>2</sub> technology, and research industries.  
28.23 The program shall:

28.24 (1) provide matching funds to programs and organizations that assist entrepreneurs  
28.25 in starting and growing qualified science ~~and~~<sub>2</sub> technology, and research companies  
28.26 including, but not limited to, matching funds for mentoring programs, consulting and  
28.27 technical services, and related activities;

28.28 (2) fund initiatives that retain engineering, science, technology, and mathematical  
28.29 occupations in the state including, but not limited to, internships, mentoring, and support  
28.30 of industry and professional organizations; and

28.31 (3) fund initiatives that support the growth of targeted industry clusters and the  
 28.32 competitiveness of existing qualified science ~~and~~<sub>2</sub> technology, and research companies  
 28.33 in developing and marketing new products and services.

29.1 (b) All activities under the industry innovation and competitiveness program shall  
 29.2 require:

29.3 (1) written criteria set by the authority for the application, award, and use of the  
 29.4 funds;

29.5 (2) matching funds by the participating qualified science ~~and~~<sub>2</sub> technology, and  
 29.6 research company, college or university, or nonprofit research institution; and

29.7 (3) a report by the participating qualified science ~~and~~<sub>2</sub> technology, and research  
 29.8 company, college or university, or nonprofit research institution providing documentation  
 29.9 on the use of the funds and outcomes of the award. The report must be submitted to the  
 29.10 authority within one calendar year from the date of the award.

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

29.12 Sec. 21. Minnesota Statutes 2011 Supplement, section 116W.32, subdivision 1, is  
 29.13 amended to read:

29.14 Subdivision 1. **General powers.** The authority shall have all of the powers  
 29.15 necessary to carry out the purposes and provisions of sections 116W.26 to 116W.34,  
 29.16 including, but not limited to, those provided under section 116W.04 and the following:

29.17 (1) The authority may make awards in the forms of grants or loans, and charge and  
 29.18 receive a reasonable interest for the loans, or take an equity position in form of stock, a  
 29.19 convertible note, or other securities in consideration of an award. Interests, revenues, or  
 29.20 other proceeds received as a result of a transaction authorized by use of this fund shall be  
 29.21 deposited to the corpus of the fund and used in the same manner as the corpus of the fund.

29.22 (2) In awarding money from the fund, priority shall be given to proposals from  
 29.23 qualified science ~~and~~<sub>2</sub> technology, and research companies that have demonstrable  
 29.24 economic benefit to the state in terms of the formation of a new private sector business  
 29.25 entity, the creation of jobs, or the attraction of federal and private funding.

29.26 (3) In awarding money from the fund, priority shall be given to proposals from  
 29.27 colleges or universities and nonprofit research institutions that:

29.28 (i) promote collaboration between any combination of colleges or universities,  
 29.29 nonprofit research institutions, and private industry;

29.30 (ii) enhance existing research superiority by attracting new research entities,  
 29.31 research talent, or resources to the state; and

29.32 (iii) create new research superiority that attracts significant researchers and resources  
 29.33 from outside the state.

29.34 (4) Subject to the limits in this clause, money within the fund may be used  
 29.35 for reasonable administrative expenses by the authority including staffing and direct  
 30.1 operational expenses, and professional fees for accounting, legal, and other technical  
 30.2 services required to carry out the intent of the program and administration of the fund.  
 30.3 Administrative expenses may not exceed five percent of the first \$5,000,000 in the fund  
 30.4 and two percent of any amount in excess of \$5,000,000.

30.5 (5) Before making an award, the authority shall enter into a written agreement with  
 30.6 the entity receiving the award that specifies the uses of the award.

30.7 (6) If the award recipient has not used the award received for the purposes intended,  
 30.8 as of the date provided in the agreement, the recipient shall repay that amount and any  
 30.9 interest applicable under the agreement to the authority. All repayments must be deposited  
 30.10 to the corpus of the fund.

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

30.12 Sec. 22. **[116W.35] PUBLIC RESEARCH CAPITAL GRANT PROGRAM.**

30.13 **Subdivision 1. Creation of account.** A public research capital account is created in  
 30.14 the bond proceeds fund. Money in the account may only be used for capital costs of public  
 30.15 research facilities and improvement projects.

30.16 **Subd. 2. Definitions.** For purposes of this section:

30.17 **(1) "authority" means the Minnesota Science, Technology, and Research Authority;**

30.18 **(2) "eligible project" means a capital improvement project in this state for a public**  
 30.19 **research facility to support science, technology, and applied research;**

30.20 **(3) "governing body" means the council, board of commissioners, board of trustees,**  
 30.21 **board of regents, or other body charged with governing a local governmental unit;**

30.22 **(4) "local governmental unit" means a county; city; town; special district; the**  
 30.23 **University of Minnesota campuses at Crookston, Duluth, Morris, Rochester, and Twin**  
 30.24 **Cities, and the institutions of the Minnesota State Colleges and Universities; or other**  
 30.25 **political subdivision or public corporation; and**

30.26 **(5) "public research facility" means a publicly owned facility, or improvements of a**  
 30.27 **capital nature to a publicly owned facility, that supports research for science, technology,**  
 30.28 **and other applied research.**

30.29 **Subd. 3. Grant program established.** (a) The authority shall make competitive  
 30.30 grants to local governmental units for an eligible project. The local governmental unit

30.31 receiving a grant must provide for the remainder of the costs of the eligible project from  
30.32 other sources.

30.33 (b) The amount of a grant may not exceed the lesser of the cost of the eligible  
30.34 project or 50 percent of the sum of the cost of the public research facility plus the cost  
30.35 of the completed eligible project.

31.1 (c) The purpose of the program is to support and expand research in the state and  
31.2 the benefits of commercialization of research, including keeping or enhancing area jobs,  
31.3 increasing the tax base, or expanding or creating new economic development through  
31.4 innovative research.

31.5 Subd. 4. **Application.** (a) The authority must develop forms and procedures for  
31.6 soliciting and reviewing applications for grants under this section. At a minimum, a local  
31.7 governmental unit must include the following information in its application:

31.8 (1) a resolution of its governing body certifying that the money required to be  
31.9 supplied by the local governmental unit to complete the public research facility is  
31.10 available and committed;

31.11 (2) a detailed estimate, along with necessary supporting evidence, of the total  
31.12 development costs for the eligible project;

31.13 (3) a description of the potential or likely use of the site for research activities after  
31.14 completion of the research facility and eligible project;

31.15 (4) a timeline indicating the major milestones of the eligible project and the  
31.16 anticipated completion date;

31.17 (5) a commitment from the governing body to repay the grant if the milestones are  
31.18 not realized by the completion date identified in clause (4); and

31.19 (6) any additional information or material the authority prescribes.

31.20 (b) The determination of whether to make a grant under subdivision 3 is within the  
31.21 discretion of the authority, subject to this section. The authority's decisions and application  
31.22 of the priorities are not subject to judicial review, except for abuse of discretion.

31.23 Subd. 5. **Priorities.** (a) If applications for grants exceed the available appropriations,  
31.24 grants must be made for public research facilities that, in the authority's judgment, provide  
31.25 the highest return in public benefits for the public costs incurred. In making this judgment,  
31.26 the authority shall give priority to eligible projects with one or more of the following  
31.27 characteristics:

31.28 (1) the geographic expansion of public research facilities;

31.29 (2) the ability of the local government unit to provide support for the eligible project;

31.30 (3) the cross disciplinary participation in the research plan, transportation, and  
31.31 environmental impact;

(4) that the eligible project is not relocating substantially the same research activities from another location in the state, unless the authority determines that the eligible project cannot be reasonably accommodated within the local governmental unit in which it is currently located; and

(5) the potential for commercialization of the research findings and the potential number of jobs created in the state through commercialization.

(b) The factors in paragraph (a) are not listed in a rank order of priority; rather, the authority may weigh each factor, depending upon the facts and circumstances, as the commissioner considers appropriate.

Subd. 6. **Cancellation of grant.** If a grant is awarded to a local governmental unit and funds are not encumbered for the grant within four years after the award date, the grant must be canceled.

Subd. 7. **Repayment of grant.** If an eligible public research facility project funded with a grant awarded under this section is not operational in accordance with the grant application under subdivision 4 within five years after the date of the last grant payment, the grant recipient must repay the amount of the grant received. The commissioner must deposit all money received under this subdivision into the state treasury and credit it to the debt service account in the state bond fund.

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

Sec. 23. **MINNESOTA SCIENCE, TECHNOLOGY, AND RESEARCH  
AUTHORITY; EXPANDED RESEARCH CAPACITY PLAN.**

To realize the full potential of academic research conducted in Minnesota, the Science, Technology, and Research Authority under Minnesota Statutes, sections 116W.02 to 116W.06, must develop a plan to expand academic research at postsecondary institutions and nonprofit research facilities within Minnesota. The plan must examine existing barriers to research expansion and identify methods to expand the academic research at the: University of Minnesota's campuses, including the Twin Cities, Duluth, Crookston, Morris, and Rochester campuses; campuses of the Minnesota State Colleges and Universities; campuses of private nonprofit colleges and universities in Minnesota; and Minnesota-based nonprofit research institutions. The plan must include recommendations on how to best expand academic research within the existing network of institutions and facilities in Minnesota. The authority must provide the plan with an implementation strategy and make recommendations for realizing Minnesota's research potential to the committees of the legislature responsible for economic development and higher education by February 15, 2013.



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

32.33 Sec. 24. **PUBLIC POSTSECONDARY RESEARCH PARTNERSHIP.**

33.1 The Board of Regents of the University of Minnesota and the Board of Trustees  
33.2 of the Minnesota State Colleges and Universities must establish a joint partnership to  
33.3 develop a model for the expansion of academic research activities throughout Minnesota's  
33.4 postsecondary institutions. In conjunction with the partnership, the University of  
33.5 Minnesota must provide administrative and fiscal services to facilitate and support  
33.6 research grant applications submitted by the faculty of the Minnesota State Colleges and  
33.7 Universities. By January 15, 2014, the Board of Regents and the Board of Trustees must  
33.8 report to committees of the legislature responsible for economic development and higher  
33.9 education on the research partnership outcomes. The report must include recommendations  
33.10 on how to expand the partnership model to encompass academic research activities at  
33.11 private postsecondary institutions and private nonprofit research institutions.

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

APPENDIX  
Article locations in 12-5137

ARTICLE 1	MINNESOTA INNOVATION ACT .....	Page.Ln 1.24
ARTICLE 2	CORPORATE TAX REFORM .....	Page.Ln 2.1
ARTICLE 3	RESEARCH EXPANSION .....	Page.Ln 21.17